



W.P.No.5631 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 19.03.2025

ORDER PRONOUNCED ON : 17.04.2025

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

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Dr.Aishwarya. G

... Petitioner

/Vs./

- 1.State of Tamil Nadu,
Rep. by it's Secretary,
Health and Family Welfare Department,
Fort St.George, Chennai – 600 009.
- 2.The Director of Medical Education,
Kilpauk, Chennai – 600 010.
- 3.The Dean,
Madras Medical College,
E.V.R. Periyar Salai,
Chennai – 600 003.
- 4.The Directorate of Public Health and Preventive Medicine,
Anna Salai, Teynampet,
Chennai – 600 086.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent authorities to issue the Post Graduate Degree Certificate to the petitioner for the Post Graduate Degree course



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of M.D.General Medicine completed by the petitioner in the third respondent

College in May 2019, within a time period stipulated by this Court.

For Petitioner : M/s.Shanmitha.S

For Respondents : Mrs.M.Sneha,
Special Counsel

* * * * *

ORDER

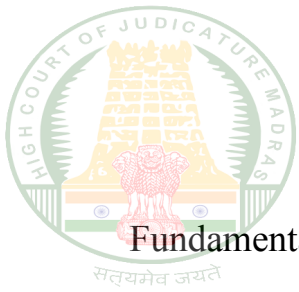
This writ petition is filed to direct the respondent authorities to issue the Post Graduate Degree Certificate to the petitioner for the Post Graduate Degree course of M.D.General Medicine completed by the petitioner in the third respondent College in May 2019, within a time period stipulated by this Court.

2.The petitioner got admission on merit for Post Graduation course in M.D. General Medicine, in Madras Medical College, in the year 2016. At the time of joining the course the petitioner executed a bond with an undertaking that she will serve the Tamil Nadu Government, for a period of two years, and she also submitted her original certificates to the respondents. The petitioner completed her Post Graduation course in May 2019, and was sincerely awaiting the posting orders for serving the Government of Tamil Nadu, but till date the petitioner did not receive any posting orders. Since there was a long delay in getting the posting orders, the petitioner appeared for the JIPMER Super Specialty Examination, got



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selected and was allotted the Super Specialty Course in D.M. (Clinical Immunology), on 17.12.2019. As the petitioner was required to report to the allotted Medical College, along with the original certificates, she approached the respondents, for return of her original certificates. The petitioner on instructions of the second and third respondents submitted an undertaking affidavit to the third respondent, that she would undergo the bond service after completion of the Super Specialty Course, and got return of her original certificates. The petitioner joined the Super Specialty Course at JIPMER Puducherry, on 01.01.2020. The petitioner was shocked to receive the posting orders from the respondents on 24.12.2020, as the respondents were very well aware that the petitioner was pursuing her Super Specialty course. The petitioner completed the Super Specialty Course in December 2022, and thereafter approached the third and fourth respondents for posting orders, so as to comply with the bond conditions and the undertaking executed by her. Eventhough the petitioner approached the respondents for posting orders to render the bond service, soon after the completion of her super speciality course, in December 2022, she was not issued with any posting orders till date. According to the petitioner as the bond period of two years, lapsed the same became infructuous and hence the petitioner was entitled to return of her Post Graduation Certificate. The petitioner stated that the act of the respondents in retaining the petitioner's Post Graduation Degree Certificate, was in violation of her



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Fundamental Right to Education and livelihood, guaranteed under the Constitution of India. The petitioner stated that she was not able to pursue her profession because of the retention of her certificates by the respondents. The petitioner under the circumstances filed the above writ petition for the aforesaid relief.

3. The 3rd respondent filed a counter on behalf of all the respondents. Apart from replicating the facts of the case, the respondent stated that the petitioner's original certificates were released in lieu of the undertaking given by her, or otherwise, as per the bond conditions the college was entitled to retain the same. According to the respondents on receipt of the original certificates the bond period would be suspended. The respondents stated that as the bond period was under suspension the petitioner was bound to return the certificates, get the posting orders and complete the bond service. The respondents further stated that the Government passed G.O.(Ms).No.185, Health and Family Welfare Department, dated 13.04.2020, clearly stating that for the students joining other State or Private Self Financing and Deemed University, the original certificates would be returned only after furnishing Bank Guarantee. The respondents therefore stated that there were no merits in the writ petition and the same deserved to be dismissed.



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4.The learned counsel for the petitioner submitted that the petitioner completed her Super Specialty Course, in D.M. Clinical Immunology, in the year 2022, and soon after the completion of the Course the petitioner approached the respondents for posting orders, so as to render the bond service. The learned counsel further submitted that for reasons best known to the respondents, the respondents did not issue the posting orders and as two years lapsed since the completion of the course, the bond period became infructuous. As the bond period was over, the petitioner was entitled to the return of her PG certificate and hence the writ petition deserved to be allowed.

5.The learned counsel for the respondents on the other hand submitted that the petitioner completed her Super Specialty Course, in D.M. Clinical Immunology, in December 2022, but the petitioner failed to submit the original Certificates in the office so as to enable the respondents to issue the posting orders. According to the learned counsel for the respondents, the delay in issuing the posting orders was attributtal to the petitioner who failed to surrender the Certificates to the respondents on completion of the Super Speciality course. The learned counsel for the respondents further submitted that the Government of Tamil Nadu issued G.O.(Ms).No.185, Health and Family Welfare Department, dated 13.04.2020, wherein it was clearly stated that for the students joining other State or Private Self



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Financing and Deemed University, the original Certificates would be returned only after furnishing Bank Guarantee. The learned counsel submitted that till the petitioner returned her certificate, the bond period would be under suspension and hence the petitioner was bound to return the certificate, take posting orders and complete the bond service as per the undertaking affidavit submitted by her. The learned counsel for the respondents therefore stated that there were no merits in the writ petition and the same deserves to be dismissed.

6. I have heard both the learned counsels and I have perused the materials placed on record.

7. The facts are undisputed, the controversy is whether the petitioner is entitled to return of her Post Graduation Certificates. The petitioner claims that as no posting orders were issued within the bond period, the bond lapsed. The respondents on the other hand contend that as the petitioner did not return her certificate as per the undertaking, the bond period was suspended and so the petitioner was bound to surrender her certificate, take posting orders and complete the bond service.

8. According to the petitioner she approached the respondents soon after the



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completion of her Super Specialty course and requested for posting orders, but the respondents did not issue the posting orders. The factual statement of the petitioner in the affidavit that she approached the second and third respondents soon after the completion of her Super Specialty course and sought for posting orders to render the bond service has not been specifically denied by the respondents in the counter affidavit. There is a general denial in the counter as regards all averments made in the affidavit. The petitioner having made a factual assertion/ allegation that she approached the respondents soon after the completion of the Super Speciality course, the respondents were bound to specifically deny the same, if it was an incorrect statement. In the absence of specific denial of the factual averment, I am of the view that the petitioner's statement that she approached the respondents for posting orders soon after the completion of Super Speciality course, requires consideration. Therefore the contention of the respondents that as she did not submit her certificate, the posting orders could not be issued cannot be countenanced. It is trite in law that a mere denial for the sake of denial is not an answer to specific averment / allegations. As there is no denial of the factual averment of the petitioners, the contention now raised that the bond period is deemed to suspended, as the petitioner did not surrender her certificates soon after completion of the course, in my view, is purely an afterthought. The facts reveal that there was a lapse on the part of the respondents in issuing the posting orders



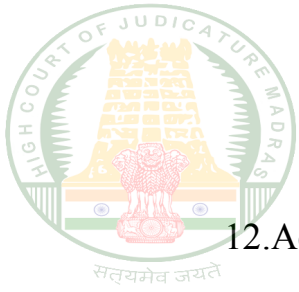
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within time and therefore the contention of the petitioner that she was entitled to return of the certificate as the bond service lapsed deserves merit consideration.

9.It would be worthy to refer to the Judgment of the Hon'ble Division Bench of this Court in W.A.No.799 of 2010 at this juncture. The Hon'ble Division Bench held that the period of two years has to be reckoned from the date of completion of the course by the candidate as stipulated in the bond and if the State fails to provide any employment within a period of two years, from the date of passing out then, on the expiry of the period of two years, the bond would be rendered infructuous and the certificates would have to be returned to the candidates.

10.In the present case, as the petitioner was not issued with the posting orders within the bond period, the aforesaid Judgment squarely applies.

11.In view of the above discussions, the writ petition is allowed. The respondents are directed to issue the Post Graduation Degree Certificate, in M.D. General Medicine, to the petitioner which she completed in the third respondent college, in the year 2019, within a period of four weeks from the date of receipt of a copy of this order.



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12. Accordingly, this writ petition is allowed. However, there shall be no

order as to costs.

17.04.2025

Index : Yes / No

Internet : Yes / No

Speaking Order/Non-speaking order

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To

1. The Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai – 600 009.
2. The Director of Medical Education,
Kilpauk, Chennai – 600 010.
3. The Dean,
Madras Medical College,
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N.MALA, J.

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**PRE-DELIVERY ORDER IN
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17.04.2025