



WP(MD)No.14112 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **05.07.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.14112 of 2022

and

W.M.P(MD)No.10081 of 2022

- 1.G.Bhargava Phani Krishna
- 2.Pranop Raju
- 3.Lige Lollen
- 4.Anjana Sukumaran
- 5.C.Nisha Devi
- 6.Rahamath Nisha
- 7.S.Sivaloshini

... Petitioners

/vs./

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai.
- 2.The Director of Medical Education,
Directorate of Medical Education,
Kilpauk,
Chennai-10.
- 3.The Deputy Director of Medical Education,
The Directorate of Medical Education,
Kilpauk,
Chennai-10.



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4.The National Medical Council,
Represented by its Secretary,
Pocket 14 Sector-8 Dwarka Phase I,
New Delhi-110 077.

5.The Dean,
Thanjavur Medical College,
Thanjavur.

6.The Dean,
Madras Medical College,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to release / return the original certificates retained by the respondents during admission to Post Graduate Diploma Course to the petitioners forthwith in light of the order made in respect of similarly placed persons in W.P.(MD)No.9821 of 2022, dated 19.05.2022 on the file of this Court and W.P.No.12541 of 2022, dated 13.05.2022 on the file of the Principal Seat of this High Court, within the period that may be stipulated by this Court.

For Petitioners : Mr.D.Venkatraman

For R-1 to R-3, R-5 & R-6 : Mr.S.Shaji Bino
Special Government Pleader



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ORDER

By consent of both the parties, this writ petition is taken up for final disposal.

2. The petitioners have filed this writ petition seeking for a direction to the respondents to release / return the original certificates retained by the respondents during admission to Post Graduate Diploma Course, to the petitioners forthwith, in light of the order made in respect of similarly placed persons in W.P.(MD)No. 9821 of 2022, dated 19.05.2022 on the file of this Court and W.P.No.12541 of 2022, dated 13.05.2022 on the file of the Principal Seat of this High Court.

3. In identical situation, when similarly placed doctors had sought for return of their original certificates, this Court in the case of ***Dr.S.Sam Nelson and Others Vs. The State of Tamil Nadu, Health and Family Welfare Department and Others*** passed in ***W.P(MD)No.9821 of 2022, dated 19.05.2022***, had placed reliance on a decision of the Hon'ble Division Bench, holding that the management cannot retain the certificates of the students and accordingly, directed the concerned Deans of their Medical Colleges to return their original



certificates. The relevant portion of the order reads as follows:

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"2. The petitioners earlier executed bonds to the effect that after completion of Post Graduate course, they would serve under the Government for a period of two years. Though the petitioners have completed Post Graduate course, the respondents have not provided them any placement on account of there being no vacancy. Since the respondents are unable to provide any placement, the petitioners have now sought for return of original certificates, which were submitted by them earlier to the respective Deans of the Government Medical Colleges.

3. In a similar matter involving classmates of the petitioners herein, a learned Single Judge of this Court, on 13.05.2022 in W.P.No.12541 of 2022, by following the Judgment of the Hon'ble Division Bench, dated 27.04.2022 in W.A.No.1182 of 2022, has passed the following orders:

"a) It is well settled that an Educational certificate is not a marketable commodity, therefore, there cannot be exercise of any lien in terms of Section 171 of the Indian Contract Act, 1872. It has been held in catena of cases that management cannot retain the certificates of the students.

b) The appellants in W.A.No.1182 of 2022 were identical placed. They were classmates of the writ petitioners herein. Therefore, a different yard stick



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cannot be adopted in the present case. That shall be a gross violation. A Statutory Authority will have to treat similarly placed persons in the same manner. Failure to do so would be an infraction of Article 14 of the Constitution of India"

4. Since the petitioners herein are also similarly placed persons and in view of the fact that the respondents are unable to provide any placement to the petitioners on account of there being no vacancy, the relief granted to the petitioners in W.P.No.12541 of 2022 has to be granted to the petitioners herein also".

The case of the petitioners in the present case is identical to that of **Dr.Sam Nelson's case** (supra). As such, the respondents may not be justified in withholding the original certificates of the petitioners herein.

4. In the light of the above observations, there shall be a direction to the petitioners to give individual representations to the respondents, seeking for return of the original certificates retained by the respondents during admission to Post Graduate Diploma Course to the petitioners forthwith in light of the order made in respect of similarly placed persons in **Dr.S.Sam Nelson's case** (Supra) in W.P.(MD)No.9821 of 2022, dated 19.05.2022, on the file of this Court and W.P.No.12541 of 2022, dated 13.05.2022, on the file of the Principal Seat of this



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High Court. On receipt of such representation, the respondents herein are directed to consider the same, in the light of the orders passed by this Court in the case of **Dr.S.Sam Nelson's case** (Supra) and pass appropriate orders in accordance with law, within a period of four (4) weeks from the date of receipt of the individual's representation.

5. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

05.07.2022

Index : Yes / No
Internet : Yes / No
btr/TM

To

- 1.The Principal Secretary to Government,
The State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat,
Chennai.
- 2.The Director of Medical Education,
Directorate of Medical Education,
Kilpauk,
Chennai-10.



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The Directorate of Medical Education,
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The National Medical Council,
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M.S.RAMESH, J.

btr/TM

Order made in
W.P.(MD)No.14112 of 2022

Dated:
05.07.2022