



W.P.No.21605 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM : JUSTICE N.SESHASAYEE

W.P.No.21605 of 2023

Dr.Sai Sriram

... Petitioner

Vs

1.The State of Tamil Nadu

Represented by its 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
EVR Periyar Salai
Park Town
Chennai - 600 003.

.... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 4th respondent herein to return the original certificates of the writ petitioner submitted at the time of admission to M.Ch. course in Madras Medical College as well as M.Ch. degree course certificate and all other certificates including mark sheets held by the 4th respondent.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.J.Ravindran,
Additional Advocate General
Assisted by Mr.M.Bindran
Addl Government Pleader [R1, R2 &R4]

M/s.Ramalingam & Associates for R3

ORDER

The petitioner herein had completed his post-graduation in neurosurgery. between September 2017, and September 2020. At the time of joining the course, he executed a bond to serve in Government run medical institution for a period of two years, and in default, to pay a sum of Rs.20,00,000/-.

2. The respondents take a position that on 05.07.2021, 07.07.2021 and 30.07.2021, the second respondent, the Directorate of Medical Education has conducted online counselling for appointment, and that the petitioner



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had not participated. It is further clarified that the Directorate of Medical Education vide his communication dated 25.08.2021 had instructed the Deans of Government Medical Colleges to issue show cause notice to those who did not participate.

3. The contention of the petitioner is that the dates of online counselling had taken place right during the middle of COVID Wave-II, which was far too virulent than COVID Wave-I, in which people died in flocks. It is right at this point of time, the Directorate of Medical Education had alleged to have conducted the online counselling. And the petitioner did not receive any communication about the proposed online counselling on 05.07.2021, 06.07.2021 and 30.07.2021, when it could have atleast alerted the petitioner through whatsapp or email.

4. Heard the learned counsel for the petitioner, Mr.J.Ravindran, learned Additional Advocate General, assisted by Mr.M.Bindran, learned Government Pleader for the respondents 1,2 & 4 and M/s.Ramalingam & Associates for the third respondent.

5. The learned counsel for the petitioner submitted that even going by the



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version of the respondents, if the petitioner had not participated in the online counselling then atleast the respondents should have issued an order of appointment. Participating in the counselling only gives the participant an advantage vis-a-vis the choice of place or posting to which an appointment might be given. If someone does not participate in the counselling, it only means that such candidate will lose an opportunity to convey one's preference. If the statement of the respondents were taken into consideration, then going by the dictum in ***State of Tamil Nadu and others Vs P.S.Sairam*** [2020 7 MLJ 513], a posting should have been given to the petitioner before September 2022. This posting is not given.

6. There are two parts to the submissions of the counsel for the petitioner :

- (a) the first relates to not intimating the petitioner about the proposed online counselling on 05.07.2021, 07.07.2021 and 30.07.2021, before hand;
- (b) irrespective of the online counselling, no order of appointment was issued.

Now in the context of the submissions made by the learned counsel, the first part of his contention loses significance on the face of second part of his arguments. An appointment order should have been given in terms of the



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bond executed by the petitioner on or before September 2022, and it is now not in dispute that this order of appointment was not given. Necessarily, the dictum in ***P.S.Sairam case*** invites to remedy the plight of the petitioner.

7. Since the petitioner is discharged of all his obligations in terms of the bond he had executed, it is obligatory on the part of the fourth respondent to return all the original certificates to the petitioner herein, as prayed for.

8. In conclusion, this petition is allowed, and the fourth respondent is now directed to return the original certificates of the petitioner collected by them at the time of his admission to M.Ch. course, and also his M.Ch. degree course certificate and mark sheets, as prayed for, within a period of two weeks from the date of receipt of a copy of this order. No costs.

12.03.2024

Index : Yes / No
Speaking order / Non-speaking order
ds



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N.SESHASAYEE.J.,

ds

To:

- 1.The Principal Secretary
Health and Family Welfare Department
Secretariat, Fort St.George, Chennai - 600 009.
- 2.The Deputy Director of Medical Education
The Directorate of Medical Education
Kilpauk, Chennai - 600 010.
- 3.The Registrar
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