



W.P.No.28979 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.28979 of 2023

and

W.M.P.Nos.28549, 28550 & 28551 of 2023

Dr.H.Sakthivel

.. Petitioner

VS

- 1.The State of Tamil Nadu
Rep. By its Principal Secretary,
Health & Family Welfare Department,
Fort St.George, Chennai.
 - 2.The Directorate of Medical Education
Rep. By its Director of Medical Education,
Kilpauk, Chennai – 10.
 - 3.The Directorate of Public Health and Preventive Medicine,
Rep. By its Director of Public Health and
Preventive Medicine, 359, Anna Salai,
Chennai – 06.
 - 4.The Dean,
Stanley Medical College,
Chennai.
- .. Respondents

Petition filed under Article 226 of the Constitution of India
praying to issue a writ of certiorarified mandamus calling for the
records of the impugned order vide R.No.5018/ME2/2021-6 dated
31.08.2021 from the 4th respondent as against the petitioner and



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to quash the impugned order dated R.No.5018/ME2/2021-6 dated 31.08.2021 WRIT directing the respondents 1 and 2 to direct the 4th respondent to return all the (1) Original UG Certificate (2) Original PG Degree Mark Sheets (3) Original M.Ch Degree Certificate and other original documents submitted by the petitioner at the time of his admission.

For Petitioner : Mr.P.Gnana Sekaran
For Respondents : Mr.KMD. Muhilan
Additional Government Pleader
for R1 to R3

ORDER

The petitioner is a Doctor, who after completion of his Masters, secured admission in M.Ch., Surgical Gastroenterology in Stanley Medical College in 2017. He completed the aforesaid course in 2020. At the time of admission for the M.Ch Course, all original certificates such as UG Certificate, PG degree mark sheets, Original M.Ch Degree Certificate and other required certificates had been submitted with the Dean of R4 college.

2. The petitioner had also executed a bond, undertaking that he would serve the State for a period of two years upon completion of the course. In the alternative, he would pay a sum of



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Rs.50 lakhs to the Government. The bond stood triggered upon completion of the course in 2020 and is valid for two years thereafter i.e., till 31.05.2022. Admittedly, as on date, the bond has worked itself out and is no longer in force.

3. The petitioner was in receipt of a show-cause notice dated 31.08.2021 during the bond period alleging that he had been reluctant to work with the Tamil Nadu Medical Services to fulfil the bond requirement. The petitioner responded promptly on 01.09.2021 conveying his objections to the premise on which the show-cause notice had been sent.

4. The show-cause notice refers to an online counselling held on 30.07.2021 for filling in vacancies available in Speciality Department, Government Medical Colleges and hospitals. Admittedly, there was no publicity given for the online counselling.

5. In addition, Mr.Mugilan, would tentatively state that direct emails and messages had been sent to the candidates. However, no emails / correspondences / proof of messages avowedly sent to the candidates informing of the online counselling are produced.



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6. In light of the admitted position that candidates had admitted not been informed about the online counselling, such a procedure ought not to have been followed. If at all the bond posting was to be made by way of online counselling, there ought to have been prior intimation in that regard in order to ensure full and effective participation.

7. In the petitioner's reply dated 01.09.2021, a copy of which is furnished by R4, the petitioner states that after completing six months of covid duty during the bond period he had joined a training programme. He conveys his intention to complete the remaining bond period after finishing the training and also seeks permission to execute a bank guarantee of Rs.50 lakh for the interim period. He had sought a copy of the format for execution of bank guarantee from the respondents.

8. Learned AGP would accede to the position that there has been no reply sent by the respondents to letter dated 01.09.2021. Hence, the petitioner cannot be faulted in not executing bank guarantee as the format was not available with him, nor was permission granted. Temporary appointment and



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posting orders had been issued on 21.09.2020 to the petitioner asking him to report for covid duty at Stanley Medical College for a period of three months, extended for a further period of three months. Thus, admittedly, the petitioner has served between 21.09.2020 and 28.02.2021 (see paragraph 4 of counter dated 12.10.2023), amounting to a period of 161 days.

9. The petitioner has now come forth with the present writ petition seeking to quash show-cause notice dated 31.08.2021. In fact, the impugned show-cause notice has itself lost all force since, post the petitioner's reply on 01.09.2021, further proceedings appear to have been dropped by R4. Hence there was hardly any necessity for the petitioner to have challenged show-cause notice in light of it having lost all potency.

10. Be that as it may, the trigger for the present writ petition is the fact that the petitioner is in need of his original certificates deposited with R4 and apprehends that there would be resistance to hand over the same in light of the impugned show-cause notice.

11. The discussion as above makes the following points



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clear (i) the period of bond is complete as on 31.05.2022 (ii) the petitioner has served covid duty for a period of six months as per the temporary posting orders and (iii) the above temporary posting orders were the only orders of posting ever sent to the petitioner.

12. In light of the points as noticed above, there is no substance in the defence put forth by the respondents now and thus, while quashing the impugned notice, there is a direction to R4 to return (i) original UG Certificate (ii) Original PG Degree Mark Sheets (iii) Original M.Ch Degree Certificates and other original documents in possession of R4, for which purpose, the petitioner will present himself before R4 either today or tomorrow. The contents of this order will be conveyed to R4 by Mr.Mugilan, for immediate compliance.

13. Writ petition stands allowed in above terms. No costs. Connected miscellaneous petitions are closed.

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Index:Yes/No
Neutral Citation:Yes
ssm



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