



W.P(MD)No.26812 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.26812, 25899 & 25897 of 2022

and

**W.M.P(MD)Nos.20998, 20999, 21001,20034, 20035,
20125, 20126 & 20031 to 20033 of 2022**

W.P(MD)No.26812 of 2022:

- 1.Dhanasekaran
- 2.Chandrasekar
- 3.Sekar

... Petitioners

Vs.

- 1.The Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Secretariat,
Chennai – 09.

- 2.The Director of Medical Education,
Kilpakam,
Chennai – 10.

- 3.The Chairman,
Medical Service Recruitment Board,
7th Floor, DMS Complex,
359 – Annasalai,
Teynampet,
Chennai – 06.

... Respondents



W.P(MD)No.26812 of 2022

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the third respondent pertaining to the Provisional Selection List for the post of Dark Room Assistant bearing PSL.No. 08/MRB/2022 dated 04-11-2022 and to quash the same and consequently, directing the respondent to include petitioners in the selection panel list of Dark Room Assistant as per the weightage marks as well as to follow the communal roster and to appoint the petitioners as Dark Room Assistant.

For Petitioners : Mr.N.Anandakumar

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader
for R.1 & R.2

Mr.T.S.Mohammed Mohideen
Standing Counsel for R.3

W.P(MD)No.25899 of 2022:

C.Ramkumar

... Petitioner

Vs.

1.The State represented by
The Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Secretariat,
Chennai – 6.



W.P(MD)No.26812 of 2022

2.The Director of Medical Education,
Office of the Director of Medical Education,
Kilpakam,
Chennai – 10.

3.The Member Secretary,
Medical Service Recruitment Board,
7th Floor, DMS Complex,
359 – Annasalai,
Teynampet,
Chennai – 600 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned selection list published by the third respondent through his official website vide his proceedings in PSL.No. 08/MRB/2022 dated 04.11.2022 (published on 07.11.2022) and quash the same as illegal insofar as the non inclusion of the petitioner is concerned and consequentially, to direct the respondents to appoint the petitioner in the post of Dark Room Assistant taking into the consideration of marks secured by the petitioner within the period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
for M/s. Ajmal Associates

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader
for R.1 & R.2

Mr.T.S.Mohammed Mohideen
Standing Counsel for R.3



W.P(MD)No.26812 of 2022

W.P(MD)No.25897 of 2022:

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- 1.P.Arumugsamy
- 2.M.Robert Singh
- 3.M.Santhana Kumar
- 4.K.Chithra
- 5.B.Dhayalan
- 6.S.Karunakaran

... Petitioners

Vs.

- 1.The Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Secretariat,
Chennai – 09.

- 2.The Director of Medical Education,
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Chennai – 10.

- 3.The Chairman,
Medical Service Recruitment Board,
7th Floor, DMS Complex,
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Teynampet,
Chennai – 06.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the third respondent pertaining to the Provisional Selection List for the post of Dark Room Assistant bearing PSL.No. 08/MRB/2022 dated 04-11-2022 and to quash the same and consequently, directing the respondent to include petitioners in the selection panel list of Dark



W.P(MD)No.26812 of 2022

Room Assistant as per the weightage marks as well as to follow the communal roster and to appoint the petitioners as Dark Room Assistant.

For Petitioners : Mr.S.C.Herold Singh

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader
for R.1 & R.2

Mr.T.S.Mohammed Mohideen
Standing Counsel for R.3

COMMON ORDER

Heard the learned counsel appearing for the writ petitioners, the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned Standing Counsel appearing for the Medical Service Recruitment Board (MSRB) .

2.The Medical Service Recruitment Board issued notification calling for the applications from eligible candidates for the post of Dark Room Assistant. The petitioners applied in response thereto. However, the names of the petitioners did not find place in the selection list. Then it transpired that the petitioners have been excluded only for the reason that they did not chose the Science subject in their higher secondary courses. In other words, on the ground that the petitioners are non-science candidates they have been shown the door.



W.P(MD)No.26812 of 2022

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3. The learned counsel appearing for the petitioner pointed out that the recruitment notification did not make any distinction between science and non-science candidates. It is well settled that the rules of the game cannot be changed after the recruitment process commenced. In fact, the issue is no longer *res integra*. Similarly placed individuals filed writ petition before the Principal Seat in W.P(MD)No.30364 of 2022 and the same was disposed of on 15.11.2022 in the following terms:

“7. The learned counsel for the petitioners would submit that even though a positive direction has been sought for in this writ petition, the petitioners will be satisfied, if they are allowed to give a representation requesting the respondents to issue / publish a new selection list which includes the names of the petitioners instead of the impugned selection list and a direction is issued to the respondents to consider the said representation, within a time frame to be fixed by this Court.

8. The learned counsel for the petitioners would also submit that till final orders are passed on the petitioners representation, an interim direction may be issued to the respondents not to issue appointment orders to the selected candidates as per the impugned selection list dated



W.P(MD)No.26812 of 2022

04.11.2022. Since a *prima facie* case has been made out by the petitioners, no prejudice would be caused to the respondents, if the petitioners are allowed to give a representation as stated *supra* and the respondents are directed to pass final orders on merits and in accordance with law, within a time frame to be fixed by this Court. This Court is therefore inclined to issue a direction to the respondents to keep the impugned selection list dated 04.11.2022 in abeyance till final orders are passed on the petitioners' representation.

9. For the foregoing reasons, this Court directs the petitioners to submit a representation to the respondents requesting for publishing a fresh selection list which includes the names of the petitioners instead of the impugned selection list, dated 04.11.2022, within a period of three days from the date of receipt of a copy of this order. On receipt of the said representation, the 2nd respondent is directed to pass final orders on merits and in accordance with law, within a period of two weeks thereafter.

10. Till final orders are passed by the 2nd respondent, the impugned selection list dated 04.11.2022 shall be kept in abeyance by the respondents. However in case, the 2nd respondent comes to the conclusion that the petitioners are not entitled for the reliefs they have sought for in their representation, the 2nd respondent can go ahead and process the impugned selection list but it goes without saying,



W.P(MD)No.26812 of 2022

necessarily, the respondents will have to follow the existing statutory rules before issuing appointment orders to the selected candidates.

11. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.”

4. I am however add that the writ petitioners will have a case for appointment if they do not suffer from any other disqualifications. With the aforesaid observation, this writ petition is also disposed of on the same lines. No costs. Consequently, connected miscellaneous petitions are closed.

30.11.2022

Index : Yes / No
Internet : Yes/ No
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To

1.The Secretary to Government,
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Secretariat,
Chennai – 09.

2.The Director of Medical Education,
Office of the Director of Medical Education,
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W.P(MD)No.26812 of 2022

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G.R.SWAMINATHAN, J.

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