

W.P(MD)No.19257 of 2021

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED : 04.07.2022

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.19257 of 2021

and

W.M.P.(MD)Nos.16008 and 16009 of 2021

Dr.Sreejith V.Ravi

... Petitioner

**Vs.**

1.The State of Tamil Nadu,  
Represented by its Health Secretary,  
Fort St.George,  
Chennai – 600 009.

2.The Director of Medical Education (DME),  
Directorate of Medical Education,  
No.162, Periyar E.V.R. Salai,  
Kilpauk, Chennai – 600 010.

3.The Dean,  
Office of the Dean,  
Tirunelveli Medical College,  
Tirunelveli – 627 011.

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the entire records leading to the issue of proceedings bearing Reference No.8537/ME3/2021 dated 07.10.2021 on the file of the 3<sup>rd</sup> respondent and quash the same.



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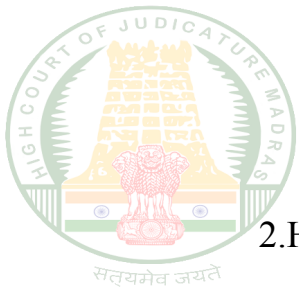
W.P(MD)No.19257 of 2021

For Petitioner : Mr.K.Sridhar

For Respondents : Mr.Veerakathiravan,  
Addl. Advocate General,  
Assisted by Mr.V.Om.Prakash,  
Govt. Advocate.

### **ORDER**

The writ petitioner hails from State of Kerala. He secured admission in Tirunelveli Medical College to pursue D.M., Neurology course under all india quota. He completed the course in September 2020. When he joined the course, he executed a bond. As per which, he undertook to serve the Government of Tamilnadu for a period of ten years. In default, he undertook to pay a sum of Rs.2 Crores as damages. He petitioner was not in position to comply with the bond condition. The Dean, Tirunelveli Medical College issued communication dated 20.09.2021 calling upon the petitioner to pay a sum of Rs.2 Crores. The petitioner submitted his explanation dated 28.09.2021. Not satisfied with the same, the earlier demand for payment of Rs.2 Crores was reiterated vide communication dated 07.10.2021, which is questioned in this writ petition.



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2. Heard the learned counsel for the writ petitioner and the learned

Additional Advocate General for the respondents.

3. The learned Additional Advocate General pointed out that the petitioner was called for counselling on 02.07.2021 for issuing posting orders but the petitioner did not participate in the counselling. My attention is drawn to the communication issued by the Principal Secretary to Government, Health and Family Welfare Department on 09.10.2020. The Government of Tamil Nadu reduced the bond duration for non-service candidates from ten years to two years and the bond amount to Rs.50 Lakhs from Rs.2 Crores. In the light of the said subsequent communication which is also applicable to the case on hand, the order impugned in this writ petition has to be necessarily quashed.

4. My attention is also drawn to the decision of the Hon'ble Supreme Court reported in (2019) 8 SCC 607 (Assn. Of Medical Superspeciality Aspirants & Residents v. Union of India). The Hon'ble Supreme Court had directed the State Governments and the concerned Medical Colleges to consider imposing the condition of compulsory service period of two years in default of which the doctors shall recompense the Government by paying Rs.20 Lakhs. The operative portion of the said decision reads that since there



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is need for uniformity in the matter pertaining to the compulsory bond, it was suggested suitable steps to be taken by the Union of India and Medical Council of India to have a uniform policy regarding the compulsory service to be rendered by the doctors who are trained in government institutions.

5. My attention is also drawn to the order passed by the Principal Seat of this Court on 28.10.2021 in W.P.No.23411 of 2021 and etc. batch. The interim directions read as follows:-

*“10. In order to strike a balance, this Court issues the following directions pending disposal of these writ petitions.*

*(a) The petitioners are directed to appear before the second respondent between 8th and 15th November 2021 and by then, the second respondent shall keep the appointment orders ready to be issued to the petitioners to enable the petitioners to join the compulsory service and it will be commensurate with the qualification of the petitioners.*

*(b) The learned Standing Counsel appearing on behalf of the National Medical Commission is directed to take instructions from the impleaded fifth respondent as to the follow up action taken by the National Medical Commission after the report was submitted by the Government of India on 09.02.2021 and as to whether any policy decision has been taken regarding the compensation to be paid by the doctors in default of rendering the compulsory service.*



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*(c) The learned Central Government Counsel appearing on behalf of the fourth respondent and the learned Central Government Standing Counsel appearing on behalf of the fifth respondent shall report before this Court if a decision is taken and the compensation amount fixed. On such compensation amount being fixed, it is left open to the petitioners to pay the compensation amount fixed by the fourth and fifth respondents and get themselves dispensed from the compulsory service, and*

*(d) In the meantime, the impugned show cause notice shall be kept in abeyance subject to the petitioners complying with the directions issued by this Court.”*

6.It appears that the final order is yet to passed in the said writ petition. But it appears that the petitioners therein did not appear before the authority concerned. However, they appeared to have been issued with orders of appointment.

7.At this stage, the learned Additional Advocate General has placed before me a copy of the order dated 03.11.2021 issued by the Director of Public Health and Preventive Medicine, Chennai, appointing the petitioner to work as Assistant Surgeon at Nagapattinam. Of course, the petitioner will be getting a decent pay for rendering such service. It appears that the petitioner is not willing to serve for the bond period of two years.

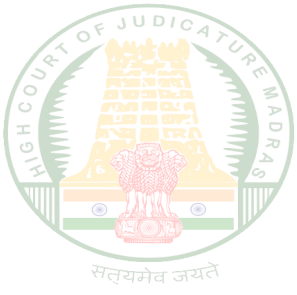


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8.The learned counsel for the petitioner emphasizes that one of the conditions set out in the order dated 03.11.2021 is that the petitioner must pass second class language test in Tamil immediately. If this alone had been a difficulty, the petitioner must have put his case on a different putting altogether. Since the petitioner had studied in Tirunelveli for about three years, it is quite possible that the petitioner must have picked up adequate knowledge in Tamil. Even such a requirement is needed only if the petitioner wants regular absorption in Tamilnadu medical service. If the petitioner is not seeking regular absorption, the question having to pass tamil test does not arise at all. Therefore, this reason cited by the learned counsel for the petitioner does not really appeal to me.

9.I am more than certain that when it comes recovery of bond amount, the authorities will adopt an uniform policy throughout the State. Either the petitioner has to serve for the bond period of two years atleast from now on or he has to pay the amount of Rs.50 Lakhs as fixed by the Government themselves. The impugned order is quashed with the aforesaid clarifications.



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10.The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

**04.07.2022**

Index : Yes / No  
Internet : Yes/ No  
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To:

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**G.R.SWAMINATHAN, J.**

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