



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Thursday, the Seventeenth day of February Two Thousand and Twenty
Two

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PRESENT

The Hon`ble Mr.Justice ABDUL QUDDHOSE

WMP (MD) No.2574 of 2022

IN

WP (MD) No.2938 of 2022

DR.VIJAY KUMAR

... PETITIONER/PETITIONER

Vs

1 THE MEDICAL COUNCIL OF INDIA,
REP BY ITS PRESIDENT,
POCKET 14, SECTOR 8,
DWARKA, PHASE -I,
NEW DELHI.

2 THE STATE OF TAMIL NADU
REP BY ITS SECRETARY TO GOVERNMENT,
HEALTH AND FAMILY WELFARE DEPARTMENT,
SECRETARIAT, CHENNAI -6.

3 THE DIRECTOR OF MEDICAL EDUCATION,
O/O.THE DIRECTOR OF MEDICAL EDUCATION,
KILPAUK, CHENNAI -10.

4 THE DEAN
MADURAI MEDICAL COLLEGE,
MADURAI-20,
MADURAI DISTRICT.

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to grant an **AD-INTERIM DIRECTION** to direct the 4th respondent to release all the original certificates to the petitioner pending disposal of the above writ petition.

Prayer in WP (MD) . 2938/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records relating to the impugned prospectus 2020-2021 issued by the 3rd respondent vide his proceedings Nil dated Nil in so far as Clause 6(b), 24(c)(i) and 38(h)(2nd proviso) is



concerned and consequential impugned order passed by the 4th respondent vide his proceedings in Na.Ka.No.009174/Ma.Ka.4/2021 dated 13.12.2021 and quash the same as illegal and consequentially to direct the 4th respondent to release all the original certificates to the petitioner within the period that may be stipulated by this Honble Court.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.AJMAL KHAN, SENIOR COUNSEL for M/S.AJMAL ASSOCIATES for the petitioner and of M/S.SHUBHARANJANI, STANDING COUNSEL on behalf of the 1st Respondent and of MR.G.V.VAIRAM SANTHOSH, ADDITIONAL GOVERNMENT PLEADER on behalf of the Respondent Nos.2 to 4, the court made the following order:-

The main writ petition has been filed challenging a specified clause in the prospectus which stipulates that in case of discontinuance of the course by the petitioner, the petitioner will have to repay the penalty of Rs.15 Lakhs and stipend received by the petitioner during the period of his course.

2.W.M.P.[MD]No.2574 of 2022 has been filed by the petitioner seeking for an interim direction to direct the fourth respondent to release all the original certificates submitted by the petitioner at the time of admission to the course pending disposal of the above writ petition. According to the petitioner, clause 24(c)(i) and second proviso to Clause 38(h) are arbitrary and unconstitutional, affecting the fundamental rights of the petitioner. The relevant clauses which have been challenged are extracted hereunder:

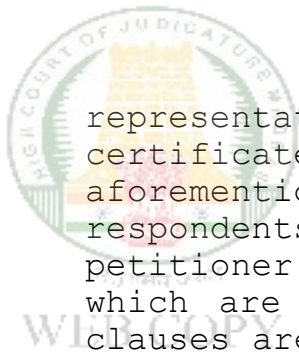
'24(c)(i) The All India Quota candidates who discontinue the course on or after the last round of All India Quota counselling should pay the Discontinuation Fees besides foregoing tuition fees already paid by them as specified in Clause 37, to the Deans of the respective Colleges, the sum as specified below in total by means of a Demand Draft drawn in favour of "The Secretary, Selection Committee, Kilpauk, Chennai - 10", payable at Chennai.

For P.G. Diploma Course Rs.10 lakh /

Degree Course Rs.15 lakh

38(h). ... Non-service candidates including candidates selected through 50% All India Quota, if they discontinue course they have to pay the total amount of penalty (Discontinuation Fee as per Clause 24(c) and the stipend received).'

3.The petitioner who was doing MD (Anesthesiology) course in the fourth respondent medical college has discontinued his course in the second year due to work pressure. Therefore, he has given a



representation to the respondents seeking for return of his certificates submitted by him at the time of his admission to the aforementioned course. In view of the clauses extracted supra, the respondents have refused to return the certificates. Now, the petitioner has challenged the said clauses in this writ petition which are detrimental to his interest and according to him those clauses are arbitrary and unconstitutional. Pending disposal of the main writ petition, this WMP has been filed seeking for return of the certificates.

4.Mr.Ajmal Khan, learned Senior Counsel appearing for the petitioner, on instructions would now submit that the petitioner is willing to pay the penalty and the stipend amount to the respondents as stipulated in the aforementioned clauses without prejudice to the rights and contentions of the petitioner in the main writ petition, where he has challenged the aforementioned clauses on the ground that the said clauses are arbitrary and unconstitutional. The said statement is recorded.

5.Learned Additional Government Pleader appearing for the respondents would also submit on instructions that if the petitioner is willing to pay the penalty and the stipend amount as stipulated in the aforementioned clauses, the fourth respondent is willing to return the certificates submitted by the petitioner at the time of admission into the MD course. The said statement is also recorded.

6.After recording the submissions made by the respective counsels and after perusing the affidavits filed in support of W.M.P.[MD]No.2574 of 2022, this Court is of the considered view that no prejudice would be caused to the respondents if the interim direction as sought for in W.M.P.[MD]No.2574 of 2022 is granted by this Court, subject to the petitioner paying the penalty and stipend amount to the respondents as stipulated in the aforementioned clauses within a time frame to be fixed by this Court. On receipt of the said amount the fourth respondent shall return the certificates submitted by the petitioner at the time of admission into the MD course within a stipulated period.

7.Accordingly, this Court directs the petitioner to pay the penalty and the stipend amount as stipulated in the aforementioned clauses as determined by the fourth respondent within a period of two [2] weeks from the date of receipt of a copy of this order. On receipt of the same, the fourth respondent shall return the certificates which were submitted by the petitioner at the time of admission into the MD course within a period of one [1] week thereafter.

8.It is made clear that the payment of the aforesaid amount by the petitioner is without prejudice to the rights and contentions of the petitioner in the main writ petition. It is also made clear that



in case the petitioner succeeds in the main writ petition, the respondents will have to refund the money back to the petitioners.

9. Accordingly, this petition is ordered.

sd/-

17/02/2022

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/ /2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE PRESIDENT,
MEDICAL COUNCIL OF INDIA,
POCKET 14, SECTOR 8,
DWARKA, PHASE -I,
NEW DELHI.

2 THE SECRETARY TO GOVERNMENT,
STATE OF TAMIL NADU,
HEALTH AND FAMILY WELFARE DEPARTMENT,
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MADURAI MEDICAL COLLEGE,
MADURAI-20,
MADURAI DISTRICT.

+1. C.C. to M/S. AJMAL ASSOCIATES Advocate SR.No.1288

ORDER

IN

WMP(MD) No.2574 of 2022

IN

WP(MD) No.2938 of 2022

Date :17/02/2022

RS/VR/SAR.1(28.02.2022) 4P-6C