



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **08.02.2023**

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 1794 of 2023

Dr.Anna Kurian Mullasseril

... Petitioner

..Vs..

1. The State of Tamil Nadu
Represented by its Principal Secretary
Health and Family Department
Secretariat, Chennai – 600 009.
2. Directorate of Medical Education
Represented by the Director of Medical Education
Kilpauk, Chennai – 600 010.
3. Thanjavur Medical College
Represented by its Dean
Medical College Road,
Thanjavur – 613 004.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing respondents to return the original certificates of the petitioner collected by the third respondent at the time of her admission and provide her original post graduate degree certificate.



For Petitioner

:: Mr. E.Manoharan

For 1st Respondent:: Ms. P.Rajarajeswari
Government Advocate**ORDER**

The Writ Petition has been filed in the nature of a Mandamus seeking a direction to the respondents to return the original certificates of the petitioner collected by the third respondent / Thanjavur Medical College at the time of her admission and provide her original post graduate degree certificate.

2. The petitioner had done her post graduation course at the third respondent college, namely, Thanjavur Medical College between 2016-2019. She had obtained the seat as a Non Service candidate. She had to execute a bond for a sum of Rs.40/- lakhs with an undertaking that she would serve the Government for a period of not less than two years. She had not been given any posting consequent to execution of the bond. She had given a representation and now, she seeks a return of the original certificates collected by the third respondent.



3. Let me not traverse further on the facts, consequent to the statement made on behalf of the respondents that on verification of the appointment and posting order particulars, it had been ascertained that no posting order had been issued to the petitioner from the year 2019 till date. Issues like this are covered by a Judgment of the Division Bench in W.A.No. 799 of 2019 which had been subsequently re-inforced by passing of an Government Order in G.O.Ms.No. 277 Health and Family Welfare (MCA-1) Department, dated 09.06.2021.

4. In the Writ Appeal, it had been held that the respondents must return back the certificates to those candidates whom posting had not been given within a period of two years. The Division Bench had held as follows:-

“103. Our conclusions, therefore, are:

i. There is no material difference between the status of students occupying the State seats and All India Quota seats, in as much as they enjoy the educational facilities at par with each other, with the



same subsidies and the same expenses being borne by the State Government.

ii. The conditions in the brochures for the years 2014~2015, 2015~2016 or the other brochures do not exempt the candidates of All India Quota seats from any condition of bond being executed by them and, therefore, the execution of the bonds voluntarily by such candidates will be presumed to be under the terms and conditions of the said brochures.

iii. The concessions made by the State Government and the letters addressed in this regard, particularly the letter communication dated 17.7.2017, or the admissions referred to in paragraphs (62) to (64) of this judgment, cannot confer any benefit contrary to the terms and conditions of the brochures.

iv. The intimation given under the Right to Information Act by the Central



Government, as referred to in paragraph (65) of this judgment, cannot also absolve the All India Quota seat occupants from discharging their liability by the bonds which they have voluntarily filled up, and to which agreement the Central Government is not a party. Any such clarification issued does not come to the aid of the writ petitioners.

v. The judgment of the Apex Court in the case of Association of Medical Superspeciality Aspirants and Residents and others (supra) lays down the law and, therefore, any judgment rendered by this Court previously to the contrary does not hold water and cannot be taken benefit of by the writ petitioners. vi. The period of applicability of the conditions under the bond will be co-terminus with the period of two years from the date a candidate successfully passes out the course, as explained above, and would not continue beyond the same. vii. The candidates who have not been offered appointment within



the period of two years would be entitled to release of their certificates accordingly.”

(Emphasis supplied) ”

5. It is thus seen that they have held that those candidates, who are not given appointment within a period of two years would be entitled for release of the certificate. The petitioner stands on the same footing.

6. The Writ Petition stands allowed. A direction is issued to the third respondent to return back the certificates of the petitioner within a period of four weeks from the date of receipt of a copy of this order. No order as to costs.

08.02.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order



To
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C.V.KARTHIKEYAN, J.,

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