



W.P(MD)No.22575 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2025

CORAM:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.P(MD)No.22575 of 2024

C.Anand Raj

... Petitioner

VS.

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Health and Family Welfare Department,
State of Tamil Nadu,
Fort St. George,
Chennai – 600 009.
- 2.The Director,
Directorate of Medical Education,
162, E.V.R.Periyarsalai,
Kilpak, Chennai – 600 010.
- 3.The Chairman,
Medical Services Recruitment Board (MRB),
7th Floor, DMS Building,
359, DMS Building,
Anna Salai,
Chennai – 600 006.
- 4.The Dean,
Government Rajaji Medical College Hospital,
Madurai – 625 020.

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5.The Dean,
Thanjavur Government Medical College Hospital,
Thanjavur – 613 004.

6.The Dean,
Tirunelveli Government Medical College Hospital,
Tirunelveli – 627 002.

7.The Dean,
Trichy Government Medical College Hospital,
Trichy – 625 001.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent No.1 to appoint permanent qualified and sufficient dialysis technician in Government hospitals for dialysis treatment in Madurai Government Rajaji, Thanjavur, Trichy, Tirunelveli Government Medical College hospitals and all other medical college hospitals in the state accordance with communication letter in Ref. No. 24781/E5/3/2020 dated 23.06.2023 from respondent No.2 for the interest of the Kidney failure patients in Government hospitals within the stipulated time fixed by this Court.

For Petitioner : Dr.R.Alagumani

For RR 1, 2 & 4 to 7 : Mr.J.Ravindran
Additional Advocate General
Assisted by Mr.P.Thilak Kumar
Government Pleader

For R – 3 : Mr.V.Ramesh



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ORDER

(Order of the Court was made by S.SRIMATHY, J.)

The petitioner has filed the present Writ Petition as a Public Interest Litigation for a direction to direct the first respondent to appoint permanent qualified and sufficient dialysis technician in Government hospitals for dialysis treatment in Madurai Government Rajaji, Tanjavur, Trichy, Tirunvelveli Government Medical College hospitals and all other medical college hospitals in the state accordance with communication letter in Ref. No. 24781/E5/3/2020 dated 23.06.2023 from the second respondent for the interest of the Kidney failure patients in Government hospitals within the stipulated time fixed by this Court.

2.According to the petitioner, the care of kidney failure patients, who come dialysis treatment at Government Hospitals in Tamil Nadu, as per the RTI data received in the year 2017, there were only 7 permanent dialysis technicians working entire Government Medical College Hospitals and Taluk Headquarters hospital in Tamil Nadu. Dialysis is a treatment that is considered to be the most important life-saving treatment for kidney failure patients. The dialysis treatment



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was being carried out in Government hospitals with temporary staff and trainees from College students. Earlier, the petitioner filed a Writ Petition in W.P(MD)No. 14708 of 2017 to direct the respondents to take immediate action to ensure that Haemodialysis treatment is given only by qualified dialysis technicians in the Government and private hospitals in the State of Tamil Nadu and this Court, by order dated 28.08.2017, directed the respondents to take follow up action for appointment of qualified dialysis technicians in all the Government Hospitals across the State. After several years, the respondents failed to implement the order. Hence, the petitioner has filed the present Writ Petition.

3.The first respondent filed an additional affidavit, dated 03.02.2025, wherein stated that due to Covid-19 crisis, to tide over the need of patients requiring dialysis, the Government have accorded sanction of Dialysis Technicians on contract basis vide G.O(D)No.817, Health and Family Welfare (C2) Department dated 14.09.2020 and accordingly allotment orders have been issued by Directorate of Medical Education dated 15.11.2021 and 20.05.2022 to 158 candidates as Dialysis Technician on contract basis for a period of one year. In continuation vide G.O(D)No.346, Health and Family Welfare (C2) Department



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dated 15.03.2024, the Government have issued orders for temporary continuance of 158 Dialysis Technician posts for a period of two years from 01.03.2024. The Government in G.O(Ms)No.219, Health and Family Welfare (EAP-I) Department dated 06.07.2023 issued orders to recruit Dialysis Technician based on the need and availability of equipment with prescribed qualification of Diploma in Dialysis Technician using the Chief Minister's Comprehensive Medical College and Hospitals are employing the Dialysis Technician with the prescribed qualification as mentioned in the Government Order on need basis. Already 268 Dialysis Technicians with the prescribed qualification of Diploma in Dialysis Technician (145 MRB recruited candidates + 123 CMCHIS recruited candidates by the respective Deans) have been recruited and are working as Dialysis Technician in 41 Government Medical College & Hospitals and rendering excellent health care to the dialysis patients round the clock. Besides above, the students undergoing BSc Dialysis 4 years course with the sanctioned seats of 240 and Diploma course with the sanctioned seats of 397 in the Government Medical Colleges are being trained under the supervision of existing Nephrologists and Dialysis Technicians. In view of the position put forth, all the Medical Institutions are functioning with sufficient number of dialysis technicians and best services are provided to the



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4.The first respondent further stated that with regard to the present proposal of the Director of Medical Education and Research for creation of new posts of dialysis technicians, the Government in G.O.(Ms) No.248, Finance (CMPC) Department, dated 20.05.2020 and its subsequent amendment dated 24 10.2020 have directed that "there shall be a total ban on creation of new post in all departments" which is the policy decision of the Government. In view of the above, to provide uninterrupted health care delivery to the poor people, who are in need of dialysis treatment and the availability of funds in Chief Minister's Comprehensive Health Insurance Scheme (CMCHIS), detailed guidelines have been issued in G.O. (Ms) No.219, Health & Family Welfare (EAP-I) Department, dated 06.07.2023 to hire or employ Dialysis Technicians under CMCHIS funds based on need and availability of equipment in Government Medical Institutions and the instructions has been reiterated in Government letter-dated 06.12.2024. As such, there is no dearth of dialysis technicians in the Government Medical Institutions to run the available dialysis equipment in the State. Moreover, whenever there is need of additional manpower, the Deans are empowered to



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engage additional dialysis technicians using CMCHIS funds. In view of ban on creation of new posts which is a policy decision of the Government and the guidelines issued in G.O.(Ms)No.219, Health & Family Welfare (EAP-I) Department, dated 06.07.2023, the proposal of the Director of Medical Education and Research for creation of new posts of dialysis technicians in Government Medical Institutions could not be considered by the Government.

5.Heard Dr.R.Alagumani, the Learned Counsel appearing for the petitioner, Mr.J.Ravindran, the Learned Additional Advocate General assisted by Mr.P.Thilak Kumar, the Learned Government Pleader appearing for the respondents 1, 2, 4 to 7 and Mr. V.Ramesh, the Learned Counsel appearing for the 3rd respondent and perused the records.

6.The writ petitioner is relying on the recommendation letter of the Director of Medical Education and Research for creation of new posts of Dialysis Technician. However, it is seen that the government had issued G.O.Ms.No.248 Finance (CMPC) Department dated 20.05.2020 and subsequent amendment dated 24.10.2020 had imposed total ban on creation of new post in all departments.



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7.Prior to the ban it is seen that the respondents had already recruited 158 Dialysis Technician and they are serving at the respective centers. Further 268 Dialysis Technician were appointed with prescribed qualification of Diploma in Dialysis Technician, wherein 145 were recruited through MRB and 123 candidates were recruited by CMCHIS. Besides the aforesaid recruitment, 240 students are undergoing 4 years course of B.Sc., Dialysis.

8.Considering the above aspects, we are of the view that the Government had taken a policy decision to ban creation of new posts in all departments, therefore Government cannot be forced to create new posts through Court Orders. Creation of new posts and recruitment of candidates is within the realm of policy decision of the government. Hence the writ petition cannot be entertained. Accordingly, writ petition is dismissed. There shall be no order as to costs.

[J.N.B.,J.] & [S.S.Y.,J.]
03.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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Represented by the State of Tamil Nadu,
Health and Family Welfare Department,
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Chennai – 600 009.
 - 2.The Director,
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162, E.V.R.Periyarsalai,
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 - 3.The Chairman,
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7th Floor, DMS Building,
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Anna Salai,
Chennai – 600 006.
 - 4.The Dean,
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Madurai – 625 020.
 - 5.The Dean,
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Thanjavur – 613 004.
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Tirunelveli Government Medical College Hospital,
Tirunelveli – 627 002.
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J.NISHA BANU, J.
and
S.SRIMATHY, J.

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ORDER MADE IN
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