



WP.No.20847 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.06.2025

PRONOUNCED ON : 19.06.2025

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP.No.20847 of 2025

and

WMP.Nos.23543, 23547 & 23559 of 2025

1. Mr.Joe Praveen Kumar James Rose
2. Mr.Manikandan
3. Ms.Divya Kumar
4. Benin Reejan Devaraj

... Petitioners

Vs.

1. The Union of India,
Rep. by its Secretary to Government
Ministry of Health and Family Welfare,
Room No.348, 'A' Wing,
Nirman Bhavan
New Delhi 110 011.
2. The Director General of Health Services,
Ministry of Health and Family Welfare,
Room No.348, 'A' Wing,
Nirman Bhavan
New Delhi 110 011.
3. The State of Tamil Nadu
Rep. by its Secretary to Government
Health and Family Welfare Department,
Fort St. George, Secretariat,
Secretariat, Chennai-60 009.



WP.No.20847 of 2025

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4. The Director of Medical Education, Tamil Nadu
162, Periyar E.V.R.High Road,
Kilpauk, Chennai-600 010.

5. The Secretary,
Selection Committee,
Director of Medical Education, Tamil Nadu
162, Periyar E.V.R.High Road,
Kilpauk, Chennai-60 010.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records of the 2nd respondent pertaining to letter dated 03.06.2025 in file number F.No.U12021/02/2025-MEC and quash the same, and consequently direct the 2nd respondent to return the 144 super speciality seats in Tamil Nadu medical colleges belonging to the state quota that was surrendered by the 4th respondent on 03.06.2025 and consequently direct the Respondents 2 to 5 to hold round two counselling of the state quota seats in accordance with law and pass such other further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

For Petitioners : Mr.Wilson
Senior Counsel
for Mr.Richardson Wilson
For Respondents : Mr.AR.L.Sundaresan
Additional Solicitor General
Ms.V.Sudha for R1 and R2
Mr.K.Tippu Sultan
Government Advocate for R4
Ms.M.Sneha
Special Counsel for R3 & R5

ORDER



WP.No.20847 of 2025

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With the consent of both the parties, the main writ petition was taken up for final disposal.

2. This writ petition has been filed seeking a writ of Certiorarified Mandamus, to call for the records of the 2nd respondent pertaining to letter dated 03.06.2025 in file number F.No.U12021/02/2025-MEC and quash the same, and consequently direct the 2nd respondent to return the 144 super speciality seats in Tamil Nadu medical colleges belonging to the state quota that was surrendered by the 4th respondent on 03.06.2025 and consequently direct the Respondents 2 to 5 to hold round two counselling of the state quota seats in accordance with law.

3. Heard Mr.Wilson, learned Senior Counsel for Mr.Richardson Wilson, learned counsel appearing on behalf of the petitioners, Mr.AR.L.Sundaresan, learned Additional Solicitor General for Ms.V.Sudha, learned counsel appearing for the respondents 1 and 2, Mr.K.Tippu Sultan, learned Government Advocate for the 4th respondent and Ms.M.Sneha, learned Special Counsel for the respondents 3 and 5.

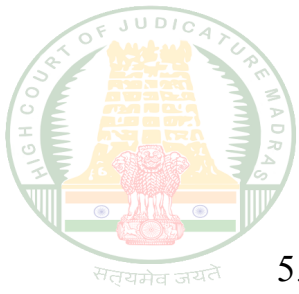
4. Mr.Wilson, learned Senior Counsel appearing on behalf of



WP.No.20847 of 2025

WEB COPY

Mr. Richardson Wilson, would submit that the denial of second round counselling by the 2nd respondent vide their communication dated 03.06.2025 is in contravention to the judgement of the Hon'ble Supreme Court in ***Dr.N.Karthikeyan and others Vs. The State of Tamil Nadu and others*** reported in ***2022 SCC OnLine 331***. The learned Senior Counsel would further submit that the Hon'ble Supreme Court has upheld the State's right to reserve 50% super speciality seats for the in-service candidates, as such, the 2nd respondent's communication to the 4th respondent to surrender the unfilled seats before conducting round two State counselling is in contravention to the Apex Court's judgement, and such conduct would infringe upon the rights of these petitioners. The learned Senior Counsel also would contend that the 2nd respondent is acting with discrimination. It is the submission of the learned Senior Counsel that if the impugned order is permitted to continue, it would run counter to the interest of the State, as the candidates selected through All India Quota would return to their own State, thereby, the citizen of this State would get affected. Hence, prayed to quash the impugned order dated 03.06.2025.



WP.No.20847 of 2025

WEB COPY

5. Per contra, Mr.AR.L.Sundaresan, learned Additional Solicitor General assisted by Ms.V.Sudha, learned counsel for the respondents 1 and 2 would contend that the impugned order was issued in line with the orders of the Hon'ble Supreme Court of India, and that the All India Quota counselling has already been completed and results were published allotting the 144 seats in question, to the prospective candidates. Therefore, would contend that any interference in the impugned order would cause hindrance to the schedule approved by the Hon'ble Supreme Court. The learned Additional Solicitor General would further submit that the prospectus which relied by the petitioners, has categorically mentioned that the admission would be in line with the order passed by the Hon'ble Supreme Court in WP.(C) No.53 of 2022 and other letters referred to in Clause 24(b) of the prospectus. It is their further submission that, for the sake of these petitioners, who according to the respondents 1 & 2 are fence sitters, the result of All India Quota counselling should not be interfered, as these petitioners were already provided with the opportunity to participate in the first round counselling. Hence, prayed to dismiss this writ petition.

6. **Supporting the contention of the petitioners**, Ms.M.Sneha, learned Special Counsel appearing for the respondents 3 and 5 would submit that the 2nd respondent has not given any official communication in respect of their

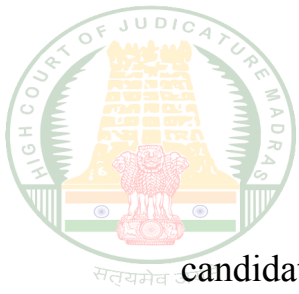


WP.No.20847 of 2025

counselling schedule. Had they given their counselling schedule well in advance, the State Government would have conducted second round counselling for the in-service candidates before All India Counselling. However, by the act of the 2nd respondent, many of the candidates are affected by denying their upgradation, and that the Government had already sent a letter to the Secretary, Ministry of Health and Family Welfare, to permit the State Government to show the surrendered seat, in the seat matrix for the second round State counselling, so as to enable the candidates for their upgradation. Hence, prayed to allow the writ petition.

7. I have given my anxious consideration to either side submissions.

8. The fundamental argument of the learned Senior Counsel for the petitioners has its genesis from the judgement in *N.Karthikeyan's* case [cited supra]. According to the learned Senior Counsel, 50% seat in the super speciality courses reserved for the in-service candidates of Tamil Nadu, and that such reservation would vest absolute right upon these petitioners. It is their further submission that the above right was protected by the Hon'ble Supreme Court in *Tamil Nadu Medical Officers Association and others Vs. Union of India and others* reported in (2021) 6 SCC 568. This Court absolutely does not have any grievance over the submission regarding the right of the State Government to give a preferential treatment to the in-service



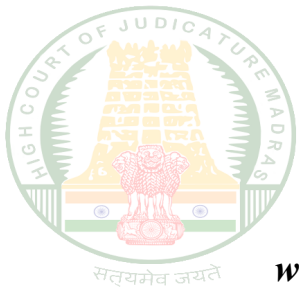
WP.No.20847 of 2025

candidates. But, the issue is, as to how these petitioners are affected through the impugned order.

9. Here, when this Court put pertinent question to the learned Special Counsel for the respondents 3 and 5, as to whether these petitioners were permitted to participate in the first round of counselling?, the learned Special Counsel would fairly submit that there were only 114 applications under the in-service categories, and that out of 114 applications, there are only 96 eligible candidates, and all the 96 eligible candidates were allowed to participate in the first round of counselling.

10. However, the learned Senior Counsel appearing for the petitioner would submit that, though they have participated in the counselling, their right of upgradation was affected in view of the impugned order. In support of the above contention, the petitioners had relied upon ***Karthikeyan's*** case [cited supra]. The above order was passed in **WP.(Civil) No.53 of 2022**. At this juncture, it is appropriate to refer the relevant portion of the impugned order dated 03.06.2025:-

*“In this regard, it is stated that the matter was put forward to higher authority, however, **the request has not been acceded to since the delay in commencement of Round-2 will hamper the***



WP.No.20847 of 2025

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whole All India schedule which has been approved by the MoHFW and ratified by Hon'ble Supreme Court of India.

Further, the state counselling schedule has to run in tandem with All India counselling schedule. Hence, conduction of Round-2 of state counselling before Round-2 of All India Counselling is not feasible.”

In the above impugned order, guideline approved by the Hon'ble Supreme Court has been referred.

11. In this regard, it is also appropriate to refer the prospectus Clause 24(b) under the caption of “**METHOD OF SELECTION AND ADMISSION**”. The relevant clause is extracted hereunder:-

“METHOD OF SELECTION AND ADMISSION:

24 (a).

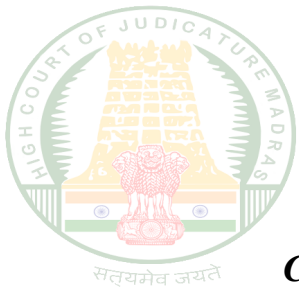
(b) As per G.O.(Ms.) No.462, Health and family Welfare (MCA-1) Department, dated 07.11.00, 50% of the in-service Super Speciality seats would be filled up based on the marks obtained in the NEET-SS. The selection and admission is based on the following orders:

1. As per the Interim orders of Hon'ble Supreme Court in W.P.(C).No.53 of 2022, Dated: 16.03.2022, 22.03.2022 and 02.12.2022.

2. D.O.Letter No.5233/MCA1/2022-3, Dated 31.03.2022.

3. DGHS Letter Re.No.F.No.U-12021/08/021-MEC, Dated 02.04.022

Candidates are advised to go through the respective college websites and satisfy themselves regarding National Medical



WP.No.20847 of 2025

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Commission approvals, infrastructure and the rules and regulations.”

(Emphasis supplied by this Court)

In Clause 24(b)(1), three orders of the Hon'ble Supreme Court passed in WP (Civil).No.53 of 2022 were referred. Among those, the order dated 16.03.2022 is the one relied by the petitioners reported in **2022 SCC OnLine SC 331**.

12. The learned Additional Solicitor General, by inviting paragraph 20 of the above judgment, would submit that the above order is not the final order and it was only upon the *prima facie* consideration. Subsequent to the above order, the Hon'ble Supreme Court has passed another order on 02.12.2022 regarding unfilled seats. For ready reference, this Court deems it appropriate to extract the relevant portion of the order dated 02.12.2022:-

*“We, therefore, permit the State of Tamil Nadu to fill in the seats reserved on the basis of G.O.No.462 dated 07.11.2020, within a period of 15 days from today. **On the 16th day from today, the State of Tamil Nadu will inform the Union of India with regard to all the seats which remain unfilled from the in-service category, which shall be permitted to be filled in by the Union of India, on the basis of All India merit list.**”*

[Emphasis supplied by this Court]

As we already extracted, the selection and admission should also be in line



WP.No.20847 of 2025

with the above order dated 02.12.2022.

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13. Though the Special Counsel appearing for the respondents 3 & 5 would invite the attention of this Court that the above order is for the academic year of 2022, and that the present selection and admission is for the year 2024, the fact remains, when the prospectus mentioned these orders with specificity, it is too late to say that the order of the Hon'ble Supreme Court is not applicable to the 2024 admission.

14. As already submitted, though the Tamil Nadu Government has got 240 super speciality seats under the in-service candidates category, there were only 96 eligible candidates. Therefore, there is rationale behind the decision of the State Government in surrendering the seats, otherwise the unfilled seats would go waste. Though the learned Special Counsel supports the petitioners, the administrative wisdom of the respondents 3 to 5 are in tune with the conditions specified in the prospectus. Therefore, the petitioners cannot challenge such policy decision of the Government. The other way of looking at the issue is, when the Hon'ble Supreme Court upheld the policy decision of the State to give preferential right to the in-service candidates upto 50%, these petitioners have no *locus standi* to question the similar decision taken by the respondents 3 to 5 for its surrender to the All India Quota. As a matter of fact,

10/14



WP.No.20847 of 2025

the surrender has not deprived these petitioners, but on the other hand ensured that all the super speciality medical seats are filled. Here, we must also keep in mind that from the surrendered seats, if any seats remain unfilled, the same would be reverted back to the State of Tamil Nadu, to have second round of counselling.

15. As rightly contended by the learned Additional Solicitor General, these petitioners were already provided with an opportunity to participate in the counselling. More strangely, these petitioners did not refer whether they are qualified to participate in the counselling, and as to how they have been personally prejudiced with the impugned order. While reading the affidavit, it only refers about the rights of the State Government. Therefore, if at all any grievance, that could be only for the respondents 3 to 5. But, they did not think fit to challenge the impugned order, as their decision is backed by the Hon'ble Supreme Court order dated 02.12.2022.

16. At this juncture, the learned Senior Counsel for the Petitioners has made a faint attempt to show that the Government of India is acting with bias against Tamil Nadu, as it reserved certain seats allotted to the All India Quota for the benefit of the candidates belonging to State of Punjab, whereas, they did not do so for Tamil Nadu. In this connection, the learned Additional Solicitor General would submit that the submission of the learned Senior



WP.No.20847 of 2025

Counsel is in contrary to the factual position, as the seats were removed from the seat matrix of All India Quota, only on the ground that the recognition of those courses were withdrawn.

17. In such view of the matter, this Court is of the indubitable view that the surrendering of 144 seats is in tune with the prospectus released by the respondents 3 to 5. Accordingly, this Court does not find any merits in this writ petition.

18. In the result, this writ petition is dismissed. There shall be no order as to costs. Consequently connected WMPs are also closed.

19.06.2025
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Index : Yes

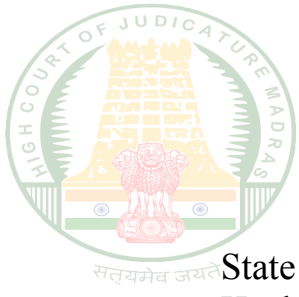
Speaking order : Yes

Neutral Citation : Yes

To

1. The Secretary to Government
Union of India,
Ministry of Health and Family Welfare,
Room No.348, 'A' Wing,
Nirman Bhavan
New Delhi 110 011.
2. The Director General of Health Services,
Ministry of Health and Family Welfare,
Room No.348, 'A' Wing,
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3. The Secretary to Government

12/14



WP.No.20847 of 2025

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162, Periyar E.V.R.High Road,
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Selection Committee,
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WP.No.20847 of 2025

C.KUMARAPPAN, J.

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Pre-Delivery Order in
WP.No.20847 of 2025

19.06.2025
(2/2)