



W.P.No.14034 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 21.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.14034 of 2024
and W.M.P.No.15219 of 2024

1. Dr.Kavinraj R
 2. Dr.Ramana B.T.J
 3. Dr.Prabhakaran V
 4. Dr.P.Ponnumani
 5. Dr.Fazila Afra
 6. Dr.Preethi R
 7. Dr.Rajeswari R
 8. Dr.Nirmala R
- .. Petitioners

Versus

1. The State of Tamil Nadu
Represented by
The Principle Secretary,
Health and Family Welfare (CI) Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Chairman,
Medical Services Recruitment Board,
7th floor, DMS Building,
359, Anna Salai, Teynampet,
Chennai - 600 006.
3. The Chairman,
Directorate of Public Health and Preventive Medicine,
No.359, Annasalai, Teynampet,
Chennai - 600 006.



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4. The Director of Medical Education and Research,
Kilpauk,
Chennai - 600 012.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus for a direction to respondent 2 to release the community details of the 986 candidates included in the Provisional Selection list released on 01.02.2024 and thereby clarify the inclusion of an additional 76 backlog vacancies within the already notified 1021 vacancies for the post of Assistant Surgeon (General) vide Notification No.11/MRB/2022, dated 06.01.2024 and direct the respondent 2 and 3 to terminate the appointment of the 195 candidates who haven't joined the post till today even after the expiration of the statutory period of 30 days as stipulated by the MRB vide the G.O.(Ms).No.36, Health and Family Welfare (C2) Department dated 12.02.2014 and fill the 235 vacant seats (195 non-joined vacancies + 40 Withheld vacancies) from the remaining candidates who have completed their Certificate Verification and awaiting further process meticulously following the principles of reservation.

For Petitioner : Mr.Nivas Gokul M

For Respondents : Mr.R.Bindhran,
Additional Government Pleader,
for RR-1, 3 and 4

: Mr.L.Murugavelu, for R2

ORDER

This Writ Petition is filed for three prayers. The petitioners are the candidates who participated in the selection to the post of Assistant Surgeon pursuant to the notification No.11/MRB/2022, dated 11.10.2022.



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Ultimately, final select list was published and the candidates were appointed with effect from 20.02.2024. However, the petitioners were not selected. It is under these circumstances, the petitioners have filed this Writ Petition with multiple prayers.

2. The first prayer in the Writ Petition is that the respondents have selected and appointed a total number of 986 candidates. However, even though a list was published containing only their registration number and their names, the final select list with full particulars namely, registration number, name of the candidate, their date of birth, their communal status, the marks obtained by them and whether they are fitted in General or reserved vacancy, was not at all published. According to the petitioners, they apprehended that even though some of the reserved category candidates scored more marks, they have been adjusted as against the reserved vacancies. Therefore, the petitioners are not even in a position to challenge the selection.

3. Now, the selection is over and the candidates are also appointed. Every candidate who participated in the selection is entitled to know the



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result of the selection. The result is not a truncated result, but, is as stated above. Therefore, the respondents are directed to publish results with the aforesaid particulars i.e., as per the final selection for the general turn and also for all the reserved categories including the horizontal reservation, if any, by preparing a complete list containing the name of the candidates selected, the marks obtained by them, their communal status, their registration number and their date of birth so that the petitioners can go through the same. A copy of such list shall be uploaded in the website of the M.R.B within two weeks from the date of receipt of a copy of this order.

4. The second prayer in the Writ Petition is to terminate the 195 candidates who have not joined the posts till today even after the expiry of the statutory period of 30 days stipulated by the M.R.B. The said prayer, as such, is redundant. If a candidate has not joined, then, there is no question of terminating him. Simply their selection has to be cancelled and if the respondents are willing to operate the reserve list, they should operate the same. It is represented by the learned Counsel for the second respondent that even before the issue of the notification, the file in respect of the



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operation of the reserve list is already put up and the reserved candidates are going to be appointed as against the vacancies.

5. The third prayer in the Writ Petition is to challenge the fresh notification, dated 15.03.2024 issued in respect of the subsequent vacancies. The grievance of the petitioners is that as per the special rules applicable for the post of Assistant Surgeon, once the subsequent notification is issued, the reserve list cannot be operated. Therefore, in respect of the vacancies already filled up, if the candidates have resigned, the same have to be filled up by operating the reserve list. Without doing so, the present notification cannot be gone into. As a matter of fact, the provision in the special rules as well as in the Act are the provisions enabling the respondents to operate the reserve list and it will not give a concomitant right on the persons who are in the reserve list to enforce it. However, this grievance of the petitioners is partly redressed by the submission of the learned Counsel that even before the publication of the notification, a list has already been drawn up and the appropriate candidates in the appropriate list are given an opportunity of appointment. In respect of the non-joined candidates, the reserve list is being operated and the petitioners cannot have any grievance more than



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that. In view thereof, the prayer challenging the subsequent notification is without any merits and is accordingly negatived.

6. In view thereof, this Writ Petition is disposed of on the following terms :-

(i) The respondent Nos.2 and 3 are directed to publish results with the aforesaid particulars i.e., as per the final selection for the general turn and also for all the reserved categories including the horizontal reservation, if any, by preparing a complete list containing the name of the candidates selected, the marks obtained by them, their communal status, their registration number and their date of birth. A copy of such list shall be uploaded in the website of the M.R.B within two weeks from the date of receipt of a copy of this order;

(ii) The second prayer, seeking to terminate the 195 candidates, is rendered redundant and the submission of the respondent Nos.2 and 3 that candidates are drawn for the reserve list as per the procedure even before the publication of the subsequent notification is recorded;

(iii) The prayer of the petitioners challenging the notification, dated 12.02.2014 shall stand rejected;



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(iv) There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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(2/2)

Neutral Citation : yes
grs

To

1. The Principal Secretary,
Health and Family Welfare (CI) Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Chairman,
Medical Services Recruitment Board,
7th floor, DMS Building,
359, Anna Salai, Teynampet,
Chennai - 600 006.
3. The Chairman,
Directorate of Public Health and Preventive Medicine,
No.359, Annasalai, Teynampet,
Chennai - 600 006.
4. The Director of Medical Education and Research,
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