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W.P.No.30516 of 2022 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P. Nos. 30516, 30519, 30520, 30524, 30523, 30528, 30532, 30604,
30608, 30610, 30624, 30627 and 30631 of 2022

and

W.M.P. Nos. 29944, 29945, 29948, 29950, 29947, 29949, 29951, 29953,
29952, 29954, 29956, 29957, 29961, 29962, 30042, 30045, 30048, 30049,
30050, 30051, 30063, 30065, 30067, 30068, 30071 and 30074 of 2022

W.P. No. 30516 of 2022

Dr. S.Hari Vignesh

... Petitioner

Vs

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai – 600 009.
2. The Secretary to Government,
Finance Department,
Fort St. George, Chennai – 600 009.
3. The Director of Medical Education,
Kilpauk,
Chennai – 600 010.
4. The Director of Public Health and Preventive Medicine,
Chennai – 600 006.



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5. The Deputy Director of Health Services,
Aranthangi Health Unit District,
Aranthangi.

6. Karpaga Vinayaga Medical College,
Chinnakolambakkam, Maduranthakam,
Chengalpattu District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the order in G.O. (Ms) No. 46, dated 07.02.2020 passed by the first respondent and quash the same as far as the petitioner is concerned and consequently direct the respondents 1 to 5 to grant salary to the petitioner like the candidates those who are secured admission in the Post Graduate Degree/Diploma and Super Speciality/Board Speciality Course in the Self Financing Private Medical College hail from Government Medical Colleges and thereby treat equally those who are completing the P.G. in the self finance college without any discrimination.

For Petitioner
in all W.Ps : Mr. S.Mahendran

For Respondents : Mr. M.Brindan,
in all W.Ps Additional Government Pleader
(for R1, R3 to R5)

Mr. V.P.R. Elamparithi,
Additional Government Pleader (for R2)

Mr. S.Udayakumar (for R6)



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COMMON ORDER

Issue involved in all these Writ Petitions are common and as such, this Court is inclined to pass common order.

2. These Writ Petitions have been filed challenging G.O. (Ms) No. 46, Health and Family Welfare (B1) Department dated 07.02.2020 passed by the first respondent and the petitioner has sought for consequential direction to grant salary to the petitioners like the candidates those who were secured admission in the Post Graduate Degree/Diploma and Super Speciality/Board Speciality Court in the Self Financing Private Medical College hail from Government Medical Colleges and treat equally those who were completing P.G. in the Self Finance College without any discrimination.

2. This issue has already been dealt with by the Division Bench of this Court in the case of ***Secretary to Government -vs- Dr. T.M.Vidhya*** (W.A. No. 171 of 2023 order dated 15.11.2023) and the relevant portion is extracted hereunder:-



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“12.As rightly put forth on the side of the appellants, the services of the respondent are not utilized by the Government unlike the in-service candidates who undergo higher studies in Government Medical Colleges whose services are being utilized by the Government fully. Since their services are fully utilized by the Private Medical Colleges for the betterment of patients of private institutions which provides paid service to the public, it is for the institutions where the in-service candidates / Doctors are undergoing higher studies, to necessarily pay their salary during their period of study in the institution and the said salary should be on par with the Government Doctors. In this connection, it would be appropriate to refer to Regulation 13.3 of the Medical Council of India Post Graduate Medical Education Regulations, 2000, which states that the Post Graduate students of the institutions which are located in various States / Union Territories has to be paid remuneration at par with the remuneration being



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paid to the Post Graduate students of State Government Medical Institutions / Central Government Medical Institutions in the State / Union Territory in which the institution is located. Further, as per the advisory released on 24.08.2023 by the Post Graduate Medical Education Board in File No.NMC/PG/Legal/2023/(21033)/048792, it was made clear that payment of remuneration should be on par with the Government Institutions and the same shall be paid by the Private Medical College. In Registrar, Mahatma Gandhi Medical College and Research Institute and another v. D. Rajasree and Others [2023 SCC OnLine Mad 5211] the first bench of this court has categorically observed that the payment of stipend being a statutory liability of the College, it would not be open for the College to deny the payment of the same to the students. On the contrary, they are duty bound and have legal obligation to pay the said amount to the students and cannot deny the same on the ground of equitable set-off, even when the



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amount that is sought to be claimed by the Colleges is not yet ascertained. Thus, the principle laid down is that there should be no discrimination between the in-service candidates undergoing PG Medical Course in the Government Colleges and in-service candidates undergoing PG Medical Course in the Private Medical Colleges. Therefore, this court is of the opinion that the institution, where the respondent / writ petitioner is pursuing her post graduate course, is bound to pay stipend in the form of salary to her, on par with the medical officers, pursuing PG course in the Government colleges/ institutions, during the course of study.

13.At this juncture, it is important to point out that the learned counsel for the respondent / writ petitioner, during the course of argument, submitted that the respondent / writ petitioner was relieved by the Government Primary Health Centre, Tiruvelangadu on 31.07.2020 and



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she joined the course of Doctor of General Medicine in Karpaga Vinayaka Medical College, Chinnakolambakkam, Maduranthakam, Kancheepuram, second respondent herein; and that, she was not paid any amount towards salary or stipend either by Government of Tamil Nadu or second respondent, from the month of August 2020 to till date. The learned counsel has filed the affidavit of the respondent / writ petitioner to that effect.

14. In view of the foregoings, this court has no hesitation to hold that the institution, where the first respondent is serving, must necessarily effect payment of salary to the first respondent herein, on par with the Government Colleges during the period of study. As such, this court directs the first respondent to submit a representation seeking stipend / salary along with arrears indicating the amount payable, from the date of her joining the course in the Private Institution, till date, to the second



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respondent / Private Institution, within a period of two

weeks from the date of receipt of a copy of this judgment.

On such filing by the first respondent, the second

respondent shall consider the same and pass appropriate

orders, with regard to payment of salary / stipend to the

incumbent during the period of study, within a period of

four weeks thereafter. It is made clear that stipend, if any,

paid by the institution shall be adjusted while making such

payment.”

4. In view of the above, the petitioners are directed to submit their respective representations to their respective Colleges, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the respective Colleges are directed to pay remuneration on par with the Doctors who were completed their Post Graduate Degree/Diploma and Super Speciality/Board Speciality Course in the Government Colleges, within a period of two weeks thereafter.



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5. With the above directions, these Writ Petitions are disposed of.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No

Neutral Citation: Yes/No

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To

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