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W.P.No.20341 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2024

CORAM

MR.JUSTICE N.SESHASAYEE

W.P.No.20341 of 2023
and W.M.P.No.19705 of 2023

1.Dr.Anju.P.R

2.Dr.Amrutha P.V

... Petitioners

Vs.

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

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

3.Madurai Medical College,
Represented by its Dean,
Panagal Road, Alwarpuram,
Madurai-625 050.

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India, for issuance of a writ of Mandamus, directing the respondents to



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return the original certificates of the petitioners collected by the third respondent at the time of their admission and their original P.G.Degree certificate.

For Petitioner : Mr.E.Manoharan

For Respondents : Mr.A.Silambanan,
Additional Advocate General
assisted by Mr.C.Kathiravan,
Special Government Pleader
and Mr.T.Arunkumar,
Additional Government Pleader
for R1 to R3

ORDER

The petitioners herein are post graduate medical students. They completed their course in Ophthalmology in May, 2022. At the time of joining the course, they had executed a bond to serve in a Government hospital for a period of two years from the date of completion of their course. The bond period commences from June, 2022 and ends in May, 2024.

2.While so, after the expiry of the bond period of about 1 year, to be precise, on 31.05.2023, the petitioners were served with a posting in Madurai Medical College. So far as the second petitioner is concerned, she was



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appointed as Assistant Surgeon on temporary basis under Category II of Class I of Tamil Nadu Medical Services. Both these Doctors had applied for a fellowship in Intraocular lens / Phacoemulsification, and the first petitioner was prosecuting her further studies in Ahaliya Foundation Eye Hospital, Palakkad, Kerala between November, 2022 to October, 2024, and the second petitioner was to prosecute her higher studies during the same period but in Aravind Eye Hospital. While so, the petitioners, vide separate representations approached the appointing authorities and gave an undertaking that they would comply with the obligation in terms of the bond that they had executed and sought for return of the original certificates for their production before the respective institutions where they opt to do their further studies.

3. Mr.E.Manoharan, the learned counsel for the petitioners submitted that in an identical situation that arose in ***S.Sridev vs. the State of Tamil Nadu***, in W.P(MD).No.2691 of 2023, wherein the learned single judge of this Court, vide its order dated 09.11.2023, has directed the petitioners therein to give necessary undertaking that they would serve the bond period after the



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completion of their higher studies, and directed the respondents therein to release their educational certificates. The learned counsel also submitted that, in response to the same, the Principal Secretary to the Government, Health and Family Welfare Department has issued a communication dated 17.11.2023, directing the Director of Medical Education and Research to release the educational certificates to the petitioner in that case, after obtaining necessary undertaking. The learned counsel also added that the petitioners before this Court have already given their undertakings and the respondents may accept the same.

3.1 Arguing further, the learned counsel submitted that, in effect, the petitioners have to work only for 1 year within the bond period in terms of the ratio in *State of Tamil Nadu and Others vs. P.S.Sairam*, [2020 7MLJ 513]. This apart, the first petitioner had served for 6 months during the Covid period and the second petitioner had served for 13 months under Covid duty. The learned single judge of this Court, vide his order in *Dr.Jayakrishnan M.P. vs. The State of Tamil Nadu*, in W.P.No.26556 of 2022, dated 02.02.2023 has directed that the duty discharged by any Post



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Graduate / Super Speciality student must be adjusted against the bond period. This was followed by this Court in ***Dr.Patil Mandar Pradip and another vs. State of Tamil Nadu***, in W.P.No.22894 of 2023, dated 09.08.2023. If Covid period is adjusted, then the first petitioner may have to serve only for six months and the second petitioner has literally need not serve as she has already served 3 months in extra.

4. Mr.A.Silambanan, the learned Additional Advocate General appearing for the respondents would contend that when the petitioners have given an undertaking to serve the bond period, they cannot seek any adjustment of the term that they have served in Covid duty.

5.After weighing rival submissions, this Court finds considerable merit in the submissions made by the learned counsel for the petitioners. What is derivable from the submission is that: (a) in terms of the ratio in ***P.S.Sairam case***, the first petitioner herein would be liable to serve only for 1 year, out of which, in terms of the ratio in ***Dr.Jayakrishnan M.P. case*** and ***Dr.Patil Mandar Pradip case***, whatever time that the first petitioner has served in



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Covid duty may have to be given credit too. Therefore, whatever undertaking that has been given by the first petitioner must be read down in the manner that it falls in tune with the law declared by this Court; (b) So far as the second petitioner is concerned, while in terms of the appointment order dated 31.05.2023, she may have to serve for only 1 year based on the dictum in ***P.S.Sairam case***, but inasmuch as she had already served for 13 months in Covid duty, the ratio of this Court in ***Dr.Jayakrishnan M.P. case*** and ***Dr.Patil Mandar Pradip case*** will operate, and the second petitioner is no longer required to serve any bond period. Accordingly, the second petitioner is discharged from her obligation to serve the bond period. Hence, notwithstanding any undertaking that the second petitioner might have given, she is not required to serve since she has apparently given the undertaking in ignorance of the law as declared by this Court.

6.In conclusion, this Court directs the second respondent to (a) return all the educational documents to the first petitioner, after obtaining a fresh undertaking to serve for such period after adjusting a period lost in not serving the order of appointment immediately after the completion of the



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course and also after adjusting the period for which the first petitioner had served during Covid times; and (b) to release all the educational certificates to the second petitioner, without obtaining any undertaking as her obligation under the bond stands fully discharged. If, however, the respondents raise any issue regarding the duration during which the second petitioner has claimed to have served under Covid duty, the respondents are required to approach this Court and cannot delay or vacillate the issue perennially. The direction above given is required to be complied with on or before 12.01.2024.

7. Accordingly, this writ petition stands disposed of with the above direction.

No costs. Consequently, connected miscellaneous petition is closed.

Post the matter on 19.01.2024 under the caption 'for reporting compliance'.

02.01.2024

Anu

Index : Yes / No

Neutral Citation : Yes / No

Note to office: Issue order copy on 03.01.2024

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N.SESHASAYEE, J.
Anu

To.

1.The Principal Secretary,
Health and Family Department,
Secretariat, Chennai-600 009.

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

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