

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 29TH DAY OF APRIL, 2016

BEFORE

THE HON'BLE MR. JUSTICE S ABDUL NAZEER

WRIT PETITION NOs.23698-23710 OF 2016 (EDN-RES)

Between:

1. Jansher Roshen
Aged 23 years
S/o. Dr.Abdul Majeed K
r/a. Payyadiparambil near Mukkam
Police Station, Mukkam Post
Calicut, Kerala – 673 602.
2. Reshma E.
Aged 24 years
D/o. Radhakrishnan E.
R/a Srithilakam (H), Kozhakkottor
Areacode Post, Malappuram District
Kerala – 673 639.
3. Bhishwajeet Kumar Singh
Aged 24 years
S/o. Ajit Narayan Singh
R/a. Chattupur, Nasrathkhani
Nathnagar, Post Champanagar
District Bhagalpur – 812 004, Bihar.

4. Shailja Agarwal
Aged 24 years
D/o. Dharmendra Kumar Gupta
R/a. #621, Rajendra Nagar, Bharatpur
Rajasthan – 321 001.
5. Meera K
Aged 24 years
D/o. Somanathan E.
r/a. C/o. Kunhirama Varier
Kattukulangara, Mavungal
Anandashramam Post
Kasargod, Kerala – 671 531.
6. Revathi D/o. Ramachandran
Aged 24 years
r/a. 27/2638-I, Poornasree
Lviz Lane, Kadavanthra, Cochin
Kerala – 682 020.
7. Ankita Dhanial
Aged 25 years
S/o. Suraj Bhan
R/a. Ward No.2, Vakil Colony, Siwani
Mandi, District Bhiwani
Harayana – 127 046.
8. Brijesh Kumari
Aged 24 years
D/o. Om Prakash Singh
r/a. Vill Sahanawali, Post Rarah
Baratpur, Rajasthan – 321 025.

9. Annappa Kamath K
Aged 22 years
S/o. Manjunath Kamath K
r/a. Gopalakrishna, Vidyanagar P.O.
Kasargod, Kerala – 671 123
 10. Ajay Patel S/o. Shri.Parasu Ram Chaudhary
Aged 25 years
r/a. Village Majhowa Khajuri
Post Majhowa Khajuri
Dist. Basti, U.P. 272 002.
 11. Manish Kumar Jha
Aged 26 years
S/o. Shri. Ramnath Jha
r/a. H.NO.486, Neawr Surdas Temple
Krishna Nagar Colony, Khera, Gadia
Gaon, Prem Nagar, Nagra, Jhansi, UP – 284 003.
 12. Sanmayi Jayaprakash
Aged 24 years
S/o. K.Jayaprakash
r/a. Athira House, Kannangattu
Muthavazhy, Pandanadu Post
Chengannur Alapeey.
 13. Dipika Tyagi D/o. Dinesh Tyagi
Aged 25 years
r/a. WP 104-A, Pitampura
New Delhi – 110 088.
- ... Petitioners

(By Sri.Manu Kulkarni, Adv.)

And:

1. State of Karnataka
Department of Parliamentary Affairs &
Legislation, Vikasa Soudha
Bengaluru – 560 001
Represented by its Under Secretary.
2. State of Karnataka
Department of Health and Family Welfare
105, 1st floor, Secretariat Building,
Vikasa Soudha, Seshadri Road
Bengaluru – 560 001
Represented by its Under Secretary.
3. Karnataka Medical Council
70, 2nd floor, Vaidyakeeya Bhavana
K.R.Road, H.B.Samaja Road Corner
Basavanagudi, Bengaluru – 560 004
Represented by its Registrar.
4. Rajiv Gandhi University of Health and
Sciences, 4th block, Jayanagar
Bengaluru – 560 041
Represented by its Registrar.

5. Medical Council of India
Pocket 14, Sector 8, Dwarka
Phase – I, New Delhi – 110 077
Represented by its Secretary.

... Respondents

(By Sri.I.Tharanath Poojary, AGA for R1 & R2,
Sri. D.S.Hosmath, Adv. for R3,
Sri.N.K.Ramesh, Adv., for R4,
Sri.N.Khetty, Adv. for R5)

These writ petitions are filed under Articles 226 & 227 of the Constitution of India, praying to declare that the Karnataka Compulsory Service Training of Candidates Completed Medical Courses Act, 2012 (Karnataka Act 26 of 2015) dtd.3.6.2015 produced at Annexure-A & A1 is ultra vires the constitution and is illegal, void and non-est and etc.

These writ petitions coming on for preliminary hearing this day, the Court made the following:

ORDER

Sri.I.Tharanath Poojary, learned Additional Government Advocate, is directed to take notice for respondent Nos.1 & 2. Sri. D.S.Hosmath, learned Counsel, is directed to take notice for respondent No.3. Sri.N.K.Ramesh, learned Counsel, is directed to

take notice for respondent No.4 and Sri.N.Khetty, learned Counsel, is directed to take notice for respondent No.5.

2. In these cases, the petitioners have challenged the constitutional validity of the Karnataka Compulsory Service Training by Candidates Completed Medical Courses Act, 2012, (Karnataka Act 26 of 2015) (for short 'the Act').

3. The aforesaid Act has already been stayed in W.P.No.40566/2015 and other connected matters on 6.10.2015. All further proceedings, orders, action, notifications including the Rules etc., pursuant to the said Act have also been stayed.

4. In identical matters in W.P.Nos.25391-25393/2016, taking note of the aforesaid interim order, this Court has passed an order on 28.4.2016 as under:

“4. This Court has noticed that large number of writ petitions are being filed by the students, who are about to complete/completed their MBBS/PG/Super Speciality courses in medicine seeking reliefs as has been sought in W.P.No.40566/2015 and other connected matters. It is unnecessary for them to approach this Court for similar reliefs because the impugned Act has been stayed. All further proceedings, orders, action, notifications including the Rules, etc., pursuant to the impugned Act have also been stayed. Therefore, there is no impediment for the Universities concerned for the grant of degrees to the said students, subject to the result of the aforesaid writ petitions. The Universities concerned are directed to issue appropriate degrees to the concerned eligible students/Doctors including the petitioners herein, if they are otherwise eligible. However, when the eligible Doctors including the petitioners herein approach the Karnataka Medical Council for registration, they shall file an affidavit before the Council that they will abide by the order, which may

be passed in W.P.No.40566/2015 and other connected matters. Registration by the Council shall be granted only after filing an affidavit as above.

5. However, there is no bar for the Doctors, who voluntarily join one year rural service training. Such Doctors shall be given allowances and all other benefits in accordance with the impugned Act and the Rules/notifications/orders made thereunder.

5. The aforesaid order is applicable not only to the petitioners but also to all other similarly situated persons. Therefore, it is unnecessary to entertain these writ petitions. They are accordingly disposed of.

Registry is directed to furnish a copy of this order to the learned AGA forthwith.

6. Learned Counsel for the respondents are permitted to file their memo of appearance/vakalath as the case may, within a period of eight weeks from today. No costs.

Sd/-
JUDGE

SA/BMM/-