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W.P.No.19640 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

CORAM : JUSTICE N.SESHASAYEE

W.P.No.19640 of 2023
and WMP.No.18898 of 2023

Dr.Badamutlang Dympep

... Petitioner

Vs

1.The State of Tamil Nadu

Represented by the Principal Secretary
Health and Family Welfare Department
Secretariat, Fort St.George, Chennai - 600 009.

2.The Directorate of Medical Education

Represented by the Deputy Director of Medical Education
Kilpauk, Chennai - 600 010.

3.The Registrar

The Tamil Nadu Dr.M.G.R.Medical University
69, Anna Salai, Guindy
Chennai - 600 032.

4.The Dean

Madras Medical College
Chennai.

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 4th respondent in relation to the impugned letter dated 19.04.2023 in Ref. No.004480/MES(1)/2023, and quash the same as illegal and arbitrary,



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and consequently direct the respondents to return the original certificates submitted by the petitioner at the time of admission and pass appropriate orders.

For Petitioner : Ms.N.Nathami
for Mr.T.S.Baskaran

For Respondents : Mr.J.Ravindran, Addl. Advocate General
Assisted by Mr.SP.Karthik
Government Advocate for R1, R2 & R4
M/s.Ramalingam & Associates for R3

ORDER

The petitioner hails from Meghalaya, and she has done her Super Speciality Course (M.Ch Plastic and Reconstructive Surgery) in Madras Medical College, between 2017 and 2020. At the time of joining her course, she had executed a bond to serve in a Government Hospital for a period of two years, and this period expires on September, 2022. While so, the petitioner was in receipt of a communication dated 19.04.2023 from Madras Medical College, by which she was intimated about the intention of the authorities to invoke Revenue Recovery Act, for realising a sum of Rs.50,00,000/- which the petitioner might have to pay in lieu of the two year period, in terms of the bond that she had executed.



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2. The petitioner alleges that she was not given any posting whereas she was served with a notice under Revenue Recovery Act by the fourth respondent, which is impugned in this case. The petitioner's grievance is that since she was not served with any order of appointment, there was no occasion for her to join or not to join the post. According to the petitioner, in view of the dictum in *State of Tamil Nadu and others Vs P.S.Sairam* [2020 7 MLJ 513], a posting should have been given to her within the bond period. Hence, the petitioner has filed this petition challenging the proceedings initiated under the Tamil Nadu Revenue Recovery Act, for breaching the bond that she had executed at the time when she joined the course.

3. Heard Ms.N.Nathami, learned counsel for the petitioner and Mr.J.Ravindran, learned Additional Advocate General for the respondents 1,2 and 4.

4. The impugned proceedings discloses that the counselling for appointment was held on 05.07.2021, 06.07.2021, and 30.07.2021. Since the petitioner hails from Meghalaya, and had completed her course prior to the alleged dates of counselling, she had moved to her native place. It is her case that she was never served with a notice of counselling.



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5. The learned Additional Advocate General, on instructions made a statement that since counselling was held during COVID wave-II, only online counselling was done. He would further submit on instructions that today there are no vacancies where the petitioner could be accommodated.

6. The counsel for the petitioner however submitted that the petitioner had applied for a job in Meghalaya Government, and her name has been short-listed for interview, and she is required to produce her educational certificates before the appointing authority.

7. It appears from the submissions made that there was no alert message appeared to have been given to the petitioner to participate in the counselling. The scenario is not unfamiliar to this Court. This Court considers that the bond which the respondents obtain from the post-graduate students and from the students of Super Speciality Course, has a noble purpose of serving the Society, given the subsidised fees which the Government charges for these courses. But, what the respondents appear to have missed is that, the outflow of students is about four times more than the annual vacancies that may arise. Therefore, the nobility of purpose behind obtaining the bond is



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defeated by the very structure in which it is set. And added to this is the issue relating to counselling, and in this case, this was further compounded by another fact that the counselling appeared to have taken place during the COVID wave-II. And today, the Government is not in a position to accommodate the candidate, but, life must go on.

8. Given the scenario, this Court is left with little option, but to allow this petition. Accordingly, the impugned order dated 19.04.2023 issued by the fourth respondent is set aside, and the fourth respondent is required to return all the educational certificates of the petitioner to her, within one week from today. This Court urges the first and second respondents to evolve a workable solution which must be more student friendly and also must ensure their obligation to return back something to the Society. No costs. Consequently, connected miscellaneous petition is closed.

30.01.2024

Index : Yes / No

Speaking order / Non-speaking order
ds

Note : Issue order copy today (30.01.2024)

To:



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Chennai - 600 009.
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N.SESHASAYEE.J.,

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