



W.P.(MD)No.24939 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.24939 of 2022

and

W.M.P(MD)Nos.19033 & 19035 of 2022

- 1.M.Archit Krishna
- 2.Milan George
- 3.M.Nantha Kumar
- 4.M.Pranavraj
- 5.Olivia Thomas
- 6.Santhu B Suresh
- 7.G.R.Swathy
- 8.K.Midhun Raj
- 9.V.P.Lakshmi Nivetha
- 10.V.Vinoth Kumar
- 11.J.Jeyamohan
- 12.M.Srithar
- 13.P.Pavithradevi
- 14.M. Vishwanath
- 15.M.R.Vidhya
- 16.A.Madhubalan
- 17.S.Shobana
- 18.N.Noorul Hudha

... Petitioners

Vs

- 1.The State represented by
The Principal Secretary,
Health and Family Department,
Secretariat,
Chennai – 600 009.



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2. Directorate of Medical Education,
Represented by
The Deputy Director of Medical Education,
Kilpauk,
Chennai – 600 010.

3. The Dean,
Tirunelveli Medical College and Hospital,
Tirunelveli District.

4. The Dean,
Madurai Medical College,
Panagal Roade,
Alwarpuram,
Madurai – 625 020.

5. The Dean,
KAPV Government Medical College,
Trichy,
Trichy District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to return the original certificates of the petitioners retained by the respondents 3 to 5 regarding the Post Graduation Courses of the petitioners respectively.

For Petitioners : Mr.K.R.Laxman

For Respondents : Mr.A.K.Manikkam
Special Government Pleader

ORDER

Heard the learned counsel appearing for the writ petitioners and the learned Special Government Pleader appearing for the respondents.



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2. The writ petitioners herein are qualified Doctors who obtained PG Degrees in the respective Colleges (Respondents 3 to 5) during the academic year 2019-2022. While obtaining admission, they had undertaken to serve any Government Hospitals for a period of two years. To this effect they had also executed bonds. After the writ petitioners successfully completed their PG Courses, they were called for counselling. It appears that some of the petitioners did not attend counselling. In the case of others, offer made to them was not found feasible of acceptance. The petitioners now seek return of their original certificates collected by their respective Colleges at the time of admission. The respondents have taken the stand since the petitioners have not fulfilled the bond conditions the original certificates cannot be returned. That led to filing of this writ petition.

3. The learned counsel appearing for the petitioners submitted that if the petitioners are called upon to serve during the bond period of two years in any emergency situation in Health Department they are ready to abide by the same. The said undertaking is recorded.

4. The learned Special Government Pleader would strongly contest the writ prayer. According to him, when the petitioners are squarely bound by the terms of bond and that they cannot be allowed to go back on their undertaking.



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5. I have consistently held that educational Certificate is not a marketable commodity and therefore, there cannot be exercise of lien in terms of Section 171 of Indian Contract Act, 1872. I have passed a number of orders directing return of the certificates retained by the Colleges. I do not want to take a different view in this case. I, therefore, direct the respective respondents (Respondents 3 to 5) to return the petition mentioned certificates to the respective writ petitioners within a period of fifteen (15) days from the date of receipt of a copy of this order. I make it clear that if the undertaking now given before this Court is breached, the respondents will be at liberty to file a suit for recovery of the damages. This writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No costs.

02.11.2022

Index : Yes / No
Internet : Yes/ No
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To

1. The Principal Secretary,
Health and Family Department,
Secretariat,
Chennai – 600 009.
2. The Deputy Director
Directorate of Medical Education,
Kilpauk,
Chennai – 600 010.



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3.The Dean,
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Tirunelveli District.

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