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WP No. 1857 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-03-2025

CORAM

THE HONOURABLE MRS JUSTICE N. MALA

WP No. 1857 of 2025

and WMP.Nos.2133, 2135 and 2136 of 2025

Dr.Mariyam Jahana Shirin K
Kattayadan House, Thuvvakkad,
Pannippara Post, Malappuram,
Kerala - 676 541.

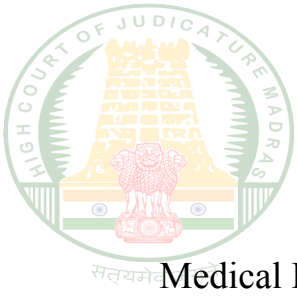
Petitioner(s)

Vs

1. The State Of Tamil Nadu
Represented By Its Principal Secretary,
Health And Family Welfare
Department, Secretariat,
Chennai - 600 009.

2.Directorate Of Medical Education
Represented By The Director Of
Medical Education, Kilpauk,
Chennai - 600 010.

3.Directorate Of Medical And Rural
Health Services
Represented By The Director Of



WP No. 1857 of 2025

WEB COPY

Medical Health And Rural Health
Services, 359, Anna Salai,
Chennai - 600 006.

4. Directorate Of Public Health And
Preventive Medicine
Represented By The Director Of Public
Health And Preventive Medicine, 359,
Anna Salai, Chennai - 600 006.

5. Government Theni Medical College,
Represented By Its Dean,
Theni - 625 512.

Respondent(s)

PRAYER

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 4th Respondent contained in the Posting Order bearing R.NO.4655322/E5/A4/2023-318, dated 07.11.2024, and to quash the same as arbitrary and unjust, and to consequently direct the Respondents to treat the Petitioner's bond period as complete and direct the 5th Respondent to return her original certificates and documents collected by the 5th Respondent while admitting her to the post graduate degree course along with her post graduate degree certificate.

For Petitioner(s): Amritha Sathyajith



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WP No. 1857 of 2025

For Respondent(s): Mrs.M.Sneha, Special Counsel

ORDER

This Writ Petition is filed to call for the records of the 4th Respondent contained in the Posting Order bearing R.No.4655322/E5/A4/2023-318, dated 07.11.2024, and to quash the same as arbitrary and unjust, and to consequently direct the 5th Respondent to return the petitioner's original certificates and documents along with her post graduate degree certificate by treating the petitioner's bond service period as completed.

2. The undisputed facts are, the petitioner completed Post-Graduation in MD (Paediatrics) from the 5th respondent college. The petitioner joined the course in May-2019 and completed the same in April-2023. At the time of joining the course, the petitioner as a non-service candidate was required to execute a bond for sum of Rs.40 Lakhs, with an undertaking that she would serve the Government for a period of two years after completion of the course.



WP No. 1857 of 2025

WEB COPY

The aforesaid bond conditions were later modified by the 1st respondent vide G.O.(Ms).No.351, Health and Family Welfare (MCA-1) Department, dated 27.10.2023, whereunder the bond period was reduced to one year and bond amount to Rs.20 lakhs. For a period of 5 months from the date of completion of the course, the petitioner was not issued with any posting orders. However, the petitioner received intimations for proposed counseling's on various dates in September 2023. The petitioner under the impression that the said counseling's were meant for specific specialisations only and not for the petitioner's specialisation did not attend the same. Though further counseling sessions were held in October 2023, the petitioner was not able to attend the counseling due to pressing personal problems. Whiles, on 18.09.2024, the petitioner received an e-mail at 11.25 a.m, calling upon her to attend the counseling scheduled at 11.00 a.m on the same day, but petitioner did not attend the same as the bound period lapsed. Thereafter, on 07.11.2024, the petitioner received the compulsory posting order posting her at Government Headquarters Hospital, Gudalor, for a period of one year. According to the petitioner, the posting order was in



WP No. 1857 of 2025

violation of the bond conditions and by issuing the posting order, the 4th
WEB COPY

respondent virtually extended the bond for further period of one year. The petitioner therefore, left with no efficacious remedy, filed the above writ petition for the aforesaid relief.

3. The respondent stated that the petitioner failed to participate in the earlier counseling sessions and that though she received communication for counseling on 20.09.2023, she failed to attend the same. The respondents further stated that the petitioner failed to participate in the counseling sessions and also failed to report to the DPH for the posting orders. However, she waited for completion of one year and thereafter filed the writ petition erroneously claiming that the bond period was completed. The respondents therefore prayed that the petitioner should be directed to pay a sum of Rs.20 lakhs as per the bond conditions, as she failed to serve the compulsory bond period.

4. The issue is whether the posting order issued by the 4th respondent is in



WP No. 1857 of 2025

WEB COPY

violation of the bond conditions. The petitioner admits that she received

communication for counseling on various dates in September and October 2023.

The petitioner under the impression that the counseling was restricted to specific specializations mentioned therein and also due to personal reasons, failed to attend the same. The petitioner states that the only intimation she received thereafter was through email on 18.09.2024, to attend counseling scheduled at 11.00 a.m on the same day. As the petitioner received the intimation beyond the scheduled time and as the bond period of one year also lapsed, the petitioner believing that she was no longer required to attend the counseling, did not attend the same. The respondents state that the petitioner received the letter dated 02.11.2023, directing her to report to the DPH to get posting orders but she failed to report.

5. It is seen that the Directorate of Medical Education vide communication dated 25.09.2023, directed the Deans of all Government Medical Colleges, to communicate to the candidates who did not participate in



WP No. 1857 of 2025

WEB COPY

the counseling on various dates in September 2023, that the counseling would be held on 04.10.2023 and 05.10.2023 and that their non participation would be construed as unwillingness to join and fulfil the bond conditions and also that appropriate action would be taken against them. In the instructions to the said communication it was specifically stated that, if any candidate failed to attend the counseling or did not opt on the scheduled date, the same would be treated as unwillingness to serve Government and compulsory posting order would be issued against the various vacancies available through RPAD. The petitioner and one Dr.Nikhil Vijayan, did not attend the counseling. Therefore on 02.11.2023, the Dean of the Government Medical College sent a communication to the petitioner as well as Dr.Nikhil Vijayan (M.S General Surgery) to report to the Director of Public Health Preventive Medicine, Chennai, to get fresh posting orders, as they failed to attend counseling. Thereafter on 15.11.2023, a compulsory posting order was issued to Dr.Nikhil Vijayan, posting him to the Directorate of Public Health and Preventive Medicine, Chennai, Government Primary Health Centre, Pathukani, Nagercoil



WP No. 1857 of 2025

WEB COPY

Health unit District. The said compulsory posting order was sent by registered post to Dr.Nikhil Vijayan. When the petitioner's name was also mentioned in the letter dated 02.11.2023, as a candidate who did not participate in the counseling, the procedure adopted for Dr.Nikhil Vijayan ought to have been adopted in the case of the petitioner also. The petitioner ought to have been issued with the compulsory posting orders, by registered post with acknowledgement due, as was done in the case of Dr.Nikhil Vijayan. Absolutely no reasons are assigned by the respondents, for the long delay of one year, from the date of communication dated 02.11.2023, for issuing to the petitioner, the impugned compulsory posting order. As already stated, in the instructions annexed to the communication dated 20.09.2023, it was clearly stated that the compulsory posting order would be issued by RPAD, if the candidate failed to appear for counseling or did not opt. It is relevant to note that it was in compliance of the aforesaid instructions that Dr.Nikhil Vijayan, was issued with the compulsory posting order on 15.11.2023. If the respondents could issue the compulsory posting order to Dr.Nikhil Vijayan, what prevented



WP No. 1857 of 2025

WEB COPY

them to issue the same to the petitioner is not explained. In the absence of any justifiable reasons for the long delay of one year in issuing the impugned compulsory posting order to the petitioner, and in view of the fact that the bond period lapsed, I am of the considered view that the impugned order is unsustainable.

6. The impugned compulsory posting order dated 07.11.2024, is well beyond the bond period of one year and therefore, as rightly contended by the counsel for the petitioner, by issuing the belated compulsory posting order the respondents are virtually trying to extend the bond period, which cannot be permitted. In the Judgment dated 06.10.2020, the Hon'ble Division Bench of this court in the case of *State of Tamil Nadu vs. P.S.Sriram and Ors.*, in W.A.No.799 of 2019, clearly laid down that the bond obligations placed on medical post graduates was strictly limited to the duration of the prescribed service period and the same could not extend beyond the bond period without justification.



WP No. 1857 of 2025

WEB COPY

7. I have already found that there was no justification for issuing the impugned compulsory posting orders beyond the bond period, to the petitioner alone, while it was issued to one Dr.Nikhil Vijayan, who was similarly placed as the petitioner. I therefore find merit in the writ petition and hence the same is allowed and the impugned posting order dated 07.11.2024, is quashed.

8. The 5th respondent is directed to return the petitioner's original certificates and documents along with her Post-Graduate Degree certificates, within a period of four weeks from the date of receipt of a copy of this order.

Accordingly, this Writ Petition is allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

14-03-2025



WP No. 1857 of 2025

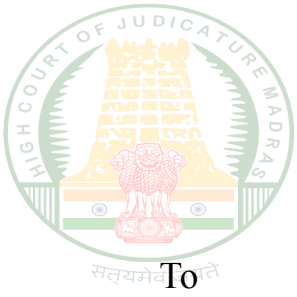
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WEB COPY Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



WP No. 1857 of 2025

To
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WP No. 1857 of 2025

N.MALA, J.
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WP No.1857 of 2025



WEB COPY



WP No. 1857 of 2025

14-03-2025