



WEB COPY



W.P.No.32146 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.32146 of 2022

Dr.A.S.Niraaaimathi

... Petitioner

Vs

1.State of Tamil Nadu,
Rep. By its Principal Secretary,
Department of Health and Family Welfare
Secretariat, Fort St. George,
Chennai – 600 009.

2.Director of Medical Education,
Directorate of Medical Education
156, Poonamallee High Road,
Kilpauk, Chennai – 600 010.

3.The Dean
Madras Medical College,
Chennai – 600 003.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 2nd and 3rd respondents to return the original certificates of the petitioner that were submitted at the time of her admission to PG degree {MD(DVL)} course during May 2015 together with her original Post Graduation Certificates in compliance to the 1st respondent's direction dated 10.02.2022.

For Petitioner : Mr.R.Arumugam

For Respondents : Mr.U.M.Ravichandran
Special Government Pleader



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ORDER

WEB COPY The prayer sought for herein is for a Writ of Mandamus directing the 2nd and 3rd respondents to return the original certificates of the petitioner that were submitted at the time of her admission to PG degree {MD(DVL)} course during May 2015 together with her original Post Graduation Certificates in compliance to the 1st respondent's direction dated 10.02.2022.

2. The petitioner, after having completed the M.B.B.S. degree, pursued her Post Graduation degree in the third respondent College. At the time of admission in the P.G. degree course, she was asked to execute a bond, under which *inter alia*, one of the important condition is that, after completing the P.G. degree course, she has to serve in the Government Institutions/Hospitals for a period of two years.

3. The petitioner completed her P.G. degree course in May, 2018 and as per the bond executed, the bond period expired in May, 2020. Though the respondents wanted her to work for two years period, her services have not been utilized by the respondents by offering any job to her, in order to comply with the bond condition that the petitioner would be utilized for two years in Government service.



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4. Since no such offer had come from the respondents to utilize the services of the petitioner for two years on completion of the P.G. degree course, after the completion of the bond period, she would be free to secure a job in any other Hospital/Institution or even to pursue further higher course or Super Speciality course.

5. However, when she approached the third respondent institution to get back the original certificates, which she produced at the time of joining in the P.G. degree course, they refused to give the original certificates on the simple reason that, since there has been a bond condition in the bond executed by the petitioner at the time of admission in the P.G. Degree course, she should work for the Institution of Government for the period of 2 years and therefore, for the period of two years, the petitioner would not be permitted to take back the original certificates. Only at that juncture, the present writ petition has been filed by the petitioner.

7. Heard Mr.R.Arumugam, learned counsel for the petitioner, Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents.



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8. The issue raised in this writ petition is no more *res integra*, as number of orders on this line have already been passed by this Court and in W.A.No.799 of 2019, the Division Bench had passed the following orders:

"103. Our conclusions, therefore, are:

i. There is no material difference between the status of students occupying the State seats and All India Quota seats, in as much as they enjoy the educational facilities at par with each other, with the same subsidies and the same expenses being borne by the State Government.

ii. The conditions in the brochures for the years 2014~2015, 2015~2016 or the other brochures do not exempt the candidates of All India Quota seats from any condition of bond being executed by them and, therefore, the execution of the bonds voluntarily by such candidates will be presumed to be under the terms and conditions of the said brochures.

iii. The concessions made by the State Government and the letters addressed in this regard, particularly the letter communication dated 17.7.2017, or the admissions referred to in paragraphs (62) to (64) of this judgment, cannot confer any benefit contrary to the terms and conditions of the brochures.



iv. *The intimation given under the Right to Information Act by the Central Government, as referred to in paragraph (65) of this judgment, cannot also absolve the All India Quota seat occupants from discharging their liability by the bonds which they have voluntarily filled up, and to which agreement the Central Government is not a party. Any such clarification issued does not come to the aid of the writ petitioners.*

v. *The judgment of the Apex Court in the case of Association of Medical Super-speciality Aspirants and Residents and others (supra) lays down the law and, therefore, any judgment rendered by this Court previously to the contrary does not hold water and cannot be taken benefit of by the writ petitioners.*

vi. *The period of applicability of the conditions under the bond will be co-terminus with the period of two years from the date a candidate successfully passes out the course, as explained above, and would not continue beyond the same.*

vii. *The candidates who have not been offered appointment within the period of two years would be entitled to release of their certificates accordingly."*

(Emphasis supplied)



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WEB COUNCIL

9. Relying upon this decision and also various other decisions following the aforestated one, the learned counsel for the petitioner would submit that, since the petitioner's two years bond period is over, the respondents have to necessarily give back the certificates, because, as per the law declared by this Court in the judgment cited supra, the period of applicability of the condition under the bond will be co-terminous with the period of two years from the date a candidate successfully passes out the course. Therefore, the learned counsel for the petitioner seeks indulgence of this Court to give suitable direction to the respondents to give back the original certificates of the petitioner, which are withheld by the third respondent institution.

10. Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents would submit that, in respect of the cases where the bond period of two years is over and no posting orders have been given, in those cases, they can get back the certificates. Therefore, insofar as the petitioner's case is concerned, whose bond period is over and within which no offer of appointment has been given, the respondents may be directed to release the certificates to the petitioner, within a time frame that may be stipulated by this Court.



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WEB COPY 11. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

12. As has been rightly pointed out by the learned counsel for the petitioner, which could not be controverted by the learned Special Government Pleader for the respondents, that the issue raised in this writ petition is no more *res integra*, as in the judgment in W.A.No.799 of 2021 dated 06.10.2022, the Division Bench has concluded this issue.

13. The Division Bench has held that the bond period is co-terminous with the candidates concerned, therefore once the bond period is over i.e. the two years, as the case may be, within which, if no offer of employment is given to whatever reason by the respondents, then the candidates cannot be clutched for any further period and they are entitled to get back their certificates and they are free to go for any other organization or to go for any higher studies.



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14. In that view of the matter, this Court is inclined to dispose of this

writ petition with the following orders:

(i) That there shall be a direction to the respondents 2 and 3 to consider the request made by the petitioner with regard to returning back of the original certificates, which are held by the 3rd respondent institution, as they have been given by the petitioner at the time she joined in the P.G. degree course, and return back those certificates, within a period of two weeks from the date of receipt of a copy of this order.

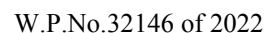
15. With the above direction, this Writ Petition is disposed of. No costs.

30.11.2022

Index : Yes/No

Speaking Order : Yes/No

Sgl



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State of Tamil Nadu,
Department of Health and Family Welfare
Secretariat, Fort St. George,
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2. Director of Medical Education,
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