

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30/1/2009

C O R A M

THE HONOURABLE Mr.JUSTICE K.VENKATARAMAN

Writ Petition Nos.14861 to 14869 and
19971 of 2008
a n d
connected Miscellaneous Petitions.

Dr.A.R.Balamurugan	...	Petitioner in WP.14861/08
Dr.K.Vani	...	Petitioner in WP.14862/08
Dr.C.P.Ayyappan	...	Petitioner in WP.14863/08
Dr.K.Saravanakumar	...	Petitioner in WP.14864/08
Dr.S.Aneetha	...	Petitioner in WP.14865/08
Dr.P.Nirmala Devi	...	Petitioner in WP.14866/08
Dr.K.Vasanthan	...	Petitioner in WP.14867/08
Dr.K.Sanjay Kumar	...	Petitioner in WP.14868/08
Dr.G.Arul	...	Petitioner in WP.14869/08
Dr.K.Monicka	...	Petitioner in WP.14871/08

Vs

1. The Secretary to Government
Health and Family Welfare Department
Secretariat,
Fort St. George, Chennai 9.
 2. The Director
Directorate of Medical Education
162 Periyar EVR High Road
Kilpauk, Chennai 10.
 3. The Selection Committee
rep. by its Secretary
162 Periyar EVR High Road
Kilpauk, Chennai 600 010.
 4. Dr.Chandra Mouleeswari
Deputy Director
P.G.Course
Director of Medical Education
162 Periyar EVR High Road
Kilpauk, Chennai 10.
- .. Respondents in 1 to 4 in all WPs.

5. Dr.R.Pandia Rajalakshmi (Rank-421-DMRD)
O/o. Directorate of Medical Education .. R5 in WP.14861/08
162 Periyar EVR High Road .. R7 in WP.14863/08
Kilpauk, Chennai 10. .. R5 in WP.14867/08
6. Dr.A.Dheepa (Rank-637-DMRD)
O/o. Directorate of Medical Education .. R6 in WP.14861/08
162 Periyar EVR High Road .. R8 in WP.14863/08
Kilpauk, Chennai 10. .. R5 in WP.14866/08
.. R6 in WP.14867/08
7. Dr.K.Jayanthi (Rank-776-DMRD)
O/o. Directorate of Medical Education .. R7 in WP.14861/08
162 Periyar EVR High Road .. R9 in WP.14863/08
Kilpauk, Chennai 10. .. R6 in WP.14866/08
.. R7 in WP.14867/08
8. Dr.A.Anjugam (Rank-1016-DMRD)
O/o. Directorate of Medical Education .. R8 in WP.14861/08
162 Periyar EVR High Road .. R10 in WP.14863/08
Kilpauk, Chennai 10. .. R7 in WP.14866/08
.. R8 in WP.14867/08
9. Dr.M.Dhivya (Rank-1085-DMRD)
O/o. Directorate of Medical Education .. R9 in WP.14861/08
162 Periyar EVR High Road .. R11 in WP.14863/08
Kilpauk, Chennai 10. .. R8 in WP.14866/08
.. R9 in WP.14867/08
10. Dr.K.Malathi
(Rank-585-MD Pharmacology) .. R5 in WP.14862/08
11. Dr.B.Jayapriya
(Rank-684-MD Pharmacology) .. R6 in WP.14862/08
12. Dr.G.Sujatha
(Rank-1081-MD Pharmacology) .. R7 in WP.14862/08
13. Dr.Premalatha (Rank-178-DMRD) .. R5 in WP.14863/08
14. Dr.K.Kalyani (Rank-314-DMRD) .. R6 in WP.14863/08
15. Dr.D.Palarama Krishnan .. R5 in WP.14864/08
(Rank-419-MD-Anesthesia) .. R7 in WP.14868/08

16. Dr.H.Vijayalaxmi (Rank-435-MD-Anesthesia)	.. R6 in WP.14864/08 .. R5 in WP.14865/08 .. R8 in WP.14868/08
17. Dr.Ganaganagalaxmi (Rank-441-MD Anesthesia)	.. R7 in WP.14864/08 .. R6 in WP.14865/08 .. R9 in WP.14868/08
18. Dr.Kalasri (Rank-487-MD Anesthesia)	.. R8 in WP.14864/08 .. R7 in WP.14865/08 .. R10 in WP.14868/08 .. R5 in WP.14869/08
19. Dr.Padmanaban (Rank-611-MD Anesthesia)	.. R9 in WP.14864/08 .. R8 in WP.14865/08 .. R11 in WP.14868/08 .. R6 in WP.14869/08
20. Dr.Karpagavalli (Rank-772-MD Anesthesia)	.. R10 in WP.14864/08 .. R9 in WP.14865/08 .. R12 in WP.14868/08 .. R7 in WP.14869/08
21. Dr.Carolin Von Mullai (Rank-949-MD Anesthesia)	.. R11 in WP.14864/08 .. R10 in WP.14865/08 .. R13 in WP.14868/08 .. R8 in WP.14869/08
22. Dr.Rajanalini (Rank-952-MD Anesthesia)	.. R12 in WP.14864/08 .. R11 in WP.14865/08 .. R14 in WP.14868/08 .. R9 in WP.14869/08
23. Dr.M.Balasubramani (Rank-214-MD Anesthesia)	.. R5 in WP.14868/08
24. Dr.B.Jeyarani (Rank-230-MD Anesthesia)	.. R6 in WP.14868/08
25. Dr.Satish Ragavan (Rank-293-MD PSYCH) Department of Psychiatric Medicine Madras Medical College, P.H.Road, Chennai.	.. R5 in WP.19971/08
26. Dr.N.Balasubramani (Rank-776-MD PSYCH)	.. R6 in WP.19971/08

27. Dr.K.Pugazhendhi
(Rank-951-MD PSYCH) .. R7 in WP.19971/08
28. Dr.M.Rajsundari
(Rank-1538-MD PSYCH) .. R8 in WP.19971/08
29. Dr.B.Shanthi
(Rank-1532-MD PSYCH) .. R9 in WP.19971/08
30. Dr.B.Senthil Sayinathan
(Rank-1775-MD PSYCH) .. R10 in WP.19971/08

Petitions filed under Article 226 of the Constitution of India praying for the issuance of writs of declaration declaring that the Clause 54 (b) of the Prospectus issued by the second respondent for admission to P.G.Degree/Diploma/5 years M.Ch (Neuro Surgeons) Courses for the year 2008 - 2009 reversing exclusively the seats in state quota in 16 courses for in-service candidates and the selection and admission given to service candidates based on Clause 54 (b) of the Prospectus as illegal and consequently, direct the respondents to hold fresh Counselling to fill the seats in PG Degree/Diploma/M.Ch (Neuro Surgeon) Courses including the 16 courses as done in the year 2007 - 2008, award costs.

For petitioners Mr.Hariparanthaman

For respondents Mr.S.Ramasamy, AAG
Assisted by
Mr.A.Suresh, GA
for R.R.1 to 3.

C O M M O N O R D E R

In all these writ petitions, the petitioners have challenged the Clause 54 (b) of the Prospectus issued by the second respondent for admission to P.G.Degree/Diploma/5 years M.Ch (Neuro Surgeons) Courses for the year 2008 - 2009, the selection and admission given to service candidates alone in respect of 16 courses in P.G.Degree/Diploma/M.Ch (Neuro Surgeon) based on Clause 54 (b) of the Prospectus as illegal and consequently, direct the respondents to hold fresh Counselling to fill the seats in the said Courses as done in the year 2007 - 2008.

2. The case of the petitioners as put forth by them in their affidavits in support of the writ petitions are set out hereunder:-

2.1. The petitioners have passed the MBBS Course and their ambition is to join the further course offered by the Colleges under the Director of Medical Education, Tamil Nadu. There are 38 PG Degree/Diploma/5 years M.Ch.Surgery) Courses and in all, there are 914 approved seats for those courses as per the Prospectus 2008 - 2009 issued by the Director of Medical Education.

2.2. 50% of each of the said courses is to be filled on an All India Basis. The remainder of 50% seat is to be filled by the State. Out of the State quota, 50% seats are reserved for service candidates and 50% seats are reserved for open competition candidates. The petitioners are concerned about 50% of the reserved seats for the open competition more particularly Clause 54 (b) of the Prospectus 2008 - 2009 that exclusively reserved 16 Post-Graduate Degree/Diploma/5 year M.Ch (Neuro Course) in favour of the service candidates. The petitioner are aggrieved over the total exclusion of the open competition candidates from the purview of the consideration for selection against the aforesaid 16 courses of study.

2.3. There are 166 seats for those 16 courses. 87 constituting 50% is allotted to All India quota. The remainder 50% i.e., 89 seats in the State quota is exclusively reserved for the in-service candidates in respect of 16 courses of study which is impermissible in law.

2.4. Admission is based on the result of the entrance examination held in 24/2/2008. The entrance examination was taken by both the service candidates and non-service candidates. The results had been published and the merit list was prepared for selection against State quota. Based on the merit list, counselling was conducted from 10/4/2008 to 13/4/2008. The petitioners could not choose the said course of study, even though they have secured ranks in the merit list in view of the exclusive reservation for 16 courses for service candidates. All the seats is much sought for courses of study. Hence, challenging the said Clause in the Prospectus reserving exclusively 16 courses for the in-service candidates, the present writ petitions have been filed.

3. Counter affidavits had been filed on behalf of the respondents 1 to 4 wherein the following facts have been set out.

3.1. For the Post-graduate Degree/Diploma seats are surrendered to the candidates selected by All India Quota. In the remaining 50% of State quota in Post-Graduate seats, 25% seats have been reserved to service candidates and 25% seats have been reserved for the private candidates. In the year 2008 - 2009, the Government wished to ensure that there is no scarcity of the Doctors and the services of the Doctors after completion of Post-graduate courses be utilized

to serve the poor and needy of the country at large in particular. The Government is in moral obligation to discharge in various specialities to fulfill the Medical Council of India norms stipulated for the conduct of courses. Hence it has become imperative for the Government to identify some specialities to foresee and fulfill the staff strength in order to render services to the poor patients and also to number of Doctors required in prime specialities.

3.2. The Government in G.O.Ms.No.315 Health and Family Welfare (B1) Department dated 31/8/2007 declaring certain specialities as scarce categories. The Government of Tamil Nadu is offering Medical Education for Post-Graduate and Higher Speciality Courses to the candidates through 14 Government Medical Colleges/Hospitals and specialised institutes. There are number of vacancies in the Government Medical Colleges and Hospitals in these scarce Specialities. In order to fill up these vacancies with Medical Officer qualified in these specialities, the Government have taken the decision to reserve these Post-Graduate seats exclusively for service candidates.

3.3. Providing Medical education for Post-Graduate and Higher Speciality Courses, the Government spends a large amount of money and levies nominal fees and in the same time provides stipend to private candidates and salary to service candidates. In order to ensure the services of the Doctors after completion of Post-Graduate courses to serve the poor and needy of the Country at large and this State in particular and also to satisfy Medical Council of India Norms in conducting MBBS and Post-Graduate course the said decision was taken. Thus, it has reserved certain specialities in Government Medical Colleges exclusively for service candidates alone. The Government have approved for the above modification issued in the Government Letter No.55958/MCA1/2007 Health and Family Welfare Department dated 14/1/2008.

3.4 In the first round of counselling, all the seats under the reserved category (16 specialities) were allotted to service candidates. In the second round of counselling, because of the Court directions and instructions from the Government, the remaining seats in the reserved category (16 specialities) in the second round of counselling, 50% of the seats were given to open category and 50% of the seats were allotted to service candidates. Thus, the counter affidavits seek for the dismissal of the writ petitions.

4. Mr.D.Hari Paranthaman, learned counsel appearing for the petitioners contended that

(a). Exclusive reservation of 100% to one category is highly arbitrary, illegal and violative of Article 14 of the Constitution of

India.

(b). The action of the respondents in permitting the Non-service candidates to participate in the second phase of counselling along with service candidates to avail the remaining vacant seats that were left vacant after availing of by the service candidates in the first phase of counselling, after the agitation, would make it clear that Clause 54 (b) of the Prospectus 2008 - 2009 is not sustainable.

(c). In the previous years, there were no such exclusive reservation for service candidates to any of the Courses. While so, for the first time, it has been introduced in the year 2008 - 2009 and absolutely, there is no reason for the change to the existing practise.

(d). Since the service candidates are influential persons who could exert pressure on the Government, the first respondent acted with a mala fide intention and for extraneous consideration in exclusively reserving seats in 16 courses in the State quota for in service candidates.

5. On the contrary, the learned Additional Advocate General appearing for the respondents would contend that certain courses which are considered as Specialities have been exclusively reserved for service candidates to ensure that there is no scarcity of Doctors and the services of the Doctors after completing P.G. courses to serve the poor and needy of the Country in particular. There are number of vacancies in the Government Medical Colleges and Hospitals in these scarce hospitals. In order to fill up these vacancies with Medical Officer qualified in these specialities, the Government have taken the decision to reserve these Post-Graduate seats exclusively for service candidates. The Government which is spending large amount of money and levies nominal fees and in the same time provided stipend to private candidates and salary to service candidates, in order to ensure that the services of the Doctors after completion of P.G. courses to serve the poor and needy of the Country at large and this state in particular, it has proposed to reserve certain specialities in Government Medical Colleges exclusively for service candidates alone, as such the same cannot be faulted.

6. Counsels who have appeared for the selected candidates have submitted that the petitioners after knowing fully well that 16 courses have been ear- marked for the service candidates alone, through prospectus cannot question the same after they have not been selected for the Post-Graduate courses. Having participated in the selection process, after knowing about the Prospectus, reserving 16 courses for the in-service candidates, the petitioners cannot

question the Clauses in the Prospectus when they have not been selected. Further more, when the Government had taken a policy decision, the same cannot be questioned by the petitioners in these writ petitions and this Court cannot entertain such writ petitions. Thus, the counsels appearing for the selected persons sought for the dismissal of the writ petitions.

7. I have considered the submissions made by the learned counsel appearing for the petitioners, the learned Additional Advocate General appearing for the respondents 1 to 4 and the counsels appearing for the selected persons.

8. The facts which are not disputed are that out of 38 Post-graduate degree/Diploma/5 years M.Ch.Surgery courses, there are 914 approved seats for those courses as per the Prospectus 2008 - 2009 issued by the Director of Medical Education. It is also not in dispute that out of the same, 50% is to be filled on an All India Basis (quota) and the remainder 50% is to be filled by the State. Out of the State quota, 50% seats are reserved for service candidates and 50% seats are reserved for open competition candidates. Out of 50% reserved seats for open competition, Clause 54 (b) of the Prospectus 2008 - 2009 exclusively reserved 16 Post-Graduate Degree/Diploma/5 Year M.Ch (Neuro Course) in favour of the service candidates. Thus, the open competition candidates are totally excluded from the purview of the consideration for selection against the aforesaid 16 courses of study.

9. The first and foremost question that has to be answered is

"Whether the petitioners who have applied for the Post-Graduate courses, fully knowing about the Prospectus which clearly says that 16 courses are offered to only service candidates, are entitled to raise the issue that the said Clause in the Prospectus is illegal, arbitrary and violative of Article 14 of the Constitution of India?"

9.1. The learned counsels appearing for the selected persons have relied on the decision reported in 1999 (III) CTC - 675 (Dr.R.MURALI Vs. Dr.R.KAMALAKKANNAN AND THREE OTHERS) and would contend that the policy decision taken by the Government in fixing some quota for service candidates and non-service candidates based on intelligible criteria and the persons who have participated in the written test after fully knowing well about the prospectus are estopped from questioning the selection process.

9.2. Per contra, the learned counsel appearing for the petitioners would contend that even though the petitioners have

applied for the Post-graduate courses, knowing fully well about the prospectus ear-marking 16 courses for the in-service candidates, the petitioners can still question the Clauses in the prospectus, if it is violative of Article 14 of the Constitution of India. According to the learned counsel for the petitioners, 100% reservation for the in-service candidates in respect of 16 courses is totally not permissible and hence it is liable to be set aside.

9.3. I have considered the said submissions. It is not the case of the petitioners that they were not aware of the Prospectus when they applied for the Post-Graduate courses. However, their case is that 100% reservation to the service candidates in respect of 16 courses is totally bad in law.

9.4 In 1999 (III) CTC - 675 (Dr.R.MURALI Vs. Dr.R.KAMALAKKANNAN AND THREE OTHERS), the Full Bench of the Principal Bench had clearly held that when a person applied for admission based on condition stated in the prospectus and wrote examinations without protest, he cannot question the selection process. The Full Bench has at length considered various pronouncements of the Honourable Apex Court and finally held that

"Having participated in the written test and after fully knowing terms and conditions of prospectus, candidate estopped from questioning selection process."

The said judgment squarely applicable to the facts of the present case.

9.5. The Division Bench of this Court in Writ Appeal Nos.89 to 91 of 2008, by an order dated 5/2/2008 had held that a person accepting the Prospectus on the terms and conditions found thereon and applied for the selection to the Post-Graduate Course at the time of submitting the application would not be permitted to raise the question that the terms and conditions in the Prospectus are bad in law or non-selection.

Paragraph Nos.4 and 5 of the said order is usefully extracted hereunder:-

"4. Admittedly, all the appellants had applied for selection by accepting the said conditions. Even though the appellants were not selected for post-Graduate Course at the time of submitting applications and on the date of selection, they were put on notice that on their selection, they will not be permitted to undergo

Post-Graduate course within a period of two years, excluding the leave. Having applied for selection by accepting the said conditions, it is not open for the appellants now to seek for further extension to join the post on the ground that they are pursuing their Post-Graduate Diploma. It is not permissible for the appellants to attack the conditions of the advertisement after participating in the selection process. (See UNION OF INDIA AND ANOTHER Vs. N.CHANDRASEKHARAN AND OTHERS, AIR 1996 S.C. - 795), I.L.HONNEGOUNDA Vs. STATE OF KARNATAKA AND OTHERS, A.I.R.1978 S.C.28 AND OM PRAKASH SHUKLA VS. AKHILESH KUMAR SHUKLA 1986 (SUPP) SCC - 285).

5. Moreover, there is no power in the Authorities to grant relaxation of the condition to join duty. The binding nature of the instructions to the candidate is well settled. The Supreme Court in PUNJAB ENGINEERING COLLEGE, CHANDIGARH Vs. SANJAY GULATI, (AIR 1983 SC - 560) has clearly laid down that the Prospectus is binding on all persons concerned and following the same, a Division Bench of this Court has also observed in RATHNASWAMY, Dr.A.Vs.DIRECTOR OF MEDICAL EDUCATION, 1986 ELR 207 that the rules and norms of the Prospectus are to be strictly and solemnly adhered to. The same principle is reiterated in the case of Dr.M.ASHIQ NIHAMATHULLAH Vs. THE GOVERNMENT OF TAMIL NADU AND OTHERS, 2005 WLR - 697. It is not permissible for the Court to make any modification and/or relaxation in the conditions stipulated by the Prospectus. Further, granting of any relief in this petition would mean that the post in question will have to be kept vacant for another six months or one year causing serious prejudice to the general public."

Thus, the decision cited above would indicate that the petitioners who have participated in the selection process for the post-graduate courses fully knowing about the fact that 16 courses have been ear marked to in service candidates alone, cannot be heard to say later on non-selection, that ear-marking the 16 courses only for in service candidates alone is bad in law.

10. Secondly, the policy decision has been taken by the Government to ear-mark 16 Courses for the in-service candidates on the ground that the Government wishes to ensure that there is no

scarcity of the Doctors and the services of the Doctors after completion of Post-Graduate Courses be utilized to serve the poor and needy of the country at large in particular. Considering the fact that there are number of vacancies in the Government Medical Colleges and the Hospital in the scarce specialities, in order to fill up these vacancies with Medical Officer qualified in these specialities, the Government have taken a decision to refer this Post-graduate courses exclusively for the service candidates. When such a policy decision had been taken by the Government, it is not for this Court to direct or advise the Executives in matters of Policies.

10.1. Such a view had been taken by the Honourable Apex Court and the same is reported in (2007) 7 MLJ - 730 (EKTRA SHAKTI FOUNDATION Vs. GOVERNMENT OF NCT OF DELHI). Paragraph Nos.10 to 12 of the said judgment are usefully extracted hereunder:-

"While exercising the power of judicial review of administrative action, the Court is not the appellate authority and the Constitution does not permit the Court to direct or advise the executive in matter of policy or to sermonize any matter which under the Constitution lies within the sphere of the Legislature or the executive, provided these authorities do not transgress their constitutional limits or statutory power. See ASHIF HAMID Vs. STATE OF J & K AIR 1989 SC 1899, SHRI SITARAM SUGAR CO. Vs. UNION OF INDIA, AIR 1990 SC 1277. The scope of judicial enquiry is confined to the question whether the decision taken by the Government is against any statutory provisions or is violative of the fundamental rights of the citizens or is opposed to the provisions of the Constitution. Thus, the position is that even if the decision taken by the Government does not appear to be agreeable to the Court it cannot be interfere.

11. The correctness of the reasons which prompted the Government in decision making, taking one course of action instead of another is not a matter of concern in judicial review and the Court is not the appropriate forum for such investigation.

12. The policy decision must be left to the Government as it alone can decide which policy should be adopted after considering all the points from different angles. In matter of policy

decisions or exercise of discretion by the Government so long as the infringement of fundamental right is not shown Courts will have no occasion to interfere and the Court will not and should not substitute its own judgment for the judgment of the executive in such matters. In assessing the propriety of a decision of the Government the Court cannot interfere even if a second view is possible from that of the Government.

10.2. In yet another decision reported in 2007 (3) CTC - 814 (S.KARTHIKEYAN Vs. TEACHERS' RECRUITMENT BOARD, E.V.K. SAMPATH MALIGAI, 4TH FLOOR, D.P.I. COMPOUND, COLLEGE ROAD, CHENNAI 600 006), the learned Single Judge of this Court has held that

"The policy decision of Government in selection for posts cannot be interfered with in a writ jurisdiction, except if it is violative of the provisions of the Constitution of India or contrary to public policy or laws in force or, if it is violative principle of natural justice. Further, it has been held in the said order that the petitioner thereof having participated in the process of selection, it may not be open to him to challenge the same later.

The said judgment squarely applicable to the facts of the present case.

11. The learned counsel for the petitioners relied on the decision reported in 2008 (4) CTC - 741 (MAHATMA GANDHI UNIVERSITY AND ANOTHER Vs. GIS JOSE AND OTHERS). That is a case where an irregular admission had been made in violation of admission Rules. The student not having University prescribed cut-off mark for admission to M.Sc.Computer Science course had been admitted and allowed to complete the course. In those circumstances, it has been held that the admission of the student and the completion of the course and writing of the examination are totally illegal and there cannot be any misplaced sympathy in breach of Rules.

11.1. The said judgment may not be applicable to the facts of the present case, since it is not an irregular admission that has been made but selection have been made and some Courses have been ear-marked totally to the service candidates on the policy decision of the Government which cannot be questioned. Hence, the said judgment may not be applicable to the petitioners.

11.2. The learned counsel appearing for the petitioners would rely on the decision reported in (2008) 5 MLJ - 517 (Dr.J.BALASUBRAMANIAN Vs. STATE OF TAMIL NADU, REP. BY ITS SECRETARY, HEALTH AND FAMILY WELFARE DEPARTMENT, CHENNAI AND OTHERS), wherein the Principal Bench has held that

"The permission granted to the student as per the interim order of the Court in a writ petition to write examinations itself is not sufficient to hold that the student's admission has to be approved and it cannot be taken as a right granted to him to complete the Course in the said Institution."

This judgment may not be of any use to the petitioners in the facts and circumstance of the present case.

11.3. The other decision that has been cited by the learned counsel for the petitioners is reported in 1995 (5) SCALE - 66 (STATE OF TAMIL NADU Vs. T.DHILIPKUMAR & ORS. That is a case where the entire reservation made for in-service candidates and P.G. course in respect of all disciplines including Anaesthesia in Post-graduate medical courses (both diploma and degree). Under such circumstances, the Honourable Apex Court had confirmed the decision of the Honourable High Court, Madras holding that reservation in favour of the service candidates for the year 1992 - 1993 in respect of all disciplines should be confined to 50%. In the case on hand, as it has already held that only certain category of courses have been ear-marked to the in-service candidates.

12. However, I am constrained to add that such en-mass reservation to in service candidates alone in toto in respect of 16 courses, should have been avoided by the respondents. Such course adopted by the respondents deprive totally the non-service candidates to pursue their further study in those courses. In fact in the second counselling held, non-service candidates have been allowed to avail the seats for those courses which would indicate that the respondents are not serious in their concept that the 16 courses shall be filled up only by in service candidates. I hope that at least in the next year, the anomaly would be set right and rectified.

13. Thus, summing up the entire issue which is in controversy in the present writ petitions, I am constrained to hold

(i). that ear-marking 16 courses in the Post-Graduate study for in-service candidates cannot be faulted since it is a policy decision that has been taken by the Government on certain reasonings which have been discussed earlier. However, the respondents are directed to

set right and rectify the anomaly in the next year.

(ii). The petitioners who have participated in the selection process, knowing fully about the Prospectus which had clearly stated that 16 courses in Post-Graduate Degree/Diploma/5 years M.Ch (Surgery) Courses had been ear marked to the in-service candidates, cannot now claim that the said Clause in the Prospectus is arbitrary and violative of Article 14 of the Constitution of India.

14. For all the reasons stated above, I am not inclined to accept the plea that has been raised on the side of the petitioners.

15. In fine, these writ petitions stand dismissed with observation mentioned in para 12. No costs. Consequently, the connected Miscellaneous Petitions are also dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

mvs.

To

1. The Secretary to Government
Health and Family Welfare Department
Secretariat, Fort St. George
Chennai 9.

2. The Director
Directorate of Medical Education
162 Periyar EVR High Road
Kilpauk, Chennai 10.

3. The Secretary
Selection Committee
162 Periyar EVR High Road
Kilpauk, Chennai 600 010.

+ 7 CC to Mr.R.Marudhachalamurthy, Advocate SR.NO.4703 to 4709
+ 1 CC to Mr.V.Manisekaran, Advocate SR.NO.4939
+ 1 CC to Mr.S.Vadivel Murugan, Advocate SR.NO.4734
+ 1 CC to Government Pleader, Advocate SR.NO.4774

CK(CO)
EM/26.3.09

W.P.Nos.14861 to 14869 and
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