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W.P.No.3162 of 2019 &
W.M.P.No. 3426 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2023

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

W.P.No.3162 of 2019
and W.M.P.No. 3426 of 2019

Dr.T.Venkatesan

... Petitioner

Vs.

1. The Commissioner,
Directorate of Indian Medicine and Homoeopathy,
Arignar Anna Government Hospital of
Indian Medicine Campus,
Arumbakkam, Chennai – 600 106

2. The Principal,
Government Yoga and Naturopathy Medical
College & Hospital,
Arignar Anna Government Hospital of Indian
Medicine Campus
Arumbakkam, Chennai – 600 106

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 04.12.2018 bearing ref. Na.K.No.2047/GYNMC/2018 pending on the file of the 2nd respondent and quash the same as illegal and consequently for a direction directing the 2nd respondent to relieve the petitioner and return him original educational certificates such as 1.Secondary School Leaving Certificate 2. Higher Secondary School Certificate 3. BYNS Marksheets 4. BYNS degree



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certificate 5. Medical Registration Certificate 6. Community Certificate 7. Conduct Certificate 8. CRRI completion certificate 9. Transfer Certificate and 10. Provisional certificate nos.1 and 2 within a stipulated time.

For Petitioner : Mr.S.Siva Shanmugam

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader

O R D E R

The present Writ Petition has been filed for issuance of a Writ of a Certiorarified Mandamus to call for the records relating to the impugned order dated 04.12.2018 bearing ref. Na.K.No.2047/GYNMC/2018 pending on the file of the 2nd respondent and quash the same as illegal and consequently for a direction directing the 2nd respondent to relieve the petitioner and return him the original educational certificates such as 1. Secondary School Leaving Certificate 2. Higher Secondary School Certificate 3. BYNS Marksheets 4. BYNS degree certificate 5. Medical Registration Certificate 6. Community Certificate 7. Conduct Certificate 8. CRRI completion certificate 9. Transfer Certificate and 10. Provisional certificate nos.1 and 2 within a stipulated time.

2. The brief facts of the case is as follows:-

(i) The petitioner joined M.D.Course during October, 2017, which is 3 years couse and a sum of Rs.27,800/- is paid as stipend per month. The said amount is calculatd on per day basis and the same would be deducted



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in the event of any student takes leave for a day. During the month of April, 2018, the Medical Recruitment Board, [for brevity, herein after referred to as 'MRB'] had issued notification bearing no.06/MRB/2018 dated 17.04.2018 for recruitment to the temporary post of Assistant Medical Officer / Lecturer Gr.II (Yoga and Naturapathy). The MRB conducted the exams on 24.06.2018 and declared the results online on 25.06.2018 and after conducting certificate verification, the provisional selection list was published on 16.10.2018 and the petitioner was placed in Sl.No.17.

(ii) Since the petitioner was selected to the temporary post of Assistant Medical Officer / Lecturer Gr.II (Yoga and Naturapathy), he has to discontinue the said PG course and therefore, he submitted a representation dated 28.11.2018 to the 2nd respondent requesting permission to discontinue the course. The 2nd respondent, vide impugned order dated 04.12.2018 directed the petitioner to repay the entire amount of Rs.2,20,963/-, which is the stipend received by the petitioner along with a sum of Rs.2,00,000/- towards bond amount executed by the petitioner, in toto, a sum of Rs.4,20,963/- was directed to be paid by the petitioner. Since the respondents have violated Clause 71 of the prospectus, the petitioner left with no other option, has come up with the present petition.

3. The learned counsel for the petitioner would submit that a mere glance of the Clause 71 of the Prospectus would show that a candidate has



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to repay the stipend received by him and also mentions about the execution of a bond for a sum of Rs.2,00,000/- (as the petitioner is a non-service candidate) only. The said clause does not even make it mandatory for payment of bond amount or makes it condition precedent that only on payment of the said amounts, the certificates which are in possession and custody of the 2nd respondent would be handed over.

4. The learned counsel for the petitioner also submits that withholding the original certificates of the petitioner without any legal authority is perse bad in law and without any authority, hence the impugned order requires to be set aside, thereby pleaded to allow the present petition.

5. The learned Additional Government Pleader appearing for the respondents would submit that as per the interim order granted by this Court as early as on 14.02.2019 the petitioner has paid the stipend amount of Rs.2,20,963/- received by him and on receipt of the said payment, the the Principal had returned the certificates, except the transfer certificate, because he discontinued the course. The petitioner has received his certificates and joined the government service, at present, the petitioner is working at Namakkal.



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6. The learned Additional Government Pleader appearing for the respondents would contend that in addition to the stipend, the petitioner should also pay the bond amount to the government due to discontinuance. Once the petitioner discontinues his studies, the government cannot refill the seat for the next two years and one seat goes vacant. In support of his contention, he relied on Clause 74 of the prospectus, thereby pleaded to dismiss the petition.

7. Heard the learned counsels on either side and perused the documents placed on record.

8. It is not in dispute that the petitioner completed Bachelor of Naturopathy and Yogic Science Course in the Government Yoga and Naturopathy Medical College, Chennai during May, 2017 and during October 2017, the petitioner joined PG Course in Yoga and Naturopathy. Thereafter, the petitioner was selected and appointed to the post of Assistant Medical Officer in the Department of Indian Medicine and Homeopathy, however, the petitioner was not permitted to join duty on account of non-payment of the stipend amount to the tune of Rs.2,20,963/- as well as the bond amount of Rs.2,00,000/-. In view of the affidavit filed by the petitioner, this Court directed the petitioner to pay the stipend amount of Rs.2,20,963/- and the bond amount of Rs.2,00,000/- within the periods



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stipulated in the order dated 14.02.2019. As per the same, the petitioner paid the stipend amount and joined in the Government service.

9. With respect to the bond amount of Rs.2 lakhs, it is the contention the learned counsel for the petitioner that per Clause 71 of the prospectus, the petitioner is not required to pay the said bond amount for the reason that it is only for the candidate to make them work under the Government service and not for the purpose for discontinuing the service and since the petitioner is working in Government Service, he is not required to pay . It is necessary to extract Clause 71 of the Prospectus, which runs as follows:-

“71. Candidates selected for admission to the M.D. (Yoga and Naturopathy) courts should execute a bond to the effect that in the event of discontinuing their studies before completion of the course, they shall be liable for refund of the full amount of stipend received by them along with two sureties from permanent Government Servants of equal / higher rank at the time of admission to the course. All service candidates of Tamil Nadu shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) All non-service candidates of Tamilnadu shall execute a bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs

10. It is pertinent to mention that Clause 74 of the Prospectus mandates that candidates, who have secured appointment in MRB shall not be permitted to discontinue the course without satisfying the condition of



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their bond and for useful reference, it is extracted as follows:-

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“74. Candidates undergoing the MD(Yoga and Naturopathy) Course who have secured appointment in Tamilnadu Medical Service through the Tamilnadu Public Service Commission (or) Tamil Nadu Medical Services Recruitment Board shall not be permitted to discontinue the course without satisfying the condition of their bond. They shall also not be permitted to rejoin the MD Programme midway at a later point of time or retain rights to join the M.D.Programme without completing the waiting period and without appearing in the Entrance Examination afresh, except in cases where specific orders from the Health Department of Government of Tamil Nadu regulating such readmission is issued.”

11. It cannot be gainsaid that the petitioner, who had joined PG Course {which is three years course} in Yoga and Naturopathy during October 2017 had discontinued in the year 2019 in view of the fact that he was appointed as Assistant Medical Officer / Lecturer Gr.II (Yoga and Naturapathy), therefore, as per Clause 74 of the Prospectus, the candidates, who have secured appointment in MRB shall not be permitted to discontinue the course without satisfying the condition of their bond. Therefore, this Court, on 14.02.2019, while directing the respondents to issue the certificates to enable the petitioner to join in MRB, had directed the petitioner to pay stipend amount and the bond amount as well.

12. Considering the above said facts and circumstances of the present case and taking note of the fact that the petitioner joined his PG



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course in the year 2017 and discontinued the same in the year 2019 on the ground that he secured appointment as Assistant Medical Officer and taking note of Clause 74 of the Prospectus, which stipulates that candidates, who have secured appointment in MRB shall not be permitted to discontinue the course without satisfying the condition of their bond and on earlier occasion, the petitioner has also filed an affidavit stating that he will pay the stipend amount of Rs.2,20,963/- and a bond amount of Rs.2,00,000/- and on account of the same, this Court on 14.02.2019 had directed the respondents to return all the original certificates, thereby the petitioner has also joined duty, now, the petitioner cannot take a new stand, therefore, this Court does not find any reason warranting interference in the impugned order dated 04.12.2018.

Accordingly, the present Writ Petition is dismissed. It is brought to the notice of this Court that the petitioner has paid a sum of Rs.2,20,963/-, stipend amount and the petitioner is also directed to pay the bond amount of Rs.2,00,000/- also, which is mandated as per Clause 74 of the Prospectus. Consequently, connected miscellaneous petition is closed. No costs.

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Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order

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V.BHAVANI SUBBAROYAN J.

ssd

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