



W.P. No.5660 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2025

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

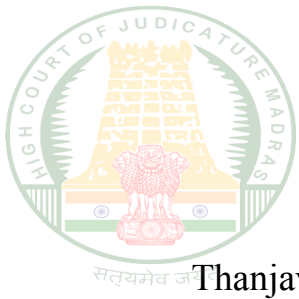
W.P. No.5660 of 2025 and
W.M.P. No.6251 of 2025

Dr.P.Megapriya
M.S. Obstetrics & Gynaecology

... Petitioner

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 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.The Dean



W.P. No.5660 of 2025

Thanjavur Medical College and Hospital
Medical College Road
Thanjavur, Tamil Nadu - 613 004

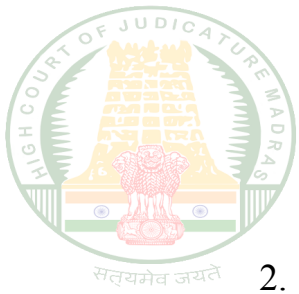
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records vide Na.Ka. No.357/N1/Order dated 15.10.2024 signed on 16.10.2024 on the file of 5th respondent and quash the same as illegal and consequently direct the respondents to release the Canara Bank Guarantee No.S02GPGE230095001 for Rs.40,00,000/- dated 09.01.2023 collected by the 5th respondent, while receiving back the original certificates by the petitioner to pursue NEET Super Specialty course.

For Petitioner : Mr.V.Kadhirvelu
For Respondent : Mrs.M.Sneha
Special Counsel

ORDER

This writ petition is filed challenging the order dated 16.10.2024, of the 5th respondent, and for a consequential direction to the respondents to release the Bank Guarantee for Rs.40.00 Lakhs, furnished by the petitioner on 09.01.2023.



W.P. No.5660 of 2025

WEB COPY

2. The petitioner is a doctor. She joined her Post Graduation degree in M.S.Obstetrics & Gynaecology in Thanjavur Medical College and Hospital, Thanjavur on 01.05.2019, and completed the said course on 02.05.2022. As the petitioner was a non-service doctor, she was required to execute a bond for a sum of Rs.40,00,000/-, with an undertaking that she would work for the Government for a period of two years, after completing the course, as and when the Government required her services.

3. It is the further case of the petitioner that, while serving the bond period, she was selected for DNBSS Gynaecological Oncology super specialty course under All India Quota (NEET) and hence she requested the respondents to return her original certificates. According to the petitioner, the 5th respondent, compelled the petitioner to produce a bank guarantee for Rs.40,00,000/-, as per the letter dated 13.12.2022, of the first respondent, hence the petitioner executed the same.

4. According to the petitioner, the respondents had released the certificates of similarly placed persons without insisting on bank guarantee on the basis of an affidavit of undertaking. Therefore, the petitioner filed a writ

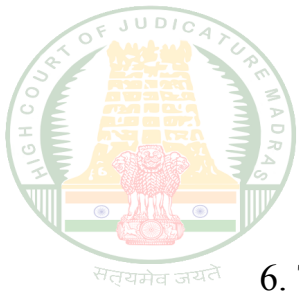


W.P. No.5660 of 2025

WEB COPY

petition in W.P. No.23671 of 2024, before this court and this court, vide its order dated 20.08.2024, disposed of the writ petition, directing the respondents to consider the representation of the petitioner and to pass appropriate orders on merits. In pursuance of the order of this court, the 5th respondent passed the impugned order rejecting the petitioner's representation stating that the petitioner had completed the bond duty only for 170 days instead of 365 days and hence the 5th respondent directed the petitioner to furnish a bank guarantee for Rs.10,68,493/-. Aggrieved by the impugned order, the petitioner has filed the present writ petition for the aforesaid relief.

5. The learned counsel appearing for the petitioner submitted that the impugned order was ex-facie illegal as the respondents infringed the petitioner's fundamental right guaranteed under Article 14 of the Constitution of India, inasmuch as, the respondents released the original documents of 40 similarly placed candidates on the basis of an affidavit of undertaking without insisting upon a bank guarantee for Rs.40,00,000/-. The learned counsel further submitted that on the short ground of indiscrimination, the impugned order deserved to be set aside.



W.P. No.5660 of 2025

WEB COPY

6. The learned special counsel appearing for the respondents, on the other hand, submitted that the petitioner, in order to pursue her DNBSS Gynaecological Oncology super specialty course under All India Quota (NEET) at Lakeshore Hospitals and Research Center Ltd, Nettoor PO, Kochi, Kerala. had submitted an affidavit of undertaking to the respondents, undertaking to complete the bond service of two years, after completion of the above said course. The learned special counsel further submitted that since the petitioner had not completed the bond service, she was directed to furnish bank guarantee of Rs.10,68,493/-, that too for the remaining period only. Therefore, the learned special counsel submitted that the impugned order could not be faulted.

7. Heard both sides and perused the materials available on record in the form of typed set of papers.

8. On the facts of the case, it is to be seen if the impugned order is justified. The petitioner, at the time of joining her Post Graduation degree on 01.05.2019, had executed a bond for a sum of Rs.40,00,000/-, with an undertaking that she would work for the Government for a period of two years after completing the course, if the Government required her services. The



W.P. No.5660 of 2025

WEB COPY

petitioner completed the course on 02.05.2022, and the fourth respondent issued posting order on 07.07.2022, which was received by the petitioner on 12.07.2022. The petitioner joined duty at Thanjavur Medical College and Hospital on 25.07.2022. While so, she got selected for DNBSS Gynaecological Oncology super specialty course under All India Quota (NEET) at Lakeshore Hospitals and Research Center Ltd, Nettor PO, Kochi, Kerala. The petitioner was relieved from her duty on 10.01.2023, on the basis of an undertaking given by her on 07.01.2023. The petitioner further requested the respondents to return her original certificates, which were required to be produced at Lakeshore Hospitals and Research Center Ltd, Nettor PO, Kochi, Kerala, for pursuing the super specialty course. The 5th respondent refused to return petitioner's original certificates and compelled the petitioner to produce a bank guarantee for Rs.40,00,000/-, since the petitioner had completed the bond period only for 170 days and 195 days of service was still pending. Hence, the petitioner submitted a bank guarantee for Rs.40,00,000/-, in favour of the Dean, Government Medical College and Hospital, Thanjavur, issued by Canara Bank on 09.01.2023. The petitioner also gave an undertaking on 07.01.2023, to the third respondent, received her original certificates and joined the super specialty course on 12.01.2023.



W.P. No.5660 of 2025

WEB COPY

9. While so, the petitioner was given to understand that some of the doctors pursuing super specialty courses filed writ petition in W.P.(MD) No.26971 of 2023, before the Madurai Bench of Madras High Court, for a direction to the respondents therein, to return the original certificates for undergoing super specialty course, by accepting the undertaking of the petitioners therein. The writ petition was disposed of directing the respondents, therein to return the original certificates to the writ petitioners on the basis of the undertaking given by them before the court. According to the petitioner, as the doctors in the said writ petition received their original certificates without furnishing any bank guarantee, the same benefit had to be extended to her also. The insistence on the bank guarantee as regards the petitioner alone was discriminatory and therefore, the petitioner challenged the impugned order.

10. It is seen that the petitioner completed 170 days of bond service and as the petitioner joined the super specialty course she could not complete the remaining bond service of 195 days. In the said circumstances, the 5th respondent passed the impugned order directing the petitioner to produce bank guarantee for Rs.10,68,493/- for the remaining bond service period of 195 days



W.P. No.5660 of 2025

WEB COPY

and to release the bank guarantee for the remaining period. It is to be noted here that there was a delay of 70 days in issuing the posting order to the petitioner and therefore, the inclusion of 70 days while computing the pending bond service as 195 days is erroneous. In my view the petitioner cannot be blamed for the delay in issuing the posting order. Therefore, the petitioner is entitled to deduct 70 days from the pending bond service period of 195 days. If 70 days are deducted, then the remaining bond service period would only be 125 days. Therefore, the petitioner would be liable to produce bank guarantee for Rs.6,84,931.25/-, rounded off to Rs.6,85,000/- for the remaining bond service period of 125 days. The petitioner's case is distinguishable on facts from the facts in W.P.(MD) No.26971 of 2023 and therefore, instead of setting aside the impugned order, I am inclined to modify the same.

11. Accordingly, the writ petition is partly allowed. The impugned order of the 5th respondent dated 15.10.2024, is modified as indicated above. The petitioner, is directed to produce bank guarantee for a sum of Rs.6,85,000/- for the remaining bond service period of 125 days, within a period of three weeks, from the date of receipt of a copy of this order. The 5th respondent shall communicate to the bank to collect bank guarantee for Rs.6,85,000/-, from the



W.P. No.5660 of 2025

WEB COPY

petitioner and release the balance amount to the petitioner, within a period of three weeks. No costs. Consequently, the connected writ miscellaneous petition is closed.

18.03.2025

Index : Yes / No
Neutral Citation : Yes / No
Asr

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Secretariat, Chennai - 600 009
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W.P. No.5660 of 2025

WEB COPY
6. The Government Pleader
High Court, Madras

N.MALA, J.

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WEB COPY



W.P. No.5660 of 2025

W.P. No.5660 of 2025

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