



W.P.No.22886 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.22886 of 2023

and

W.M.P.No.22362 of 2023

Puja Kumari

... Petitioner

Vs.

1. The Union Of India,
through Its Secretary,
Ministry Of Health And Family Welfare,
Government Of India,
Nirman Bhawan,
New Delhi-110 011.

2. The President,
National Medical Commission,
Pocket 14, Sector 8, Dwarka Phase 1,
New Delhi-110 077.

3. The Secretary,
Tamil Nadu Medical Council,
914 , Poonamalle,
High Road Arumbakkam,
Chennai-106.

4. The Director General
National Investigation Agency,
CGO Complex, Lodhi Road,
New Delhi-110 003.



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5. The Dean,
Chettinad Academy Of Research And Education,
Rajiv Gandhi Salai, OMR, Kelambakkam,
Chengalpattu, Dt., Chennai-603 103.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the respondents to grant the Completion Certificate/ decree of MBBS to the petitioner Puja Kumari as she has already paid the entire fee amount and further declare the demand of re-payment of Rs.1,13,70,500/- (Rupees one crore thirteen lacks seventy thousand and five hundred only) from the petitioner as illegal, unjustified, arbitrary and further be pleased to pass any other/ orders, direction/ directions as may be petitioner is entitled for as this Hon'ble Court may deem fit and proper in the circumstances of this case.

For Petitioner : Mr.Uday Shankar Chaudhary

For Respondents : Mr.Prasad Vijaya Kumar,
Central Government Standing Counsel,
(for R1);

Mr.J.Jayamalan (for R3);

Mr.R.Karthikeyan,
Special Public Prosecutor (for R4);

Mr.M.S.Krishnan, Senior Counsel for
Mr.T.Balaji (for R5).



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ORDER

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The writ of mandamus has been instituted to direct the respondents to grant Course Completion Certificate / Degree of M.B.B.S. to the petitioner, Puja Kumari, she has already paid the entire fee amount and of of Rs.1,13,70,500/- (Rupees one crore thirteen lacks seventy thousand and five hundred only), and further declare the demand of re-payment of the same fee from the petitioner as illegal, unjustified, arbitrary.

2. The petitioner secured admission to the MBBS Course in the 5th respondent college. Admittedly, she had completed the 5 years M.B.B.S. Degree Course and paid the fees demanded by the college. It is not in dispute that the petitioner had paid the college fees right from the first year till the date of completion of the Degree Course. However, the National Investigation Agency, in connection with a criminal case, freezed the fee amount of Rs.1,13,70,500/- (Rupees one crore thirteen lacks seventy thousand and five hundred only), paid by the petitioner to the college.

3. When the fee amount paid to the 5th respondent college was freezed by the National Investigation Agency, the 5th respondent college



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is not in a position to issue the course completion certificate and other relevant certificates to the petitioner. The institution has withheld those certificates for clearing of the fee dues.

4. The learned counsel for the petitioner Mr.Uday Shankar Choudhary would submit that the petitioner is no way connected with the National Investigation Agency case registered at Ranchi, Jharkhand. She is a student of the 5th respondent college and underwent M.B.B.S. Course without any blemish. Admittedly, she has completed the 5 years course and paid the requisite fee, as demanded by the institution. Thus, the 5th respondent college is bound to issue the course completion certificate and further issue of relevant certificates to the petitioner, enabling her to practice Medicine.

5. If at all, the fee amount has been freezed by the National Investigation Agency, it is for the college to institute appropriate proceedings against the National Investigation Agency to recover the said amount and therefore, the burden cannot be shifted on the writ petitioner for recovery of the freezed amount by the National Investigation Agency.

6. The learned Senior Counsel, Mr.M.S.Krishnana, appearing on



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behalf of the 5th respondent would oppose petitioner's contentions by stating that the petitioner, no doubt, completed her M.B.B.S. Course from the 5th respondent college. The fee amount paid to the tune of Rs.1,13,70,500/- (Rupees one crore thirteen lacks seventy thousand and five hundred only) have been appropriated by the National Investigation Agency in connection with the criminal case registered in RC No./05/2021/NIA/RNC dated 30.12.2021, registered under Section 16, 17, 18, 20, 38, 39 & 40 of UA(P) Act, 1967.

7. When the entire fee amount paid by the petitioner has already been appropriated by the National Investigation Agency, with reference to the criminal case registered under the UA(P) Act, 1967, the 5th respondent college is not in a position to issue course completion certificate and other relevant certificates to the petitioner.

8. The National Investigation Agency, Branch Office Ranchi, Jharkhand, filed a counter affidavit setting out the entire facts relating to the criminal case registered. It is brought to the notice of this Court that some of the family members of the petitioners have also been involved in the said criminal case and the said fact was not brought to the notice of



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this Court.

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9. In paragraph no.5.3 of the counter affidavit of the National Investigation Agency, has stated certain facts which reads as under:

*5.3: That, the NIA, after the investigation, filed the charge sheet on 20.01.2023, against 02 arrested accused persons namely **Tarun Kumar @ Tarun (A-1)** (elder brother of applicant / petitioner) and **Pradyuman Sharma @ Saket @ Kundan @ Sudhansu @ Kunal @ Nakul @ Laden (A-2)** (own uncle of applicant / petitioner) and further investigation, in terms of section 173(8) of Cr.PC, is continued in the instant case. The role of the accused persons in the instant crime has been elaborated in **Para 17.14.01 (at Page No.38) & 17.14.02 (at page No.39)** of the Charge Sheet dated 20.01.2023, as under:*

Role, Activities and Offences established against the arrested accused Tarun Kumar @ Tarun (A-1), in the instant crime: Arrested accused A-1 is associated with CPI (Maoist), a proscribed terrorist organization, declared by the Government of India. For the cadres of CPI (Maoist), he used to raise funds and also motivate ex-cadres of CPI (Maoist) for the revival of the above organization. He was a party to the



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conspiracy in raising funds for the CPI (Maoist) in the instant case. As a part of the larger conspiracy, he worked as conduit between the operatives of CPI (Maoist) and other stakeholders of Magadh Zone in the state of Jharkhand and Bihar. A-1 has written the demand letters for levy and also forwarded the same to local contractors, knowing well that such funds will be used against the country threatening its Unity, Integrity, Security and Sovereignty. Therefore, as per averments made in pre-paras, it is established that A-1 became member of CPI (Maoist) and actively participated in the conspiracy and raising funds, which was hatched among co-accused persons in raising funds for the CPI (Maoist). Thereby, A-1 has committed offences u/s 120B (Substantively), Section 120B r/w Sections 386 & 411 of IPC & Sections 13, 17, 18, 20, 38, 39 & 40 of UA (P) Act, 1967.

Role, Activities and Offences established against the arrested accused Pradyuman Sharma (@ Saket @Kundan @ Sudhansu @ Kunal @ Nakul @ Laden (A-2), in the instant crime: Arrested accused A-2 is the Special Area Committee Member of CPI (Maoist), a proscribed terrorist



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organization, declared by the Government of India. For the cadres of CPI (Maoist), he is raising funds and also motivating ex-cadres of CPI (Maoist) for the revival of the above organization. He was a party to the conspiracy in raising funds and also in threatening local contractors on behalf of the CPI (Maoist) in the instant case. As a part of the larger conspiracy, he worked as a mastermind, between the operatives of CPI (Maoist) and other stakeholders of Magadh Zone in the state of Jharkhand and Bihar. On the direction of A-2, A-1 has written the demand letters for levy, knowing well that such funds will be used against the country threatening its Unity, Integrity, Security and Sovereignty. Therefore, as per averments made in pre-paras, it is established that A-2 became member of CPI (Maoist) and actively participated in the conspiracy and raising funds, which was hatched among co-accused persons in raising funds for the CPI (Maoist). Thereby, A-2 has committed offences u/s 120B (Substantively), Section 120B r/w Sections 386 & 411 of IPC & Sections 13, 17, 18, 20, 38, 39 & 40 of UA (P) Act, 1967.”

10. The fact remains that the fee amount paid by the petitioner has



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already been appropriated by the National Investigation Agency and therefore, the 5th respondent is not obligated to issue the course completion certificate to the petitioner. It is left open to the petitioner to again pay the fee amount, as per the prospectus, and claim issuance of course completion certificate and other relevant certificates from the college. As of now, the fee amount due to the 5th respondent college has not been paid and therefore, the relief as such sought for in the present writ petition cannot be granted. In the event of paying the fees as per the prospectus by the petitioner to the 5th respondent, the 5th respondent college shall issue the course completion certificate and other relevant certificates to the petitioner.

11. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes
Speaking Order
Neutral Citation : Yes
(sha)

To

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S.M.SUBRAMANIAM. J.,

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