



W.A.Nos.172 & 185 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 11.03.2025

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.A.Nos.172 & 185 of 2023
and
C.M.P.Nos.1663, 1664, 1702 & 1703 of 2023**

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Fort St.George,
Chennai - 600 009.
2. The Director of Medical Education,
Kilpauk,
Chennai - 600 010.
3. The Director of Medical and Rural Health Services,
DMS Compound, Anna Salai,
Chennai - 600 006.
4. The Director of Public Health and Preventive Medicine,
DMS Compound,
Anna Salai,
Chennai - 600 006.

... Appellants
in both WAs

-Vs-



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1. Dr.Goutham Raj
2. Dr.Nithya V.P.S
3. Dr.P.Vidhya
4. Dr.Hubert Praveen Abner R
5. Dr.Divya Vasudevan
6. Dr.R.Aravind
7. Dr.R.Soundara Rajan
8. Dr.Sowmiyaa.P
9. Dr.Sri Gowtham Subramaniam
10. Dr.S.Vishnu Priyangan
11. Dr.M.S.Arun
12. Dr.Kannan.R
13. Dr.S.Priyadharshini
14. Dr.S.Shenbagaraj
15. Dr.S.Balasubramanian
16. Dr.Suji.M
17. Dr.J.Asvini
18. Dr.R.Arul Bhagyaraj
19. Dr.M.Lilly Malar

20.The Dean

P.S.G Institute of Medical Sciences & Research,
Post Box - 1674, Off Avanashi Road,
Peelamedu,
Coimbatore - 641 004.

21.The Director,

Karpaga Vinayaga Medical College,
GST Road, Chinna Kolambakkam,
Palayanoor (PO), Madhuranthagam (TK),
Chengalpattu District - 603 308.

22.The Dean,

Dhanalakshmi Srinivasan Medical College
& Hospital,
Siruvachur,
Perambalur & District - 621 113.



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23. The Director,

Sree Moogambika Institute of Medical Sciences,

V.P.M.Hospital Complex,

Padanilam, Kulasekharam,

Kanyakumari District - 629 161.

... Respondents
in W.A.No.172 of 2023

(Respondents 20 to 23 impleaded as per order dated
11.03.2025 made in C.M.P.No.26298 of 2023 in
W.A.No.172 of 2023)

1. Dr.C.Chindhu

2. The Director of Public Health Services,
Thiruvallur, Health Unit District,
Thiruvallur District.

3. The Dean,
Joseph Eye Hospital,
138, Ground Floor,
Madurai Main Road,
Melapudur, Sangillyandapuram,
Tiruchirappalli - 620 001.

... Respondents
in W.A.No.185 of 2023

(Respondents 2 & 3 impleaded as per order dated
11.03.2025 made in C.M.P.No.27965 of 2023 in
W.A.No.185 of 2023)

COMMON PRAYER : Appeals filed under Clause XV of Letters Patent,
against the common order dated 12.01.2022 made in W.P.Nos.19391 of 2020 &
22490 of 2021.



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W.A.Nos.172 & 185 of 2023

For Appellants : Mrs.M.Sneha
in both W.As Special Standing Counsel

For Respondents : Mr.J.Jayamalan for R1
in W.A.No.172/23 No appearance for R2 to R19

in W.A.No.185/23 : No appearance

COMMON JUDGMENT

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

These two writ appeals since have arisen out of the common order passed by the writ Court dated 12.01.2022 made in W.P.Nos.19391 of 2020 & 22490 of 2021, they were heard together and are disposed of by this common judgment.

2. The issue that was raised before the writ Court by filing three writ petitions by the qualified Doctors who are already in service in the Government Hospital and secured admission for PG Degree / Diploma Course in Self Financing Private Medical Institutions of course in All India quota earmarked for the Institution, was whether they would be entitled to get the salary / stipend during the course time?



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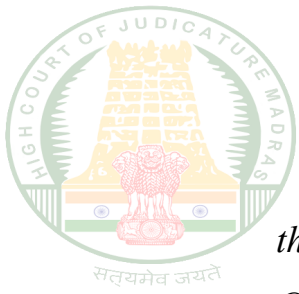
WEB COPY 3. In this context, earlier there has been a Government Order in G.O.(Ms)No.94, Health and Family Welfare Department dated 01.03.2016, by which, such salary / stipend were permitted to be provided to those who joined in PG Medical Course or Diploma in Private Medical Institutions from the academic year 2016-17.

4. However, the said position has been modified by issuance of another Government Order, i.e., G.O.(Ms)No.46, Health and Family Welfare (B1) Department dated 07.02.2020 whereby the Government has taken the following decision:

"8. The Government have examined the request of the Tamil Nadu Government Doctors Association in detail and issue the following orders:

(i) The in-service candidates who secure admission in the Post Graduate Degree/Diploma Courses either through the All India Quota or through the Single Window system of counseling conducted by the Selection Committee in Government Medical Colleges including Raja Muthiah Medical College, Annamalai University, Chidambaram be sanctioned salary from 2017-18.

(ii) The in-service candidates who secure admission in



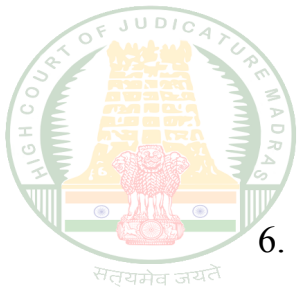
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the Post Graduate Super Speciality / Broad Speciality Degree Courses through the counseling conducted by the Director General of Health Services in Government Medical Colleges including Raja Muthiah Medical College, Annamalai University, Chidambaram be sanctioned salary from the 2017-18 onwards; and

(iii) In-service candidates who secure admission in Post Graduate Degree / Diploma and Super Speciality / Broad Speciality Courses in Self Financing Private Medical Colleges either through the single window system of counseling conducted by the Selection Committee or through the All India Quota or through Director General of Health Services, New Delhi, will not be sanctioned salary during the period of study."

5. In clause 8(iii) of the Government Order, the Government has made it clear that, in-service candidates who secure admission in Post Graduate Degree / Diploma and Super Speciality / Broad Speciality Courses in Self Financing Private Medical Colleges either through the single window system of counseling conducted by the Selection Committee or through the All India Quota or through Director General of Health Services, New Delhi, will not be entitled for sanctioned salary during the period of study.



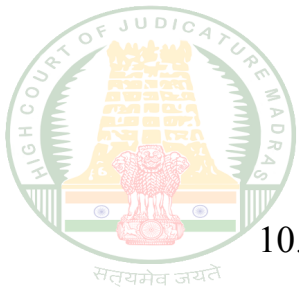
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6. Because of this clause, the respondents herein who were the writ petitioners were affected as they would not be paid either salary or stipend during the course time of PG Medical Course or Diploma Course in Private Self Financing Medical Colleges, therefore, the respondents Doctors have approached the writ Court by filing separate writ petitions.

7. In those writ petitions, they sought for the prayer to strike down the relevant provision, i.e., Clause 8(iii) as ultra vires and to consequently, direct the respondents therein to sanction the salary / stipend to these kind of Doctors, these writ petitions were heard together and disposed of by the common order dated 12.01.2022.

8. In fact as against the said common impugned order, three writ appeals were filed, the first writ appeal is W.A.No.171 of 2023, the remaining writ appeals are pending before us, i.e., W.A.Nos.172 and 185 of 2023.

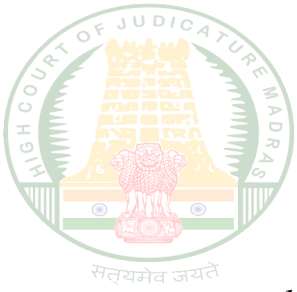
9. W.A.No.171 of 2023 which was exactly filed against the order in W.P.No.17041 of 2021.



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10. Since in the common impugned order, the writ Court has ultimately declared G.O.(Ms)No.46 as ultra vires, the said order since has been challenged in **W.A.No.171 of 2023**, a Division Bench of this Court, by order dated **15.11.2023** in the matter of ***Secretary to Government, Health and Family Welfare Department, Fort St.George, Secretariat, Chennai - 600 009 and others Vs. Dr.T.M.Vidhya*** and another has modified the order of the writ Court to the following effect:

"14.In view of the foregoings, this court has no hesitation to hold that the Institution, where the first respondent is serving, must necessarily effect payment of salary to the first respondent herein, on par with the Government Colleges during the period of study. As such, this court directs the first respondent to submit a representation seeking stipend / salary along with arrears indicating the amount payable, from the date of her joining the course in the Private Institution, till date, to the second respondent / Private Institution, within a period of two weeks from the date of receipt of a copy of this judgment. On such filing by the first respondent, the second respondent shall consider the same and pass appropriate orders, with regard to payment of salary / stipend to the incumbent during the period of study, within a period of four weeks thereafter. It is made clear that stipend, if any, paid by the Institution shall be adjusted while making such payment.



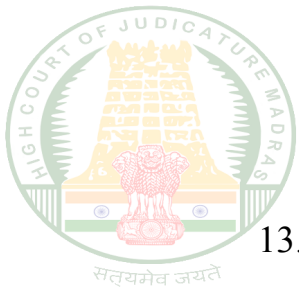
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15. Accordingly, the impugned order passed by the learned Judge stands modified and the writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed. "

11. Therefore the concept of providing the salary / stipend to the PG Medical Students who secured admission in Private Self Financing Medical Educational Institutions and who had been in-service candidates are entitled to receive such benefit of either salary / stipend, but at the same time, those PG Medical Students under in-service quota who secured admission in PG Degree / Diploma Course in Private Self Financing Medical Colleges whether would be entitled to receive such salary / stipend from the Government or the Institution where they secured PG admission was clarified by the said Division Bench judgment dated 15.11.2023.

12. As per the said judgment, the responsibility should be fastened on the Private Self Financing Medical Educational Institution and not on the Government. Till date it is stated across the Bar by both sides that, no further appeal has been filed against the order of the Division Bench dated 15.11.2023 either by the Doctors or by the Private Medical Educational Institutions.



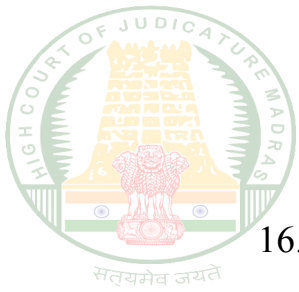
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13. In view of the said order passed by the Division Bench dated 15.11.2023 which also arise out of the same impugned order of the writ Court dated 12.01.2022 and the present appeals arising out of the very same common order passed by the writ Court dated 12.01.2022, these writ appeals also have to be ordered to the same effect as that of the order passed by the Co-ordinate Bench of this Court dated 15.11.2023 made in W.A.No.171 of 2023.

14. Even though an argument has been advanced on behalf of the respondents Doctors that, one of the respondent Doctor got admission prior to the issuance of G.O.(Ms)No.46, when G.O.(Ms)No.94 was governing, as per which he is fully entitled for salary / stipend from the Government, that question need not be gone into at this juncture because G.O.(Ms)No.46 itself was issued in superseding G.O.(Ms)No.94.

15. G.O.(Ms)No.46 has made it clear that from the academic year 2017-18, the present system should be followed, thereby the PG Medical Students who secured admission under in-service quota in Self Financing Private Medical Institutions would not be paid the salary by the Government.



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16. However those PG Medical Students since would be entitled to get such salary / stipend from the Private Medical Educational Institutions where they have secured admission and have been serving during the course time as has been clarified by the Division Bench judgment dated 15.11.2023, that question raised by the respondents counsel need not be gone into at this juncture.

17. It is also brought to our notice by the learned Special Standing Counsel appearing for the appellants that the Division Bench in its judgment dated 15.11.2023 has stated that the salary / stipend payable to the PG Medical Students be paid by the Institution where they have been serving. The word 'salary or stipend' since has been employed, whether the amount payable by the Private Medical Educational Institutions would be only the stipend on par with the stipend being paid to those PG Medical Students who have been pursuing their courses in the Government Medical Colleges or also equal to the salary that are being paid to those Doctors who have already secured job from the Government of Tamil Nadu and pursuing their PG Medical Courses in the Government Medical Institution. This issue and the interpretation to that effect also is pending in a related W.A.Nos.617 and 173 of 2025 and those matters since have been pending before yet another Division Bench for hearing and



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decision, the learned Special Standing Counsel appearing for the appellants would contend that let the issue be decided in those writ appeals, till such time, that position need not be gone into in these appeals.

18. We find force in the said submission made by the learned Special Standing Counsel appearing for the appellants as the issue as to whether the salary / stipend means, only the stipend or also the salary on par with the PG Medical Students who secured admission of PG Courses in the Government Medical Colleges can be gone into and decided in the said writ appeals which are pending before the another Co-ordinate Bench, therefore we are restrained from going into the interpretation of the said issue in the present *lis*.

19. As has been discussed hereinabove, since the issue is fully covered by the decision of the Division Bench dated 15.11.2023 made in W.A.No.171 of 2023 in ***Dr.T.M.Vidhya's case*** cited *supra*, these appeals also are to be ordered on the same terms as these appeals also arise out of the very same common impugned order of the writ Court dated 12.01.2022.

20. Resultantly the following orders are passed in these writ appeals:



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(i) that the order impugned passed by the writ Court is modified to the following effect that even though G.O.(Ms)No.46 has been declared to be ultra vires and discriminatory, the responsibility to pay the salary / stipend to the PG Medical Students who secured admission in Private Unaided Medical Colleges under in-service quota shall be fixed either on the Government or on the Private Medical Institutions, however insofar as PG Medical Students who secured admission in Private Self Financing Medical Institutions under in-service quota shall be paid such salary / stipend as the case may be, not by the Government but only by the Institution where they secured admission and pursuing their courses. To that extent, the order passed by the writ Court is modified and accordingly, these appeals are ordered.

(ii) The salary / stipend be calculated with arrears and be paid by the Institution concerned where these respondents Doctors are pursuing their PG Course within a period of thirty days from the date of receipt of a copy of this judgment and they shall continue to pay till the completion of their courses.

(iii) The copy of this order shall be communicated to the Institution concerned.

21. Since the issue has already been decided by the Division Bench judgment dated 15.11.2023 in ***Dr.T.M.Vidhya's case*** and the same alone is followed in the present appeals, the aforesaid direction shall be communicated



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to the respective Institutions who have now been impleaded as the respondents

WEB in these appeals for compliance.

22. With these observations and directions, these Writ Appeals are ordered accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(R.S.K., J.) (A.D.M.C., J.)
11.03.2025
(2/2)

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

1. The Dean
P.S.G Institute of Medical Sciences & Research,
Post Box - 1674, Off Avanashi Road,
Peelamedu,
Coimbatore - 641 004.

2. The Director,
Karpaga Vinayaga Medical College,
GST Road, Chinna Kolambakkam,
Palayanoor (PO), Madhuranthagam (TK),
Chengalpattu District - 603 308.



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3. The Dean,
Dhanalakshmi Srinivasan Medical College
& Hospital,
Siruvachur,
Perambalur & District - 621 113.

4. The Director,
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V.P.M.Hospital Complex,
Padanilam, Kulasekharam,
Kanyakumari District - 629 161.

5. The Director of Public Health Services,
Thiruvallur, Health Unit District,
Thiruvallur District.

6. The Dean,
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138, Ground Floor,
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Tiruchirappalli - 620 001.



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W.A.Nos.172 & 185 of 2023

**R.SURESH KUMAR, J.
and
A.D.MARIA CLETE, J.**

vji

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and
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**11.03.2025
(2/2)**