



W.P(MD)Nos.23197, 23198, 23212 of 2022

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DATED : 09.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.23197, 23198, 23212 of 2022

W.P.(MD)No.23197 of 2022:-

L.A.Bagth Singh

... Petitioner

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,
DME Office, 156, Poonamallee High Road,
Chetpet, Chennai-600031.

3.The Dean,
Madurai Medical College,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 3rd respondent to release / return the original certificates of the petitioner which is retained by the 3rd respondent during the post graduation course of MD General Medicine and original degree certificate along the provisional certificate to the petitioner based on the representation of the petitioner dated 27.09.2022.



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W.P.(MD)Nos.23197, 23198, 23212 of 2022

For Petitioner : Mr.S.Ramsundarvijayraj

For Respondents : Mr.T.Amjadkhan,
Government Advocate.

W.P.(MD)No.23198 of 2022:-

A.G.Rajasri

... Petitioner

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,
DME Office, 156, Poonamallee High Road,
Chetpet, Chennai-600031.

3.The Dean,
Tirunelveli Medical College,
Tirunelveli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 3rd respondent to release / return the original certificates of the petitioner which is retained by the 3rd respondent during the post graduation course of MD General Medicine and original degree certificate along the provisional certificate to the petitioner based on the representation of the petitioner dated 26.09.2022.



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W.P.(MD)Nos.23197, 23198, 23212 of 2022

For Petitioner : Mr.S.Ramsundarvijayraj

For Respondents : Mr.T.Amjadkhan,
Government Advocate.

W.P.(MD)No.23212 of 2022:-

T.M.Jeyachandran

... Petitioner

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,
DME Office, 156, Poonamallee High Road,
Chetpet, Chennai-600031.

3.The Dean,
K.A.P. Viswanatham Government Medical College,
Trichy.

4.The Dean,
Ramanathapuram Medical College Hospital,
Ramanathapuram.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 3rd respondent to release / return the original certificates of the petitioner which is retained by the 3rd respondent during the post graduation course of MD General Medicine and original degree certificate along the provisional certificate to the petitioner based on the representation of the petitioner dated 26.09.2022.



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W.P(MD)Nos.23197, 23198, 23212 of 2022

For Petitioner : Mr.S.Ramsundarvijayraj

For Respondents : Mr.T.Amjadkhan,
Government Advocate.

COMMON ORDER

Heard the learned counsel on either side.

2.The writ petitioners after completing their M.B.B.S. course joined post graduate course in the respective respondent colleges. At the time of securing admission in the post graduate course, the petitioners had executed bonds undertaking to serve the Government of Tamilnadu for a period of two years. The petitioners have since successfully completed their courses. The petitioners claim that they had done Covid duty and that therefore, they should be relived from fulfilling the bond conditions. I decline to go into the said issue.

3.When a similar issue arose before the Principal Seat in W.A.Nos.2256 to 2257 & 2259 of 2022, it was held as follows:-



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“2.The appellants / writ petitioners had undergone Post Graduate Diploma and Post Graduate Degree courses in the third respondent colleges. While securing admission, they had executed bonds undertaking to serve the Government of Tamil Nadu for a period of two years. The bond period has since expired. Now, the appellants / petitioners are in need of original certificates so as to pursue higher education. The authorities are taking the stand that since the bond conditions have not been fulfilled, they would not return the certificates. It has been held in more than one case that Educational Certificates are not marketable commodities and therefore, they cannot be withheld. [R.D.Saxena -Vs- Balram Prasad Sharma 2000 (7) SCC 246] and [S.Muthukamakshi (Vs) Anna University (2013) 1 CTC 595].

3.In this view of the matter, the respective colleges are directed to return the petition mentioned original certificates to the appellants / writ petitioners forthwith and without any delay. The respondents are at liberty to proceed against the appellants / writ petitioners for violation of bond conditions. If according to the authorities, the writ petitioners have to pay damages, it is open to them to file a Civil Suit or take recourse to any other remedy for recovering the same but on that ground, the certificates cannot be retained. There can never be a general lien on educational certificates in terms of Section 171 of the Contract Act.



W.P(MD)Nos.23197, 23198, 23212 of 2022

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4.The orders impugned in these writ appeals are set aside and the Writ Appeals are allowed with the aforesaid liberty to the respondents.....”

4.The only relief that can be given in this writ petition is to direct the respective respondents to return the original certificates to the respective writ petitioners. This shall be done forthwith and without any delay. The writ petition is allowed. I however make it clear that it is open to the authorities to initiate action against the writ petitioners herein for enforcement of the bond conditions.

5.With this liberty to the respondents, the writ petitions are allowed. No costs.

09.12.2022

Index : Yes / No
Internet : Yes/ No
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To:

1.The Principal Secretary to Government,
Health and Family Welfare Department,
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2.The Director of Medical Education,
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- 3.The Dean,
Madurai Medical College,
Madurai.
- 4.The Dean,
Tirunelveli Medical College,
Tirunelveli.
- 5.The Dean,
K.A.P. Viswanatham Government Medical College,
Trichy.
- 6.The Dean,
Ramanathapuram Medical College Hospital,
Ramanathapuram.



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G.R.SWAMINATHAN, J.

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