



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.11.2023

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.32810 of 2023

& WMP.No.32438 of 2023

Dr.S.Nandhitha Lakmi

... Petitioner

Vs

- 1.The Secretary,
Ministry of Health and Family Welfare,
Government of India,
New Delhi – 560 004.
- 2.The Secretary,
National Medical Commission,
Pocket-14, Sector-8, Dwarka Phase-1,
New Delhi – 110077.
- 3.The Director General,
Directorate General of Health Services,
Ministry of Health and Family Welfare,
Government of India,
New Delhi – 560 004.
- 4.Medical Counselling Committee,
for Post Graduate Medical & Dental Seats,
Directorate General of Health Services,
Ministry of Health and Family Welfare,
Government of India,
New Delhi – 560 004.



5. The Dean/Medical Superintendent,
ACS Medical College and Hospital,
Poonamallee High Road, Velappanchavadi,
Chennai – 600 077.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 3rd and 4th respondents to treat the seat allotted to the petitioner viz MD-General Medicine under NRI Quota in ACS Medical College and Hospital, Chennai as vacant during the special stray vacancy round of PG Counselling (allotment process) (All India Quota) to be conducted by the 4th respondent between 17.11.2023 to 22.11.2023 by accepting the resignation of the petitioner pursuant to the email dated 31.10.2023 of the 5th respondent and further to direct the 5th respondent college to refund to the petitioner the entire course fee paid by her and to return the original certificates to the petitioner.

For Petitioner : Mr.S.R.Rajagopal
Senior Counsel
for Ms.Y.Kavitha

For Respondents : Mr.K.Srinivasamurthy (R1, R3 and R4)
Special Central Government Panel Counsel

ORDER

Mr.K.Srinivasamurthy, learned Senior Central Government Panel Counsel accepts notice for R1, R3 and R4 and is armed with instructions to enable final disposal of this matter, even at the stage of admission.



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2. No notice is issued to R2 and R5 being the Secretary, National Medical Commission, New Delhi and the Dean/Medical Superintendent, ACS Medical College and Hospital, Velappanchavadi, Chennai as their interests have also been taken note of by virtue of this order.

3. The petitioner has sought a mandamus directing R3 and R4 being the Director General, Directorate General of Health Services, Ministry of Health and Family Welfare and Medical Counselling Committee for Post Graduate Medical & Dental Seats to treat the seat allotted to the petitioner i.e., MD – General Medicine under NRI Quota in R5 college as 'vacant', such that, that vacancy may be offered during the special stray vacancy round of PG counselling (All India Quota), to be conducted by the 4th respondent between 17.11.2023 and 22.11.2023.

4. The petitioner had completed her MBBS course in January 2021 and had appeared for the NEET PG examinations in March 2023. She had been allotted a seat in open category under M.D. (General Medicine) in R5 college. Since, she is undergoing certain medical issues, the petitioner was constrained to discontinue her course and reported the same to the college immediately. In the mean time, the course fee of sum of Rs.65,00,000/- was also paid to R5 college.

5. The petitioner has sought discontinuance of the course vide letter dated 17.10.2023 and vide e-mail dated 31.10.2023, the Directorate General of Health



Services (DGHS) has stated that the decision to permit resignation will fall under the purview of the college alone and hence, the petitioner was requested to appear before R5 college, which has sought guidance from R4 on 31.10.2023 as to whether the request of the petitioner may be accepted and her seat may be treated as vacant, such that the petitioner could be relieved from the course.

6. The Medical Counselling Committee has now announced the special stray vacancy round for All India Quota between 17.11.2023 and 22.11.2023.

7. In my considered view and having heard the views of the authorities, there is no hindrance to treat the seat that is allotted to the petitioner as 'vacant' in light of her decision to discontinue her course.

8. In light of this decision, as the seat will now be offered to other eligible candidates in the special stray round of PG counselling.

9. Mandamus is thus issued directing R3 and R4 to treat the seat allotted to the petitioner for MD – General Medicine under NRI quota in R5 college as 'vacant' and offer the same in the special stray vacancy round of counselling scheduled to be conducted between 17.11.2023 and 22.11.2023.

10. As far as the refund of the fees and return of certificates to the petitioner is concerned, this is a matter between the petitioner and R5 college. Let a representation be made by the petitioner before the college in this regard, which



shall be considered by the college in line with the prevailing Rules and Regulations and in accordance with law, as expeditiously as possible.

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11. This Writ petition is disposed as above. No costs. Connected Miscellaneous petition is closed.

17.11.2023

Index : Yes / No
Speaking Order: Yes
Neutral Citation: Yes
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Note: Registry is directed to upload this order (20.11.2023).

To

1. The Secretary,
Ministry of Health and Family Welfare,
Government of India,
New Delhi – 560 004.
2. The Secretary,
National Medical Commission,
Pocket-14, Sector-8, Dwarka Phase-1,
New Delhi – 110077.



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DR.ANITA SUMANTH, J.

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- 3.The Director General,
Directorate General of Health Services,
Ministry of Health and Family Welfare,
Government of India,
New Delhi – 560 004.
- 4.Medical Counselling Committee,
for Post Graduate Medical & Dental Seats,
Directorate General of Health Services,
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