



WP.No.32398 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2022

CORAM

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

WP.No.32398 of 2022
and WMP.No.31795 of 2022

Dr.S.Abdulkhader

...petitioner

Vs.

1. Union of India
Rep. by the Secretary to Government of India,
Ministry of Health and Family Welfare,
New Delhi.
2. The National Medical Commission,
Pocket 14, Sector 8, Dwaraka Phase-1,
New Delhi 110077.
3. The Director General of Health Services,
Medical Counseling Committee,
Ministry of Health and Family Welfare,
Govt. of India,
New Delhi 110108.
4. The Secretary to Govt.,
Health & Family Welfare Dept.,
Govt. of Tamil Nadu,
Chennai 600 009.
5. The Director of Medical Education,
Kilpauk,
Chennai 600 010.
6. The Selection Committee,
Directorate of Medical Education,
Kilpauk,
Chennai 600 010.



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7. The Dean,
Madras Medical College,
Chennai 600 003.

...respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the 5th respondent to accept the resignation letter of the petitioner sent in Email dated 26.11.2022 and further letter dated 28.11.2022 and release the petitioner's educational certificates, without imposing penalty and further direction to the respondents not to restrict the petitioner from participating in the counselling for the future sessions, in case the petitioner qualifies.

For Petitioner : Mr.A.E.Ravi Chandran

For Respondents

for R1 : Mr.M.T.Arunan,
Central Government Standing Counsel
for R2 : Ms.Shubaranjani Ananth
Standing Counsel
for RR4,5,7 : Mr.T.Seenivasan, Spl.G.P.
for R6 : Ms.M.Sneha, Standing Counsel

ORDER

The prayer in the Writ Petitions reads as follows:

To direct the 5th respondent to accept the resignation letter of the petitioner sent in Email dated 26.11.2022 and further letter dated 28.11.2022 and release the petitioner's educational certificates, without imposing



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penalty and further direction to the respondents not to restrict the petitioner from participating in the counselling for the future sessions, in case the petitioner qualifies.

2. Admittedly, the petitioner joined MD in General Medicine under the All India Quota and was allotted to Madras Medical College under persons with disabilities-other Backward Class quota. According to the petitioner, because of his locomotor disablement of lower limbs, he is unable to continue the course and hence, he submitted his resignation on 26.11.2022. Since the resignation was submitted after completion of the admission process, the respondents 4 to 6, who are the State Authorities, are unable to fill up the said seat. Therefore, one Post Graduate seat in General Medicine in a premier Medical Institution in the State goes vacant for 2 years. As per the prospectus, if a person leaves a P.G. Degree Course after completion of the counseling, he has to pay a penalty of Rs.15,00,000/-. The petitioner seeks waiver of the said penalty.

3. I do not think such waiver could be granted inasmuch as the prospectus is binding on the parties and the prospectus will have the



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force of law. However, it is made clear that while it will be open to the respondents 3 to 6 to recover the sum of Rs.15,00,000/-, they cannot withhold the certificates of the petitioner since it has been held in WA.Nos.1472 and 1422 of 2022, dated 29.06.2022 that they do not not have a lien over the documents, namely, the graduation certificates.

4. In view of the same, this Writ petition is disposed of with the observation that while the petitioner is liable to pay Rs.15,00,000/-, the respondents 3 to 6 will not have the right to retain his certificates or exercise lien over the certificates for collection of Rs.15,00,000/-.

5. Mr.A.E.Ravi Chandran, learned counsel appearing for the petitioner would further point out that there is a 2 year ban imposed on persons, who resign or discontinue the course. According to him, the said 2 year ban will not apply to him inasmuch as he has been allotted the seat under the All India Quota. This submission is based on the settled position of Law that the State Authorities cannot legislate or provide regulations which will operate outside the State, inasmuch as the petitioner is an All India Quota candidate, the State Authorities cannot prevent him from taking part in the NEET Examination or from applying



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for All India Quota seat outside Tamil Nadu. However, the State Authorities would be well within its powers can prohibit the petitioner from either choosing a seat in the Tamil Nadu or applying under the State quota.

6. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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