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W.P.Nos.10815, 10817, 10541 & 10545 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.07.2024

PRONOUNCED ON : 29.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.10815, 10817, 10541 & 10545 of 2024
and W.M.P.Nos.11915, 11916, 11918, 11919, 11920,
11922, 11557, 11558, 11559, 11568, 11570 & 11573 of 2024

W.P.No.10815 of 2024 :-

Dr.Sridatta Gurudatta Pawar

... Petitioner

-Vs-

1. The State of Tamil Nadu,
Rep. by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.
2. Directorate of Medical Education,
Rep. by the Director of Medical Education,
Kilpauk, Chennai – 600 010.
3. Directorate of Medical and
Rural Health Services,
Rep. by the Director of Medical Health
and Rural Health Services,
359, Anna Salai, Chennai – 600 006.
4. Directorate of Public Health and
Preventive Medicine,
Rep. by the Director of Public Health
and Preventive Medicine,
359, Anna Salai, Chennai – 600 006.
5. Government Kalaignar Centenary



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Super Speciality Hospital,
Rep. by its Superintendent,
Alandur Road, Guindy,
Chennai – 600 032.

6. Government Kipauk Medical College,
Rep. by its Dean,
Poonamalee High Road, Kilpauk,
Chennai – 600 010.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the fourth respondent contained its order bearing R.No.6632442/E7/A1/2023-52, dated 07.02.2024 and to quash the same as arbitrary, unjust and illegal and consequently direct the second respondent to issue an order relieving the petitioner from bonded service and direct the respondent Nos.5 and 6 to return the petitioner's original certificates and documents along with the post graduate and super speciality degree certificates.

W.P.No.10817 of 2024 :-

Dr.M.Priyanka

... Petitioner

-Vs-

1. The State of Tamil Nadu,
Rep. by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.
2. Directorate of Medical Education,
Rep. by the Director of Medical Education,
Kilpauk, Chennai – 600 010.



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3. Directorate of Medical and
Rural Health Services,
Rep. by the Director of Medical Health
and Rural Health Services,
359, Anna Salai, Chennai – 600 006.

4. Directorate of Public Health and
Preventive Medicine,
Rep. by the Director of Public Health
and Preventive Medicine,
359, Anna Salai, Chennai – 600 006.

5. The Deputy Director of Health Service,
Tiruppur.

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

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the fourth respondent contained its order bearing R.No.4655322/E7/A1/2023-519, dated 11.02.2023 and to quash the same as arbitrary, unjust and illegal and consequently direct the respondent Nos.2 and 4 to issue an order relieving the petitioner from bonded service and direct the sixth respondent to return the petitioner's original certificates and documents along with the post graduate degree certificates.

W.P.No.10541 of 2024 :-



W.P.Nos.10815, 10817, 10541 & 10545 of 2024

Dr.Tariq Harris

... Petitioner

-Vs-

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1. The State of Tamil Nadu,
Rep. by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.
 2. Directorate of Medical Education,
Rep. by the Director of Medical Education,
Kilpauk, Chennai – 600 010.
 3. Directorate of Medical and
Rural Health Services,
Rep. by the Director of Medical Health
and Rural Health Services,
359, Anna Salai, Chennai – 600 006.
 4. Directorate of Public Health and
Preventive Medicine,
Rep. by the Director of Public Health
and Preventive Medicine,
359, Anna Salai, Chennai – 600 006.
 5. ESI Government Medical College & Hospital,
Rep. by its Dean,
58, Kamarajar Road, Varadharajapuram,
Coimbatore – 641 005.
 6. K.A.P.Vishwanathan Government Medical College,
Rep. by its Dean,
Periyamilaguparai, Collector's Office Road,
Trichy – 620 001.
- ...Respondents



W.P.Nos.10815, 10817, 10541 & 10545 of 2024

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the fourth respondent contained its order bearing R.No.6632442/E7/A1/2023-0, dated 07.02.2024 and to quash the same as arbitrary, unjust and illegal and consequently direct the second respondent to issue an order relieving the petitioner from bonded service and direct the respondent Nos.5 and 6 to return the petitioner's original certificates and documents along with the post graduate and super speciality degree certificates.

W.P.No.10545 of 2024 :-

Dr.Suganya Sevuga Perumal

... Petitioner

-Vs-

1. The State of Tamil Nadu,
Rep. by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.
2. Directorate of Medical Education,
Rep. by the Director of Medical Education,
Kilpauk, Chennai – 600 010.
3. The Directorate of Medical and
Rural Health Services,
Rep. by the Director of Medical Health
and Rural Health Services,
359, Anna Salai, Chennai – 600 006.
4. Directorate of Public Health and
Preventive Medicine,
Rep. by the Director of Public Health
and Preventive Medicine,



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359, Anna Salai, Chennai – 600 006.

5. The Institute of Obstetrics and Gynaecology
and Government Hospital for
Women and Children
Rep. by its Director,
No.2, Pantheon Road, Egmore,
Chennai – 600 008.

6. Government Madras Medical College,
Rep. by its Dean,
E.V.R. Salai,
Chennai – 600 003.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the fourth respondent contained its order bearing R.No.4655322/E7/A1/2023-226, dated 11.10.2023 and to quash the same as arbitrary, unjust and illegal and consequently direct the respondent Nos.2 and 4 to issue an order relieving the petitioner from bonded service and direct the sixth respondent to return the petitioner's original certificates and documents along with the post graduate degree certificates.

In all W.Ps.

For Petitioner : Mr.Suhrith Parthasarathy

For Respondents : Mrs.M.Sneha
Special Counsel for Health Department



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COMMON ORDER

W.P. Nos. 10815 and 10541 of 2024:-

These writ petitions have been filed challenging the orders dated 07.02.2024 passed by the fourth respondent, thereby posted the petitioners at Government Kalignar Centenary Super Speciality Hospital, Chennai and ESI Government Medical College and Hospital, Coimbatore respectively.

2. The petitioners are being non-service candidates, had joined in the Super Speciality Course in the sixth respondent college in the year 2020. While joining, they had executed a bond for a sum of Rs.50,00,000/- with an undertaking that they would work for Government Hospitals for a period of two years after completing the course, if the Government requires their services. The petitioners submitted their original documents, such as 10th and 12th standard mark sheets, MBBS degree certificates and mark sheets, post graduation degree certificates and mark sheets and Medical Council Registration Certificate etc., to the sixth respondent college as a compulsory pre-condition to secure admission. Due to Covid-19, the petitioners were deputed for Covid-19 duties in the sixth respondent college and the petitioners were



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under impression that the Covid duty rendered by them as part of the bond duty. However, after completion of their course, they were posted in their respective hospitals as per bond to serve for Government for a period of one year and 11 months, after deducting one month bond period as directed by the second respondent. Aggrieved by the same, the petitioners filed the present writ petitions.

3. The learned counsel appearing for the petitioners submitted that bond by itself is unenforceable since it constitutes as unreasonable restriction on the petitioners' fundamental rights under Article 19(1)(g) of the Constitution of India. The bond period of two years was completed by virtue of various orders passed by this Court directing the respondents to treat the Covid-19 duty rendered by the petitioners during their period of study as part of bond duty and consequently relieved them from bonded service.

3.1. He further submitted that various Single Bench of this Court held that it ought to make no difference when reckoning period of service during a bond on whether or not service during Covid-19 is made by a student or otherwise. Therefore, directed to release the super speciality



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doctors belonging to the same batch of the petitioners, from their bonded service and ordered to return of their original certificates, after taking into account of their Covid-19 duty. One single bench of this Court held as against the above orders and the same was also stayed by the Hon'ble Division Bench of this Court. Therefore, the same benefits may be extended to the petitioners.

3.2. He further submitted that in the same context, the Hon'ble Division Bench of this Court in the case of ***Dr.D.Hariharan Vs. the Union of India*** in ***W.P.No.25827 of 2023*** by an order dated ***16.11.2023***, held the number of patients treated by these post graduate medical students and the amount of duty they have put in all these government wards is no less when compared to the temporary Medical Officers who have been recruited. As a matter of fact, the post graduate medical students did not even have an option. Therefore, the duty rendered by them have been held to be equivalent to that of the regular Medical Officers. The term Medical Officer is not expressly defined in the special rules and both the rules and the government order used the said phrase in a common manner across cadres to mean Doctors. Therefore, the Hon'ble Division Bench held that the same would also mean the post graduate



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students in the government hospitals in the content of grant of incentive marks for selfless service rendered by this during Covid-19. Further, the Hon'ble Division Bench of this Court entrusted the duty rendered by the post graduate students during Covid-19, as equivalent duty done by the Medical Officer as such, they were considered for incentive marks for their employment as well as super speciality course. Here the post graduate or super speciality course students had executed bond to serve in favour of the government for the period of two years after completion of their respective course.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. It is true that the profession of a doctor is a noble service and they are rendering service to public. The post graduate/super speciality course students have to do their service during their course, and it is part of their post graduation/super speciality course. Therefore, it cannot be taken as to fulfill the bond period, which was executed by the petitioners, thereby undertaken to work for government further period of two years.

The petitioners are being doctors, they ought to have rendered service to



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general public and the period in which they served duty is also part of their study. Therefore, it cannot be adjusted towards the bond period which was executed by the petitioners to serve for government for two years after completion of their course.

6. One of the Single Benches of this Court in the batch of writ petitions in W.P.No.10799 of 2024 etc., by an order dated 22.04.2024 held as follows:-

“13. The prime object of medical profession is to render service to humanity. Doctors cannot adopt a pick and choose attitude while treating patients. Especially poor patients receiving treatment from government run hospitals are entitled to receive the same level of specialised treatment as any other paid treatment. Denial of treatment to poor patients in government hospitals in spite of agreeing to the same under the bond goes against the ethos of medical ethics. It is not the case were the doctors are forced to treat patients for free throughout their career. The bond is such that it operates only for a particular period of time. And the petitioner Doctors are well aware of the terms in the bond and with full agreement to the same had agreed to abide by the terms in the bond. It is



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nothing but a service to humanity and to the poor sections of the society who due to financial constraints are unable to get paid treatment. Such limited services sought for from the petitioner doctors cannot be denied. It is not the case were the doctors are prevented from practising their profession but they have agreed to render their specialised services for a limited period to the less fortunate strata of the society.

14. Saving of lives is unparalleled to none. Government Hospitals today are in need of specialised Doctors. Specialised treatments today have become an expensive affair. Economically weaker sections of the society cannot be denied their fundamental right to health under Art 21 of the Constitution merely on the grounds of financial constraints. It is no fault of his/her that they are unable to afford specialised treatments today. So the Bond scheme is an all conducive scheme whereby various layers of difficulties are addressed. Firstly, the Government pools in enormous financial resources on each and every student studying in a super speciality course. In order to ensure that the right of access to higher education is not denied to any section of the society, the government has formulated this Bond policy whereby, the government will bear the expenditure of the super specialised courses provided



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in government colleges and in return the students shall serve in government run hospitals for a period of 2 years and during this period the students are entitled to a monthly stipend.

15. Secondly, the government run hospitals and other health care centres today are in need of more specialised doctors. Though there are many super speciality hospitals across the country not everyone is capable of affording the treatment at these hospitals. So the persons who will be most benefited from schemes like this will be the poorer sections of the society. They get an equal access to specialised medical treatment like any other financially stable citizen. So by gaining the services of the speciality doctors under the bond scheme the government hospitals across the State get an opportunity to provide affordable super speciality treatment to the economically vulnerable sections of the society.

16. So instead of paying for the education, the PG doctors are asked to render their valuable services in government hospitals for a monthly stipend. The PG Doctors are only further benefited as they are provideing their services and are also receiving the valuable experiences by treating patients who come in with different complaints.



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17. Thirdly, it goes without saying that the medical profession is a noble one. This court is not suggesting that all medical services must be rendered free of cost to the citizens though the goal of any welfare state is to move towards affordable and easily accessible health care to all its citizens. Therefore the government is in need of qualified speciality doctors who can treat patients coming to government hospitals with quality and affordable healthcare. Hence the PG doctors after fully agreeing to the terms in the bond had agreed to render their services and it is only in true spirit of the medical profession that their valuable services are rendered for these people who have come to the government hospitals in search of specialised treatments. This is in fact the greatest form of service to the humanity and is a testament of a true Doctor.

17. (a) The Hon'ble Supreme Court of India tested the validity of the Bond conditions and considered the competency of the State to impose such service conditions in the Bond in the case of *Association of Medical Superspeciality Aspirants and Residents and Others vs. Union of India and Others* reported in (2019) 8 SCC 607, the Apex Court held as follows:

“17. Schedule VII List I Entry 66 to the



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Constitution refers to coordination and determination of standards in institutions for higher education or research and scientific and technical institutions. Schedule VII List III Entry 25 deals with education, including technical education, medical education and universities, subject to the provisions of Entries 63, 64, 65 and 66 of List I. Legislations can be made by the State Legislature relating to medical education subject to the legislation made by Parliament. The Medical Council of India Act governs the field of medical education in this country. Admittedly, there is no provision in the Medical Council of India Act touching upon the subject-matter of compulsory bonds. Therefore, the States are free to legislate on the subject-matter of medical bonds. Executive authority of the State Government is co-extensive with that of the legislative power of the State Legislature. Even in the absence of any legislation, the State Government has the competence to issue executive orders under Article 162 of the Constitution on matters over which the State Legislature has the power to legislate. The notifications issued by the State Governments imposing a condition of execution of compulsory bonds at the time of admission to postgraduate courses and superspeciality courses cannot be said to be vitiated due to lack of



authority or competence. The field of bonds requiring compulsory employment is not covered by any Central legislation. Therefore, the submissions made on behalf of the appellants that the States lacked competence to issue the notifications as the field is occupied are rejected.

26. Right to health is integral to the right to life. Government has a constitutional obligation to provide health facilities [State of Punjab v. Mohinder Singh Chawla, (1997) 2 SCC 83 : 1997 SCC (L&S) 294] . The fundamental right to life which is the most precious human right and which forms the ark of all other rights must therefore be interpreted in a broad and expansive spirit so as to invest it with significance and vitality which may endure for years to come and enhance the dignity of the individual and the worth of the human person. The right to life enshrined in Article 21 cannot be restricted to mere animal existence. It means something much more than just physical survival. The right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter, and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human



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beings. Every act which offends against or impairs human dignity would constitute deprivation pro tanto of this right to live and the restriction would have to be in accordance with reasonable, fair and just procedure established by law which stands the test of other fundamental rights [Francis Coralie Mullin v. State (UT of Delhi), (1981) 1 SCC 608 : 1981 SCC (Cri) 212].

29. Dr A.K. Sikri, J. in K.S. Puttaswamy (Aadhaar-5J.) v. Union of India [K.S. Puttaswamy (Aadhaar-5J.) v. Union of India, (2019) 1 SCC 1] observed that the realisation of intrinsic worth of every human being as a member of society is an indispensable condition, and has been recognised as an important human right. Truly speaking, this is directed towards the deprived, downtrodden and the have-nots. He further held that the humanistic concept of human dignity which is to be accorded to that particular segment of the society has to be kept in mind. Their human dignity is based on the socio-economic rights that are read into the fundamental rights. The importance of the communitarian approach along with the individualistic approach to human dignity was addressed by Dr A.K. Sikri, J. in the above judgment [K.S. Puttaswamy (Aadhaar-5J.) v. Union of India, (2019) 1 SCC 1] . The learned Judge emphasised on



the role of the State and community in establishing collective goals and restrictions on individual freedoms and rights on behalf of a certain idea of the good life.”

18. The argument that the Petitioner doctors rendered their services during the COVID-19 period and that it must counted in as the two years period under the Bond policy is unsustainable. It is true that doctors across the country rendered invaluable services across the country. But it is to be recognised and appreciated that individuals from across different wings of the Government came out and risked their lives to protect their fellow citizens and performed their duties including the frontline workers, Police officials, Revenue officials, public transportation workers, ambulance drivers, Nurses, sanitation workers, NGOs, members of the Press and Media, food and grocery delivery persons and many other good spirited private individuals who volunteered their services in public interest and in the need of the hour. These services are incomparable. It was a period were the country witnessed immense crisis. It was a period of test to the humanity. And many people suffered innumerable losses. But to use this period of selfless service as a way out of the bond policy is utterly unjustifiable and unacceptable. It was a time when people from different



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walks of lives contributed their services in their own way and the frontline workers like aforementioned risked their lives in the process.

19. Our Great Nation values human resources as an important facet to the economy. More so than ever human resources play a vital role in the Nation building process. People from rural villages contribute a larger portion in this process. And it is the duty of any welfare state to protect the health and cater to the needs of these people. Bond policies play an important role in ensuring affordable specialised healthcare to these individuals from the rural backgrounds. Hence through theses bond policies the government will be able to seep in to the most vulnerable contributors of the economy and be able to provide quality health care services.

20. This Court is witnessing a pattern in cases as such whereby the students initially agree and sign the bond and after completing their PG education there is a common tendency to retract and approach the Court challenging the bond. The services of a doctor is far different from any other service. Saving one life is a contribution not only to the patient but his family, his dependants and even the economy of a country. It is a service to the Nation. Any poor person who is unable to



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afford paid treatment can in no way be treated differently. A life is a life and it has its value. No person should be denied quality treatment on economic grounds.”

In the above judgment, this Court categorically analyse the aspects and also the judgments rendered by other Single Benches and held that the service rendered by the post graduate/super speciality course students during the Covid-19, cannot be accounted and adjusted for the bond period of two years.

7. This Court is of the considered opinion and fully agreed with the above judgment. On perusal of the judgment rendered by the Hon'ble Division Bench of this Court as stated supra, it was held in a different context and the period of service rendered by the students can be considered only for incentive marks to pursue their employment or postgraduate/super speciality courses. Therefore, the said judgment is not applicable in the issue involved in these writ petitions. The above facts are not brought to the notice of the various Single Bench of this Court, which are cited by the petitioners. Therefore, the judgments cited by the learned counsel appearing for the petitioners are not helpful to the cases



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on hand.

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8. It is also brought to the notice of this Court that as against the above cited judgment passed by this Court in the very same issue, the Hon'ble Division Bench of this Court granted interim order of stay and it is pending for final disposal. That apart, the bond period of two years has now been reduced to one year. Therefore, the petitioners ought to have completed their bond period by rendering service to general public. Further, they are not rendering service on free of cost and they are paid salary equivalent to Civil Assistant Surgeon. Therefore, this Court is of the affirmed view that the above judgment squarely applicable to the cases on hand and the submissions made by the petitioners cannot be acceptable.

9. In view of the above discussions, this Court finds no infirmity or illegality in the orders dated 07.02.2024 passed by the fourth respondent and both the writ petitions are devoid of merits and liable to be dismissed. Accordingly, the writ petitions in W.P.Nos.10815 & 10541 of 2024 are dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.



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W.P.Nos. 10817 & 10545 of 2024 :-

10. These writ petitions have been filed challenging the order dated 11.10.2023 passed by the fourth respondent, thereby posted the petitioners at Government Primary Health Centre Alangiyam, Tiruppur Health Unit District and Institute of Obstetrics & Gynaecology Government Hospital for Women and Children, Chennai, respectively.

11. It is seen that the period of service was already expired and as such nothing survive in these writ petitions for further adjudication. However, if the original documents are not returned to the petitioners after completion of their bond period, the second respondent is directed to return all the original documents which were submitted by the petitioners forthwith.

12. With the above directions, the Writ Petitions in W.P.Nos.10817 & 10545 of 2024 are disposed of. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.



W.P.Nos.10815, 10817, 10541 & 10545 of 2024

29.07.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

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To

1. The Principal Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.
2. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai – 600 010.
3. Director of Medical Health
and Rural Health Services,
Directorate of Medical and
Rural Health Services,
359, Anna Salai, Chennai – 600 006.
4. The Director of Public Health
and Preventive Medicine,
Directorate of Public Health and
Preventive Medicine,
359, Anna Salai, Chennai – 600 006.
5. The Superintendent,
Government Kalaignar Centenary
Super Speciality Hospital,
Alandur Road, Guindy,
Chennai – 600 032.
6. The Dean,
Government Kilpauk Medical College,
Poonamallee High Road, Kilpauk,
Chennai – 600 010.
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No.1, Old Jail Road,
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G.K.ILANTHIRAIYAN. J.

rts

9. The Dean,
ESI Government Medical College & Hospital,
58, Kamarajar Road, Varadharajapuram,
Coimbatore – 641 005.
10. The Dean,
K.A.P.Vishwanathan Government Medical College,
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11. The Director,
The Institute of Obstetrics and Gynaecology
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No.2, Pantheon Road, Egmore,
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PRE DELIVERY COMMON ORDER IN
W.P.Nos.10815, 10817, 10541 & 10545 of 2024
and W.M.P.Nos.11915, 11916, 11918, 11919, 11920,
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