

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WRIT PETITION NO.33966 OF 2022

Between:

1. Dr. Abhinav Singla, S/o.Bhupinder Singla and six others.

...Petitioners

AND

1. State of Telangana, Rep.by its Principal Secretary,
Medical, Health & Family Welfare Department, Secretariat
Building, Hyderabad, Telangana and three others.

...Respondents

JUDGMENT PRONOUNCED ON: 30.01.2023

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

1. Whether Reporters of Local : Yes/No
newspapers may be allowed to see
the Judgment ?
2. Whether the copies of judgment : Yes/No
may be marked to Law
Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No
wish to see the fair copy of
judgment

MUMMINENI SUDHEER KUMAR, J

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR**+WRIT PETITION NO.33966 OF 2022**

%Dated 30.01.2023

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...Respondents

! Counsel for Petitioners : Mr. Tarun G. Reddy

^ Counsel for Respondent Nos.1 to 4 : Mr. A. Santosh Kumar,
learned Special Government Pleader representing learned
Advocate General

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> HEAD NOTE :

? Cases referred :

- 1) 2022 SCC Online SC 70
- 2) (2013) 16 SCC 147
- 3) (1968) 1 SCR 111:AIR 1967 SC 1910(1968)2 LLJ 830
- 4) (2012) 7 SCC 683
- 5) (1978) 1 SCC 405
- 6) (2010) 4 SCC 498
- 7) (1998) 3 SCC 495
- 8) (2006) 9 SCC 69
- 9) (1995) 5 SCC 159
- 10) (1996) 2 SCC 667
- 11) 1951 SCR 525:AIR 1951 SC 226
- 12) (2019) 8 SCC 607

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMARWRIT PETITION NO.33966 OF 2022**ORDER:**

The question that arises for consideration in this Writ Petition is whether the petitioners herein can be compelled to undertake compulsory Government service for a period of one year basing upon a Bond executed by the petitioners at the time of their admission into Post Graduate Course in the year 2019 undertaking to serve the Government of Telangana for a period of one year after successful completion of their respective Post Graduate Courses and in case of failure to serve as such, to pay an amount of Rs.20,00,000/- (Rupees twenty lakh only) to the Government.

2. The facts of the case are that all the petitioners herein got admitted into Government Post Graduation Colleges for medical education and at the time of their admission into such Post Graduation Courses, at the instance of the respondents, they have executed a Bond undertaking to serve the State of Telangana for a period of one year after their successful completion of Post Graduation Course. They have also undertaken to pay an amount of Rs.20,00,000/- in the event of their failure to render such service to the State of Telangana.

These Bonds are executed in the year 2019 at the time of their admission into Post Graduation Courses. All the petitioners herein have completed their Post Graduation Course in the year 2022. The second respondent herein issued a notification, dated 18.08.2022 for conducting counselling for 2019 batch Post Graduates, who have completed their courses in the year 2022, for availing their compulsory Government service. Aggrieved by such notification, the petitioners approached this Court by filing the present Writ Petition.

3. Heard Mr. Tarun G. Reddy, learned counsel for the petitioners and Mr. A. Santosh Kumar, learned Special Government Pleader for the respondents representing the learned Advocate General.

4. Mr. Tarun G. Reddy, learned counsel for the petitioners, contended that the concept of rendering Government service after completion of Post Graduation Courses was for the first time introduced by virtue of an amendment to the Telangana Medical Practitioners Registration Act, 1968 ("the Act, 1968" for brevity) through the Telangana Medical Practitioners Registration (Amendment) Act, 2013 ("the Act, 2013" for brevity), wherein, rendering of rural medical service is made compulsory to enable them to get their names registered with

the Telangana State Medical Council. Through the said Amendment Act, 2013, certain provisions such as Section 2(dd), Section 2(ii), Section 15(1), Section 15(aa) and Section 15B etc., were inserted in the year 2013 making it compulsory for Post Graduation students to render rural medical service in order to make them eligible for registering their names with the Telangana State Medical Council. It is the further submission of learned counsel for the petitioners that the said amendments that were brought into existence making the rural medical service a compulsory pre-requisite for registration under the Act, 1968 was dispensed with by making amendments to the Act, 1968 through the Telangana Medical Council Amendment Act, 2018 ("the Amendment Act, 2018" for brevity) w.e.f. 30.06.2018. Thus, by placing reliance on the said Amendment Act, 2018, wherein the requirement of rendering a rural medical service was made compulsory for eligibility for registration with the Telangana State Medical Council under the Act, 1968 was dispensed with, the learned counsel contended that the action of the respondents in insisting to serve the State of Telangana and issuing a notification for conducting counselling for that purpose is illegal and without any authority. He also further contended that the requirement of rendering rural medical

service is an occupied field under the provisions of the Act, 1968 as amended by the Act, 2013, which was given a go by in the year 2018 by virtue of the Amendment Act, 2018 and hence, any action on the part of the respondents in requiring the petitioners to serve the State of Telangana for a period of one year by virtue of Bond or any executive instruction etc. is totally without jurisdiction.

5. Learned counsel for the petitioner also placed reliance on various judgments of the Hon'ble Apex Court in **Employees' State Insurance Corporation v. Union of India and Others**¹, **Union of India v. Ashok Kumar Aggarwal**², **Sant Ram Sharma v. State of Rajasthan and Others**³, **Union of India v. S.Srinivasan**⁴, **Mohinder Singh Gill v. Chief Election Commr.**⁵, **Maya Mathew v. State of Kerala**⁶, **A.B.Krishna v. State of Karnataka**⁷, **Satya Narain Shukla v. Union of India**⁸, **Karnal Improvement Trust v. Parkash Wanti**⁹, **U.P.Rajkiya Nirman Nigam Ltd. v. Indure Pvt. Ltd.**¹⁰ and **State of Madras V. Srimathi Champakam Doarirajan**¹¹ to contend that the

¹ 2022 SCC Online SC 70

² (2013) 16 SCC 147

³ (1968) 1 SCR 111: AIR 1967 SC 1910(1968)2 LLJ 830

⁴ (2012) 7 SCC 683

⁵ (1978) 1 SCC 405

⁶ (2010) 4 SCC 498

⁷ (1998) 3 SCC 495

⁸ (2006) 9 SCC 69

⁹ (1995) 5 SCC 159

¹⁰ (1996) 2 SCC 667

¹¹ 1951 SCR 525: AIR 1951 SC 226

executive instructions cannot go contrary to the statute, the Rules framed under the statute cannot go contrary to the provisions of the statute, the special law prevails over general law, field occupied by Legislature cannot be interfered by the executive and the acquiesce cannot confer jurisdiction etc.

6. On the other hand, Sri A.Santosh Kumar, learned Special Government Pleader contended that the provisions of the Act, 1968 or the amendments made thereto in the year 2013 and 2018 are totally irrelevant and nothing to do with the requirement of petitioners serving the State of Telangana. He also submitted that the said Act, 1968 only deal with the registration of Post Graduates and Graduates under the provisions of the said Act with the Telangana Medical Council and that is nothing to do with the admission into Post Graduate courses and the conditions imposed therein. He also contended that the admission of the petitioners into Post Graduate courses in the year 2019 was governed by the provisions of the Telangana Educations Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983 ("the Act, 1983" for brevity) and the Rules made thereunder. He also placed reliance on G.O.Ms.No.43 Public Health, Medical and Family Welfare (E2) Department dated 10.02.2010 issued under

Sections 3 and 15 of the Act, 1983, wherein Rule 10 was added to the A.P. Unaided, Minority Professional Institutions (Regulation of Admissions into Post Graduate Medical and Dental Professional Courses) Rules, 2006, requiring the post graduate medical students, both degree and diploma, to render compulsory Government service by working in the public sector hospitals. He also placed reliance on an executive order issued by the Government in G.O.Ms.No.43 Health, Medical and Family Welfare (E2) Department dated 10.02.2010 making it compulsory for the non-service candidates to render service in Public Sector Hospitals after completion of Post Graduation courses subject to payment of stipend. He also placed reliance on a judgment of the Hon'ble Apex Court in the case of **Association of Medical Super Specialty Aspirants and Residents & Ors. v. Union of India & Ors.**¹² to contend that the State Government has got every power to impose such a condition either by executive order or by issuing a notification and further contended that the state has every right to impose such a condition while providing admission to the candidates into a Government Medical College to prosecute their Post Graduation Courses. Thus, he supported the action of the

¹² (2019) 8 SCC 607

Government in compelling the petitioners to serve the State of Telangana for a period of one year and the impugned Notification. He further submitted that except the petitioners herein, all other candidates who have completed Post graduation courses in the year 2019 i.e. 890 candidates have already participated in the counselling and rendering the service to the State in terms of the Bond executed by them.

7. This Court carefully considered the arguments advanced by the respective counsel and perused the material on record.

8. A perusal of the provisions of the Act, 1968 discloses that the said Act mainly deals with constitution and composition of State Medical Council registration of Medical Practitioners in the State, disciplinary action, penalties etc. There is nothing in the Act to suggest that they are anything to do with the process of admission into either under-graduate courses or post graduate courses. Introduction of provisions by way of amendment making rural medical service compulsory in order to be eligible for registration as a medical practitioner under the said Act, 1968 is nothing to do with the admission to a post graduate course or any conditions relating thereto. Therefore, the main contention of learned counsel for the petitioners placing reliance upon the provisions of the Act, 1968 and the amendments made

therein in the year 2013 and 2018 are totally irrelevant for the purpose of considering the issue on hand. Hence, this Court has no hesitation to hold that the said contention of the learned counsel for the petitioners deserves to be rejected. Therefore, the other contentions of the learned counsel for the petitioners, by placing reliance on various judgments of the Hon'ble Apex Court on the proposition that the executive instructions cannot go contrary to the statute, special law prevails over general law, field occupied by legislature cannot be interfered with, etc. have no application to the facts of the present case. Hence, the judgments relied upon by the learned counsel for the petitioners are not being considered in detail.

9. Insofar as the other contention of the learned counsel for the petitioners that acquiesces does not confer jurisdiction is concerned, the said contention is advanced to get over a situation of the petitioners voluntarily executing a Bond undertaking to serve the State of Telangana for a period of one year. The said principle also has no application in the instant case in the light of the law laid down by the Hon'ble Apex Court in the case of **Association of Medical Super Specialty Aspirants and Residents & Ors.** (12 supra). The reasons are as under:-

10. From the perusal of the Rules 2006, as amended through G.O.Ms.No.43 dated 10.02.2010, it is noticed that the said Rules were issued in exercise of power under Section 3 read with Section 15 of the Act, 1983. The said Act, 1983 is an enactment made by the State regulating the admission into various professional courses including the post graduate medical courses, which are the subject matter of the present Writ Petition. In exercise of such a statutory power conferred under Act, 1983, the said Rules 2006 were framed. The admission of the petitioners herein in the year 2019 was governed by the said Rules, 2006. In terms of Rule 10 of the said Rules, the petitioners were required to execute a Bond undertaking to serve the State of Telangana. All the petitioners herein have admittedly executed such Bonds without any demur and protest and after having completed the course in the year 2022 when they were required to submit their applications by issuing the impugned notification in terms of the said Bond, the petitioners have turned around and approached this Court by filing the present Writ Petition, who are seven in number. The power of the State to impose such a restriction or obligation on the post-graduation students to serve the State for a particular number of years has fallen for consideration before

the Apex Court in the case of **Association of Medical Super Specialty Aspirants and Residents & Ors.** (12 supra) and the Hon'ble Apex Court categorically held that the State Government has got every power both legislative as well as executive power to impose such condition and to enforce the same. It was also held that such an action of the State does not violate the Fundamental Rights of the students and does not violate Articles 14 and 21 of the Constitution of India. The Hon'ble Apex Court further held as under at paras-20 and 35 of the judgment in the case of **Association of Medical Super Specialty Aspirants and Residents & Ors.** (12 supra):-

“20. The compulsory bond executed by the appellants is at the time of their admissions into postgraduate and superspeciality courses. Conditions imposed for admission to a medical college will not directly violate the right of an individual to carry on his profession. The right to carry on the profession would start on the completion of the course. At the outset, there is no doubt that no right inheres in an individual to receive higher education. Violation of a right guaranteed under Article 19(1)(g) does not arise in a case pertaining to admission to a college. There is no doubt, that the condition that is imposed has a connection with the professional activity of a doctor on completion of the course. However, the appellants have, without any protest, accepted the admissions and executed the compulsory bonds. Execution of the bonds is part of a composite package. We are in agreement with the judgment of the Calcutta High Court that the appellants have not been able to succeed in their attempt of assailing the notifications for being violative of Article 19(1)(g) of the Constitution. We uphold the said finding of the Division Bench.

35. The appellants who are required to work for a short period on a decent stipend cannot complain that they are made to perform “forced labour”, especially after the appellants have taken an informed decision to avail the benefits of admission in government medical colleges and received subsidized education. By no means, the service rendered by the

appellants in government hospitals would fall under the expression of “forced labour”.”

11. In the light of the law laid down by the Apex Court, the action of the Government in insisting the petitioners to comply with their undertaking given under the Bonds executed by them can under no circumstance be said to be an arbitrary action. In addition to the Rule 10 of the Rules 2006, as noted above, learned Special Government Pleader also placed reliance on G.O.Ms.No.40 dated 10.02.2021 wherein executive order was issued by the Government making it compulsory to serve the State of Telangana after completing the post-graduation course and in case of failure to render such service, to pay a penalty as prescribed in the said G.O. In the light of the law laid down by the Hon'ble Apex Court in the case of **Association of Medical Super Specialty Aspirants and Residents & Ors. v. Union of India & Ors** (12 supra), even the said executive order is also having a force of law and hence, the action of the respondents in issuing the impugned notification and compelling the petitioners to comply with their obligations under the Bond is in terms of statutory Rules made under the Act, 1983 and same cannot be found fault with. Thus the action of the respondents in issuing the impugned notification and requiring the

petitioners to serve the State in terms of the Bond is perfectly valid and in accordance with law.

12. In the light of the above, this Court does not find any merit in the Writ Petition and the same is, accordingly, dismissed.

The interim order passed by this Court on 29.08.2022 shall stand vacated. The respondents are free to enforce the Bonds executed by the petitioners by taking recourse to law.

There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand dismissed.

(MUMMINENI SUDHEER KUMAR, J)

30th January 2023

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