



W.P.(MD)No.15951 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.15951 of 2022

and

W.M.P.(MD)Nos.11514 and 11516 of 2022

1.Dr.Anvin Kurian Thomas
2.Dr.Jayakrishnan M.P.
3.Dr.Mohamed Yasid C.M.
4.Dr.Anuvind T.
5.Dr.Rajesh R.U.
6.Dr.Rohan Gayakwad
7.Dr.Archana Chiniwalar
8.Dr.Sumu M.Pillai

... Petitioners

vs.

1.The State of Tamil Nadu,
represented by its Principal Secretary,
Health and Family Department,
Secretariat, Chennai – 600 009.

2.Director of Medical Education,
represented by the Director of Medical Education,
Kilpauk, Chennai – 600 010.

3.Government Sivagangai Medical College and Hospital,
represented by its Dean,
Melavaniankudi Village, Mamanadurai Road,
Sivagangai-630 561.



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4. Government Thoothukudi Medical College and Hospital,
represented by its Dean,
Kamaraj Nagar, 3rd Mile, Thoothukudi – 628 008.

5. Madras Medical College,
represented by its Dean,
E.V.R. Salai, Chennai- 600 003.

6. Government Stanley Medical College,
represented by its Dean,
No.1, Old Jail Road, Chennai – 600 001.

7. National Medical Council,
represented by its Secretary,
Pocket 14, Sector-8, Dwarka Phase I,
New Delhi – 110 077.

... Respondents

(This Petition is dismissed as withdrawn as against the Petitioners 2, 3, 6, 7 and 8 by order of this Court dated 21.07.2022)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the Respondent Nos. 3 to 8 to relieve the petitioners from their bonded service in the Respondents 3 to 8 institutions and further to direct the Respondent Nos. 3 to 10 to return the original certificates/documents of the petitioners along with their Super Speciality Degree Certificates.

For Petitioners	: Mr. Suhrith Parthasarathy
For R1 to R6	: Mr. M. Ramesh
	Additional Government Pleader
For R7	: Ms. Shubaranjani Ananth



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ORDER

This Writ Petition has been filed in the nature of a Mandamus seeking a direction against the Respondent Nos.3 to 8 to relieve the petitioners from their bonded service in the Respondents 3 to 8 institutions and further to direct the Respondent Nos.3 to 10 to return the original certificates/documents of the petitioners along with their Super Speciality Degree Certificates.

2.Heard Mr.Suhrith Parthasarathy, learned Counsel for the petitioners, Mr.M.Ramesh, learned Government Advocate for the respondents 1 to 6 and Ms.Shubharanjani Ananth, learned Counsel for the seventh respondent.

3.The Writ Petitioners had completed their MBBS degree and also their PG degree. They then appeared for National Eligibility-cum-Entrance Test (NEET) to pursue Super Speciality Course and they had also secured admission for the academic year 2018 in the following Colleges:



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S.No.	PETITIONERS' NAME	RESPONDENT GOVERNMENT COLLEGE	DM/MCh.
1.	Dr.Anvin Kurian Thomas	Madras Medical College	DM (Medical Gastroenterology)
2.	Dr.Aravind T.	Madras Medical College	DM (Medical Gastroenterology)
3.	Dr.Rajesh R.U.	Madras Medical College	DM (Medical Gastroenterology)

4.They were required to submit their originals of their documents/certificates upto their PG degree and also their Medical Council Registration Certificate to the respective Colleges. They were also required to execute a bond for Rs.50,00,000/- together with an undertaking that they would serve the Government of Tamil Nadu for a period of two years upon completion of the course. During the course of their Super Speciality degree, there was a requirement to impart specialization education and training to the petitioners herein. However, due to outbreak of COVID-19, the respondent Colleges were not in a position to provide specialised training. The petitioners during the course of their study had however also attended COVID-19 duty by treating the patients, who had unfortunately been affected with COVID-19 virus.



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5. Thereafter, they had completed their course in the year 2021.

They were then required to do what is called in-service bond period.

They claimed that they participated in the counselling and were allotted to the various colleges. It had been further stated that they were posted in Medical Colleges, which did not have super speciality department/facility or even faculty in such department to guide them.

6. They had given a representation to the first respondent requesting the first respondent to relieve them from their posting. They then requested that the COVID-19 duty which they had done during the study period, should be considered as period done towards discharge of the bond condition. Since the first respondent did not respond to the representation, the Writ Petition has been filed by all the petitioners herein seeking a Mandamus to relieve them from their bonded service and direct the respondents to return the original documents/certificates to the petitioners along with the super speciality certificate.

7. During the pendency of the Writ Petition, the Writ Petition is dismissed as withdrawn in respect of petitioners 2, 3, 6, 7 and 8 and



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respondents 4, 5, 7 and 8th have been deleted from the array of parties, by order, dated 21.07.2022. The Registry may note the said facts, while issuing the order copy.

8.A counter affidavit had been filed by the Director of Medical Education, the second respondent herein. In the said counter affidavit, it had been stated that the Honourable Supreme Court had issued a direction in ***Writ Petition (Civil)No.376 of 2018***, dated 19.08.2019, ***Association of Medical Super Speciality Aspirants and Residents and others vs Union of India and others***, wherein, the Honourable Supreme Court held that the contract entered into by those who study PG or Super Speciality course with the Government undertaking to do Government service, is not a restraint of trade. Reliance had also been placed on G.O. (Ms)No.410, dated 10.09.2018, Health and Family Welfare (MCA-1) Department, which has been issued on 10.09.2018 for the academic year 2018-19.

9.One factor, which has to be examined, is the fact that the petitioners herein had admittedly treated COVID-19 affected patients



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during the course of their study. It is the further admitted fact that the Government had relaxed restrictions to those who have completed their PG degree and had treated COVID-19 patient and had treated such period for which they had rendered their service, as part of their bond period.

10.I really wonder as to why a distinction should be drawn between those who had completed their PG degree and those who were studying the Super Speciality course. Those who were studying Super Speciality course had also completed their PG degree. They have not withdrawn themselves from treating the COVID-19 affected patients, but offered themselves for such treatment. They should be appreciated. The fundamental aspect is that the petitioners herein did treatment for COVID-19 affected patients. The further aspect is that they were not posted in places commensurate with their qualification.

11.I had an occasion to examine a similar case in ***W.P.No.26556 of 2022 in Dr.Jeykrishnan M.P., others vs State of Tamil Nadu, represented by Principal Secretary, Health and Family Welfare***



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Department, Chennai and others, wherein, by an order, dated 02.02.2023, I had expressed an opinion that those who were studying super speciality course and attended COVID-19 duty, should be equated with those who had completed PG course and did COVID-19 duty.

12.I am informed that the petitioners therein had been relieved from duty and certificates had also been issued to them. The same order applies to the petitioners herein also.

13.The Writ Petitions stands therefore allowed and a direction is given to the respondents to accommodate the period already completed with the bond period and adjust the period done for treatment of COVID-19 period also and thereafter, return the educational certificates within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Index :Yes / No
Internet :Yes
NCC : Yes/No
cmr

24.03.2023

8/10



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C.V.KARTHIKEYAN, J.

cmr

Order made in
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