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W.P. No.33573 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2022

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. No.33573 of 2022

and

W.M.P. Nos.33035 and 33036 of 2022

1. Dr. R. Venkattaraman
2. Dr. T. Aruvi
3. Dr. S. Bindhuraj
4. Dr. B. Vishan
5. Dr. S. Arun
6. Dr. Vinoth
7. Dr.R.Ramachandran
8. Dr.S. Pushkaran
9. Dr. Rajamurugan
10. Dr.P.S. Karthikeyan
11. Dr. W. Bernal Sam Roy

...Petitioners

vs.

1. The Principal Secretary to Government
Health & Family Welfare (B1) Department,
Fort. St. George,
Chennai - 600 009.

2. The Director of Public Health
and Preventive Medicines
DMS Buildings,
Teynampet,
Chennai - 600 006.

3. The Member Secretary



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Medical Services Recruitment Board (MRB),
7th Floor,
DMS Buildings,
359, Anna Salai,
Teynampet,
Chennai - 600 006.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Medical Service Recruitment Board Notification No.11/MRB/2022, dated 11.10.2022 issued by the 3rd respondent and the impugned order dated 18.11.2022 Ref. Lr. No.E3501645/B1/2022-1 Health & Family Welfare (B1) Department issued by the 1st respondent and quash the same consequently direct the respondent authorities to grant regular appointment to the petitioners as Asst. Surgeon following the specific observations of the Hon'ble Supreme Court of India Suo motu W.P. (Civil) No.3 of 2021 reported in 2021 SCC Online SC 355 and also the Central Government Notification dated 3.5.2021 considering the Covid-19 duty rendered by the petitioners in all three Covid-10 waves and their pass eligibility in the Medical Recruitment Board examination 2018, in the existing vacancies.

For petitioners : Mr.S. Thankasivan

For respondents : Mr.Stalin Abimanyu,
Addl. Government Pleader for R1 & R2
Mr.M.Loganathan
Standing counsel for R3



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ORDER

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By consent of both the parties, this writ petition has been taken up for final disposal at the admission stage itself.

2. Mr.Stalin Abimanyu, learned Additional Government Pleader accepts notice for the respondents 1 and 2 and Mr.M.Loganathan, learned Standing counsel accepts notice for the 3rd respondent.

3. The petitioners have challenged the impugned order dated 18.11.2022 passed by the 1st respondent pursuant to the directions given by this Court on 09.11.2022 in W.P. No.29774 of 2022. This Court in the aforesaid order issued the following directions :-

12. For the foregoing reasons, this Court directs the petitioners to submit a fresh representation to the first and second respondents seeking for grant of regular appointment as Assistant Surgeons, considering the Covid-19 duty rendered by them during all three Covid-19 waves and their eligibility in the Medical Recruitment Board Examination 2018, in the existing vacancy, within a period of two (2) weeks from the date of receipt of a copy of this order. On receipt of the said representation, the first and second respondents shall pass final orders on merits and in accordance with law, within a period of eight (8) weeks thereafter. The petitioners are directed to send a copy of the judgment of the Hon'ble Supreme Court dated 30.04.2021 in '**Suo Motu Writ Petition (Civil) No.3 of 2021**' in '**In Re: Distribution of Essential Supplies and Services During Pandemic**' and the Central Government notification dated



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03.05.2021, for the respondents consideration.

4. Under the impugned order dated 18.11.2022 passed by the 1st respondent, the 1st respondent has rejected the petitioners' joint representation, dated 18.11.2022 seeking to provide regular employment to them in the existing vacancies for having done Covid-19 duties in the three waves on the ground that the same is not feasible of compliance. However, no reasons have been given by the 1st respondent for rejecting the petitioners' joint representation.

5. By order dated 09.11.2022 passed in W.P. No.29774 of 2022, this Court gave clear directions to the respondents to pass final orders on the petitioners' representation on merits and in accordance with law. A direction was also issued to the petitioners to send a copy of the judgment of the Hon'ble Supreme Court, dated **30.04.2021** *passed in Suo Motu Writ Petition (Civil) No.3 of 2021 reported in 2021 SCC Online SC 355 with regard to Distribution of Essential Supplies and Services During Pandemic* and the Central Government Notification dated 03.05.2021 for the respondents consideration.

6. The petitioner has also sent the aforesaid judgments of the Hon'ble Supreme Court as well as the copy of the Central Government



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Notification, dated 03.05.2021 for the 1st respondent's consideration.

However, as seen from the impugned order, no reasons have been given for rejecting the petitioners' joint representation seeking for providing them with regular employment in the existing vacancies. Being a non speaking order and an order which is not in accordance with the directions given by this Court on 09.11.2022 in W.P. No.29774 of 2022, the impugned order dated 18.11.2022 passed by the 1st respondent has to be necessarily quashed and remanded back to the 1st respondent for fresh consideration.

7. The learned Additional Government Pleader appearing for the 1st and 2nd respondents has also received instructions from the 1st respondent that the 1st respondent is willing to pass a reasoned order in terms of the directions issued by this Court in the earlier writ petition on 09.11.2022 in W.P. No.29774 of 2022.

8. For the foregoing reasons, the impugned order dated 18.11.2022 passed by the 1st respondent is hereby quashed and the matter is remanded back to the 1st respondent for fresh consideration in terms of the earlier directions issued by this Court on 09.11.2022 in W.P. No.29774 of 2022 for passing a speaking order.



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WEB COPY 9. The 1st respondent is directed to pass final orders, within a period of four weeks from the date of receipt of a copy of this order.

10. With the aforesaid directions, this writ petition is disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

14.12.2022

(1/2)

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order

vsi2

To

1. The Principal Secretary to Government
Health & Family Welfare (B1) Department,
Fort. St. George,
Chennai - 600 009.

2. The Director of Public Health
and Preventive Medicines
DMS Buildings,
Teynampet,
Chennai - 600 006.

3. The Member Secretary
Medical Services Recruitment Board (MRB),
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ABDUL QUDDHOSE, J.

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