



WEB COPY

W.A.No.1304 of 2025



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2025

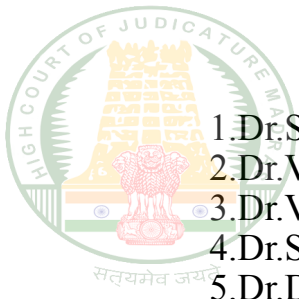
CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A.No.1304 of 2025
and
C.M.P.No.9881 of 2025**

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Health and Family Welfare Department,
Secretariat,
Chennai - 600 009.
 - 2.Director of Medical Education and Research,
Represented by the Directorate 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.
- Appellants

versus



- 1.Dr.S.Soma Sundaram
- 2.Dr.Vikraman D.
- 3.Dr.Veeramani A.
- 4.Dr.Srithar M.
- 5.Dr.Divahar M.
- 6.Dr.Thirumagal P.
- 7.Dr.Heera S.
- 8.Dr.K.B.Sowbakiya
- 9.Dr.Aswini R.
- 10.Dr.Praveen B.
- 11.Dr.Vinitha D.
- 12.Dr.Vishnupriya S.
- 13.Dr.E.Sri Vaishnavi Devi
- 14.Dr.S.Prakash
- 15.Dr.Balamanikandaraja P.
- 16.Dr.Rajarajan S.
- 17.Dr.Karthikeyan S.
- 18.Dr.R.Ajay
- 19.Dr.N.Hariprasad
- 20.Dr.R.Sruthi
- 21.Dr.Priyanka K.
- 22.Dr.Muthukkumar M.S.
- 23.Dr.S.Sakthieswaran
- 24.Dr.G.R.Saileshbabu

...

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order passed in W.M.P.No.9601 of 2025 in W.P.No.6391 of 2025 dated 14.03.2025.

For Appellants : Mrs.M.Sneha
Special Counsel
for Health and Family Welfare Department

For Respondents : Mr.Suhrith Parthasarathy



WEB COPY

W.A.No.1304 of 2025



JUDGMENT

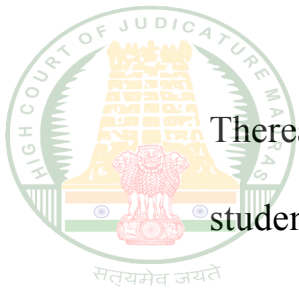
(Judgment of the Court was made by **R.SUBRAMANIAN, J.**)

Challenge in this appeal is to the interim order of the Writ Court made in W.M.P.No.9601 of 2025 in W.P.No.6391 of 2025 dated 14.03.2025.

2. We see a complete design and total absence of *bona fide* in the stand taken by the Department / appellants.

3. Firstly, there has been a breach of G.O.(2D)No.131 Health and Family Welfare (A1) Department dated 20.11.2007 [hereinafter referred to as “G.O.131 dated 20.11.2007”] which provides that counselling for transfer within the directorate shall be held once in a year during the month of May and inter-directorate transfer counselling shall be held during the month of June.

4. Contrary to the Annexure to G.O.131 intra-directorate transfer counselling for the year 2024 was conducted between 7th March and 10th March 2024 and inter-directorate counselling was conducted on 11.03.2024. Intra-directorate second counselling was conducted from 14.05.2024 to 16.05.2024 and inter-directorate counselling was held on 22.05.2024.



Thereafter, counselling for service Doctors and in-service Post Graduate students was conducted on 06.02.2025 and 07.02.2025.

WEB COPY

5. The petitioners in the writ petition, namely the respondents herein who are in-service Doctors, who have joined as Assistant Surgeons on 05.02.2024 apprehended that they would be denied an opportunity if the counselling for the non-service Post Graduate candidates was also conducted without they being given a chance.

6. Therefore, they filed a writ petition seeking a mandamus, directing the respondents to publish a list of approved candidates as per Section 7 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and to conduct an inter-directorate transfer counselling for the petitioners for the post of Assistant Professors/Tutor under the control of the respondents 2 and 3 prior to conducting transfer/posting counselling for Doctors completing their Post Graduate studies in 2025.

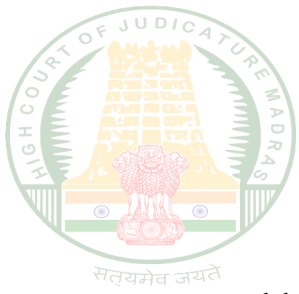
7. The medical services in the State of Tamil Nadu have got 3 branches, namely Directorate of Medical Education and Research [DME], which figures as the second respondent, Directorate of Medical and Rural



Health Services [DMS], which figures as the third respondent and Directorate of Public Health and Preventive Medicine [DPH], which figures as the fourth respondent respectively, in the writ petition.

8. While the Medical Education Institutions, namely Medical Colleges and Research Centres come under the DME, the DMS is in-charge of the Taluk and District Headquarters hospitals. The lowest rung, namely the Primary Health Centres come under the Directorate of Public Health and Preventive Medicine.

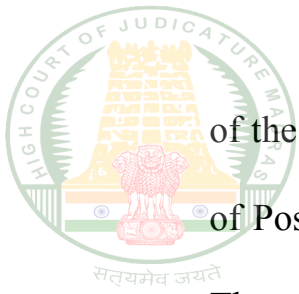
9. In the DME, the lowest post is *Senior Resident*. The qualification for which is MBBS plus 3 years of Post Graduate training in M.D. or M.S. It is not necessary that a candidate should have obtained a Post Graduate degree. Next comes to the post of *Assistant Professor*, the basic qualification for which is M.D. or M.S. The next promotional post is *Associate Professor* with which we are not concerned for the present. In the DMS and DPH, the lowest post is *Assistant Surgeon (General)*, the minimum qualification for the said post is MBBS. On completion of 8 years of service as Assistant Surgeon, he is designated as *Senior Assistant Surgeon* and so on.



WEB COPY

10. An inter-departmental counselling is conducted year on year to enable the Doctors in the service to migrate from one department to the other. As per the Rules framed under G.O.131 dated 20.11.2007, an inter-departmental counselling is to be held in June of every year. For the vacancies that arose in the year 2024-2025, the inter-departmental counselling should have been conducted in June 2024. However, the same was conducted even in March 2024 and a second counselling was conducted in May 2024.

11. The next intra-departmental counselling must have been actually conducted only in May 2025 and inter-departmental counselling should have been conducted only in June 2025. However, claiming that in-service Post Graduate candidates i.e. Doctors who joined the services of the Government as Under Graduate Doctors who are permitted to do post graduation after serving for 2 years in Government as well as the Private Medical Colleges would be able to complete 36 months of training only in February 2025, the Directorate of Health Department choose to conduct a counselling for the in-service Post Graduate candidates on 6th February and 7th February 2025. It will be pertinent to point out at this juncture that many



of the in-service Post Graduate candidates had not completed the 36 months of Post Graduate training on the date when the counselling was conducted.

The serving Doctors, namely the respondents herein, were informed that they would be allowed to participate in the next counselling whenever it opened, as they had not completed their 12 months of service, which is the qualifying service for participating in the counselling, on 6th and 7th February 2025. In this backdrop, the respondents came with the prayer for mandamus as stated supra.

12. When the writ petition was taken up for hearing on 05.03.2025, the nature of the stipulations contained in G.O.131 dated 20.11.2007 was taken up and the learned Additional Advocate General had informed the learned single Judge that discussions were going on regarding the re-visitation of the stipulations in the said G.O. and it would only be prudent that the writ petitioners participate in the ensuing counselling. Then the matter was adjourned to 27.03.2025.

13. When it was informed that the next counselling for non-service Post Graduate candidates would be held on 17.03.2025, the petitioners raised an apprehension that if the non-service candidates are allowed to



march over the respondents who are already in service, then the respondents would be denied of an opportunity to get into either DME or DMS. It was also stated by the learned Additional Advocate General before the Court that the vacancies with the DMS are about 27%, which is above the norms of the National Medical Council and therefore, there is an imminent urgency for filling up those posts.

14. Taking note of the urgency expressed by the learned Additional Advocate General, the writ court had directed a common counselling to be done for the in-service Doctors and the non-service Post Graduate Doctors who have to serve for a period of one year as per the bond executed by them together on 17.03.2025. However, ignoring the imminent urgency that was projected before the learned single Judge, the appellants have not chosen to conduct the counselling on 17.03.2025 and have chosen to come up with the appeal.

15. We have heard Mrs.M.Sneha, Special Counsel appearing for the appellants and Mr.Suhrith Parthasarathy, learned counsel appearing for the respondents.



16. Mrs.M.Sneha, Special Counsel appearing for the appellants would vehemently contend that the respondents, namely the writ petitioners, joined services only on 05.02.2024 and when the counselling was undertaken in January 2025 for the service Doctors, these respondents were not qualified, as they had not completed 12 months of minimum service. As on 16.02.2025, when the counselling for in-service Post Graduate candidates is conducted, all the respondents were qualified, as all of them were appointed on 05.02.2024. But however, they were excluded and the counselling was restricted only to in-service Post Graduate candidates, **who had not completed 36 months of Post Graduate training, which is the basic qualification for entering into the DME.**

17. The learned Special Counsel would submit that this preference was given to them because in the normal circumstances the in-service Post Graduate candidates must have completed their Post Graduation in May 2024 and the same was delayed because of the restrictions imposed due to the Pandemic. She would also submit that even though the counselling was done in February, the appointment orders were issued only after they completed the 36 months of period. It is admitted that the results of Post Graduate courses were not announced on 06.02.2025 and 07.02.2025, when



the counselling for the in-service Post Graduate candidates was conducted.

Therefore, on the date of the counselling, they were not qualified to be appointed as Assistant Professors, as they had not completed their Post Graduation.

18. To a specific query by us, as to how they could attend a counselling that too an inter-departmental counselling and seek appointment as Assistant Professors without having the basic qualification, the learned Special Counsel would submit that they will be taken as Senior Residents if they fail in their Post Graduate course. When such a benevolent gesture is offered by the Government to the in-service Post Graduate candidates, we find total absence of concern for the plight of service of Doctors who have joined in February 2024. They could have been included in the counselling on 06.02.2025 and 07.02.2025 and appointment orders could have been issued to them after they completed the required 12 months of service.

19. We find it very difficult to digest the argument that I will give a chance to the persons who have not qualified or who do not possess the basic qualification and that I will not give a chance to the persons who possess the basic qualification but they run short of the requirement of



minimum service by a few days. All that the learned single Judge has done by way of an interim order is to direct the appellants to include these in-service Assistant Surgeons in the counselling that is to be conducted for accommodating the non-service Post Graduate candidates who would be serving for one year only.

20. We see no prejudice being caused to the Department by the interim direction that has been granted. We find that the appeal itself is a result of extreme ego, which we find is quite prevalent in these days, particularly in this Department.

21. Hence, we see no merits in the appeal and this Writ Appeal is accordingly ***dismissed***. No costs. Consequently, the connected Miscellaneous Petition is closed.

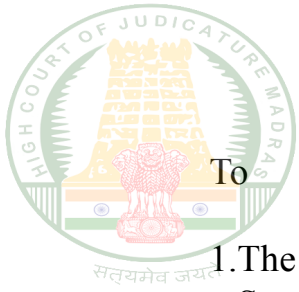
(R.S.M., J.) (G.A.M., J.)
25.04.2025

Speaking order

Index : No

Neutral Citation : No

sri



To

- 1.The Principal Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai - 600 009.
- 2.Director of Medical Education and Research,
Represented by the Directorate 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.



WEB COPY

W.A.No.1304 of 2025



R.SUBRAMANIAN, J.
and
G.ARUL MURUGAN, J.

sri

W.A.No.1304 of 2025
and
C.M.P.No.9881 of 2025

25.04.2025