



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2022

CORAM

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)Nos.4367 and 5073 of 2022

and

W.M.P. (MD)Nos.3691, 3692, 4137 and 4138 of 2022

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W.P (MD)No.4367 of 2022:-

Dr.R.Santhosh Subramanian

... Petitioner

vs.

1.The Principal Secretary to Government of Tamil Nadu,
Health and Family Welfare Department, Secretariat,
Chennai.

2.The Director of Medical Education,
Chennai.

3.The Director of Medical and Rural Health Services,
Chennai.

4.The Dean,
Tirunelveli Medical College, Tirunelveli. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the first respondent in G.O.Ms.No.185, Health and Family Welfare (MCA1) Department dated 13.04.2020 and to quash the condition found in clause 4 relating to submission of Bank Guarantee as illegal and arbitrary and in consequence thereof, to direct the fourth respondent to return the original certificates to the petitioner on execution of the bond without submission of the Bank Guarantee in order to produce the same for pursuing Super Speciality course.

W.P (MD)No.5073 of 2022:-

Dr.G.Praveen

... Petitioner

vs.

1.The Principal Secretary to Government of Tamil Nadu,
Health and Family Welfare Department, Secretariat,
Chennai.



2.The Director of Medical Education,
Chennai.

3.The Director of Medical and Rural Health Services,
Chennai.

4.The Dean,
Tirunelveli Medical College, Tirunelveli.

5.The Chief Medical Officer,
Government Hospital, Watrap, Virudhunagar. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the first respondent in G.O.Ms.No.185, Health and Family Welfare (MCA1) Department dated 13.04.2020 and to quash the condition found in clause 4 relating to submission of Bank Guarantee as illegal and arbitrary and in consequence thereof, to direct the fourth respondent to return the original certificates to the petitioner on execution of the bond without submission of the Bank Guarantee in order to produce the same for pursuing Super Speciality course.

For Petitioner :Mr.P.Ganapathi Subramanian
For Respondents :Mr.N.GA.Nataraj
Government Advocate
(in both cases)

C O M M O N O R D E R

These Writ Petitions have filed challenging the condition No.4 found in G.O.Ms.No.185, Health and Family Welfare (MCA1) Department dated 13.04.2020, as, according to the petitioners, the said condition is illegal and arbitrary.

2.Under the said condition, the respondents shall return the original certificates to the respective petitioners only on execution of a bank guarantee for the amount mentioned in the bond executed by the respective petitioners. The petitioners were working in Government service as Doctors under the fourth respondent.

3.It is the case of the petitioners that they got admission into a super speciality course and therefore, they have to leave the Government service. However, the petitioners have expressed difficulty in complying with the bank guarantee requirements stipulated in condition No.4 in the aforementioned Government order. According to them, it is an onerous condition and due to their



financial position, they could not comply with the same. However, the petitioners are willing to substitute the same in the form of post dated cheque, instead of a bank guarantee. They are also willing to rejoin the Government service on completion of the super speciality course.

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4.Heard Mr.P.Ganapathi Subramanian, learned Counsel for the petitioner in both cases and Mr.N.GA.Nataraj, learned Government Advocate appearing on behalf of the respondents in both cases.

5.The learned Government Advocate, on instructions, would submit that the respondents are willing to accept the bond amount partially in the form of bank guarantee and partially in the form of post dated cheque. He would also submit that insofar as W.P.(MD) No.4367 of 2022 is concerned, the respondents are willing to receive a sum of Rs.11,00,000/- in the form of bank guarantee and the balance sum of Rs.11,00,000/- in the form of post dated cheque. Insofar as W.P.(MD)No.5073 of 2022 is concerned, the learned Government Advocate, on instructions, would submit that the petitioner will have to furnish a bank guarantee for a sum of Rs.12,50,000/- and a sum of Rs.12,50,000/- by way of post dated cheque. He would also submit that the respective petitioners, on completion of their super speciality course, will have to rejoin the Government service under the control of the second respondent.

6.The learned Counsel for the petitioners, on instructions, would submit that the respective petitioners are willing to accept to the submissions made by the learned Government Advocate appearing for the respondents.

7.After recording the submissions made by the respective Counsels, these Writ Petitions are disposed of by issuing the following directions:

(b)The petitioner in W.P.(MD)No.4367 of 2022 shall furnish a bank guarantee in favour of the second respondent for a sum of Rs.11,00,000/- and issue a post dated cheque for the very same sum on or before the 08.04.2022.

(b)The petitioner in W.P.(MD)No.5073 of 2022 shall furnish a bank guarantee in favour of the second respondent for a sum of Rs.12,50,000/- and issue a post dated cheque for the very same sum on or before the 08.04.2022.

(c)After complying with the aforesaid condition, the fourth respondent in W.P.(MD)No.4367 of 2022 and the fifth respondent in W.P.(MD)No.5073 of 2022 shall return the original certificates to the respective petitioners immediately.

(d)The respective petitioners shall rejoin the Government service under the control of the second respondent on completion of their super speciality course within 21 days from the date of the completion of the super speciality course.



No cost. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(R)

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/ /2022
Sub Assistant Registrar(CS)

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To

1.The Principal Secretary to Government of Tamil Nadu,
Health and Family Welfare Department, Secretariat,
Chennai.

2.The Director of Medical Education,
Chennai.

3.The Director of Medical and Rural Health Services,
Chennai.

4.The Dean,
Tirunelveli Medical College, Tirunelveli.

5.The Chief Medical Officer,
Government Hospital, Watrap, Virudhunagar.

+2. C.C. to Mr.P.Ganapathi Subramanian, Advocate SR.No.16488, 16489

Order made in
W.P. (MD) Nos.4367 and 5073 of 2022
04.04.2022

MK/04.04.2022/4P/8C