



W.P.No.15458 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 26.05.2023

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

W.P.No.15458 of 2023
and
W.M.P.No.15009 of 2023

Dr.Harini R.

...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 b the Director of Medical Education,
Kilpauk, Chennai – 600 010.
- 3.Directorate of Public Health and Preventive Medicine
Represented by the Director of Public Health
and Preventive Medicine,
359, Anna Salai, Chennai – 600 006.
- 4.Madras Medical College
Represented by its Dean
E.V.R.Salai, Chennai – 600 003.
- 5.Government Head Quarters Hospital,
Represented by the Medical Superintendent
Kumbakonam, Thanjavur District.



W.P.No.15458 of 2023

WEB COPY

6. National Medical Commission,
Represented by its Secretary
Pocket 14, Sector – 8, Dwarka Phase I,
New Delhi – 110 077. ...Respondents.

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Mandamus directing the 4th respondent to return the petitioner's original certificates/documents along with my Post Graduate Degree Certificate.

For Petitioner : Mr.Suhrith Parthasarathy

For Respondents : Ms.R.Anitha

Special Government Pleader

ORDER

The writ petition seeks to direct the 4th respondent to return the petitioners original certificates/documents along with post graduate degree certificates.

2.The writ petitioner was admitted to MD (Radio Diagnosis) in the Madras Medical College. She executed a bond undertaking to work with the Government of Tamil Nadu for a period of two (2) years from the date of completion of her course. The petitioner completed her course during the first wave of Covid in May 2020. From 09.09.2020 to 17.11.2020, she served in



W.P.No.15458 of 2023

the Government General Hospital at Thiruvannamalai. On 15.07.2021, posting orders were issued to the petitioner requiring her to serve at the Government Headquarters Hospital at Kumbakonam for a period of two (2) years.

3.The petitioner joined on 06.08.2021 and on the very next day, proceeded on maternity leave. She rejoined duty on 07.08.2022. It is her case that the bond period expired in March 2022 and therefore, she demanded the return of the educational records. The respondents refused to give the same till completion of the bond period. Hence the writ petition.

4.It is no longer *res-integra* that a Doctor, who gives his/her certificates under a bond, is entitled to return of certificates. This the view of the Court in Writ Appeal No.1182 of 2022 dated 27.04.2022.

5.A Division Bench of this Court gave a direction to the respective deans of Government Medical Colleges to return the original certificates to the Doctors at the earliest. It was also made clear that they are entitled to the certificates, even if they did not fulfil, the terms and conditions of the bond. The education certificate is not a marketable commodity and therefore, there cannot be any lien under Section 171 of the Indian Contracts Act. Therefore, the claim of the respondent seeking to exercise a lien under the guise of the



W.P.No.15458 of 2023

bond, which is a contract, is untenable. Following the view of the Division Bench, a learned Single Judge of this Court (GRSJ) had passed an order in W.P.No.12541 of 2022 on 13.05.2022 directing return of the certificates.

6.Consequently the petition has to be allowed and accordingly it is allowed. Though this order disposes of the case, I have to place on record the fair submissions made by Mr.Suhrith Parthasarathy, who on instructions would state that the writ petitioner is inclined to serve the remaining period of 1 month and 26 days and complete the bond. He would state that his client would also file an affidavit of undertaking to serve with the remaining period with the dean of the Government General Hospital Thiruvannamalai at the time of receipt of records. The said submission is recorded.

7.The respondents are directed to return the original certificates to the petitioner. The petitioner, as per her undertaking, on completion of her fellowship course, shall serve out the period of 1 month and 26 days.

8.With the above observations, this writ petition stands allowed. Consequently Connected writ miscellaneous petition is closed. No costs.

26.05.2023



W.P.No.15458 of 2023

Index : Yes/No
Speaking : Yes/No
Neutral Citation Case : Yes/No
nst

To,

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5/7



W.P.No.15458 of 2023

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V.LAKSHMINARAYANAN,J
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