

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF APRIL, 2020

BEFORE

THE HON' BLE MR.JUSTICE R. DEVDAS

WRIT PETITION NO.6704 OF 2020(EDN-RES)

BETWEEN

- 1 . DR MOHD FAHAD KHAN
S/O ABDUL MATEEN KHAN
R/O 595/KA, WARD NO.18,
CIVIL LINES, RAEBARELI,
UTTAR PRADESH-229001
- 2 . DR AVINASH M M
AGED ABOUT 24 YEARS
S/O MANJUNATHAIAH
R/O NAGARAMGERE POST,
CHALLAKERE TALUK
CHITRADURGA-577522.
- 3 . DR PRATHIBHA
AGED ABOUT 26 YEARS
D/O VASUDEVA MURTHY B
R/O NO.5, KAMADHENU,
KONANKUNTE CROSS,
CANARA BANK ROAD,
KANAKAPURA MAIN ROAD,
BANGALORE-560062.
- 4 . DR BINDUSAR HOSAMANI
AGED ABOUT 27 YEARS
D/O GURUSHNTAPPA HOSAMANI,
R/O 2-910/48/49,
NEAR COMMITTEE HALL
RAJAPUR,
GULBARGA-586105.

- 5 . DR KEERTHIKA SONI
AGED ABOUT 26 YEARS
D/O D K SONI
R/O B-4/4, MALANJKHAND,
DT-BALAGHAT-481001
MADHYAPRADESH STATE
- 6 . DR SUMITA SARAOJ
AGED ABOUT 26 YEARS
D/O RAM ADHAR
R/O B-2, DHANLAXMI APARTMENT,
AMBEDKAR ROAD,
DEHURoad, PUNE-412101
MAHARASHTRA STATE
- 7 . DR SHANTHA M
AGED ABOUT 25 YEARS
D/C V S MOHAN
D NO. 15, 4TH CROSS,
OUTER CIRCLE, WHITEFIELD
BANGALORE-560066
- 8 . DR VAISHNAVI S
AGED ABOUT 25 YEARS
D/C SUDHAKAR R
R/O PHC, ANNEXE, 41ST CROSS
9TH MAIN, 3RD BLOCK, RAJAJINAGAR
BANGALORE-560010.
- 9 . DR AISHWARYA MANOJ V
AGED ABOUT 24 YEARS
D/O MANOJ KUMAR
R/O CHITHRAKAM(H) 2/253A1,
PEOPLES ROAD,
KARAPARAMBA P.O.,
DT-KOXHIKODE, KERALA-673010.
- 10 . DR ABHISHEK P M
AGED ABOUT 24 YEARS
S/O UNNIKRISHNAN NAIR P M
RESIDENT OF PURATHANAMANNIL (HOUSE)

CHATHAMANGALAM PO,
NIT, KOXHIKODE-673601
KERALA

- 11 . DR TARA AJIAI
AGED ABOUT 24 YEARS
D/O R AJAYADAS
R/O PUTHANKAVU, ANDHAKARANAZHI PO,
CHERTHALA, ALPPUZHA,
KERALA-688531.
- 12 . NIYANTHRI R
AGED ABOUT 24 YEARS
D/O N RAJESWARAN,
NO.36, 3RD CROSS, VINAYAKA LAYOUT,
MARTHAHALI,
BANGALORE-560037.
- 13 . PRIYANKA B S
AGED ABOUT 24 YEARS
D/O A G SHIVANNA
R/O NO.42, LIG, KHB COLONY,
I STAGE, 6TH A MAIN
BANGALORE-560079.

...PETITIONERS

(BY SMT AKKAMAHADEVI HIEMATH, ADVOCATE)

AND

- 1 . UNION OF INDIA
MINISTRY OF HEALTH AND FAMILY WELFARE
NIRMAN BHAWAN
NEW DELHI-110011
BY ITS SECRETARY
- 2 . STATE OF KARNATAKA
DEPARTMENT OF HEALTH AND FAMILY WELFARE,
105, 1ST FLOOR,
SECRETARIAT BUILDING,
VIKASA SOUDHA, SESHADRI ROAD,

BENGALURU-560001.
REPRESENTED BY ITS SECRETARY.

- 3 . KARNATAKA EXAMINATION AUTHORITY
SAMPIGE ROAD,
18TH CROSS, MALLESHWARAM,
BANGALORE-560012
REPRESENTED BY ITS DIRECTOR
- 4 . EMPLOYEES STATE INSURANCE CORPORATION
MEDICAL DIVISION-IV,
HQRS. OFFICE, PANCHADEEF BHAVAN,
C.I.G. MARG, NEW DELHI-110002
REPRESENTED BY ITS DIRECTOR GENERAL
- 5 . THE EMPLOYEES STATE INSURANCE CORPORATION
MEDICAL COLLEGE AND HOSPITAL,
RAJAJINAGAR
BENGALURU
REPRESENTED BY ITS DEAN
- 6 . KARNATAKA MEDICAL COUNCIL
70, 2ND FLOOR,
VAIDYAKEEYA BHAVANA,
K R ROAD, H B SAMAJA ROAD CORNER,
BASAVANAGUDI
BENGALURU-560004
REPRESENTED BY ITS REGISTRAR.
- 7 . RAJIV GANDHI UNIVERSITY OF HEALTH SCIENCE
4TH T BLOCK, JAYANAGAR
BENGALURU-560041
REPRESENTED BY ITS REGISTRAR
- 8 . MEDICAL COUNCIL OF INDIA
POCKET 14, SECTOR 8, DWARKA,
PHASE-1, NEW DELHI-110077
REPRESENTED BY ITS SECRETARY.

...RESPONDENTS

(BY SRI M V RAMESH JOIS, AGA FOR R2
SMT K S ANASUYADEVI, CGC FOR R1

SMT GEETHADEVI M PAPANNA, ADVOCATE FOR R4 & R5
SRI N KHETTY, ADVOCATE FOR R8
SRI N K RAMESH, ADVOCATE FOR R3 & R7
SMT RATHNA SHIVAYOGIMATH, ADVOCATE FOR R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE AND HOLD THAT THE R2 HAD NO LEGAL BASIS TO INSIST UPON THE PETITIONER TO COMPULSORILY SERVE THE R2 AND 3 FOR A PERIOD OF FIVE YEARS UPON COMPLETION OF THEIR MBBS DEGREE AT THE R5 COLLEGE AND ETC.

THIS WRIT PETITION IS COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

R. DEVDAS J., (ORAL):

The petitioners are aggrieved by the arbitrary action of the respondents No.4 and 5, ESI Corporation Medical College and PGIMSR, Bengaluru, inasmuch as withholding the transfer certificates and refusal to issue No Due certificates to the petitioners, who are pursuing the Entrance Examination having passed MBBS from the 4th and 5th respondent Institutions, for the purpose of securing seats for Post Graduate Degree course under All India quota. The allegation made by the petitioners

against respondents No.4 and 5 Institutions is that having given seats to the petitioners an arbitrary exercise of getting bonds executed for a period of five years of compulsory service in their hospitals under duress is resorted to. The legality of service bonds being executed under duress fell for consideration before co-ordinate bench of this Court and this Court by order dated 14.02.2020 in W.P.No.29365-29368/2018 and connected matters held that the ESI Corporation and its Colleges could not have got the bonds executed from the petitioners and at any rate, the same cannot be enforced against the petitioners. Consequently, a writ of certiorari was issued quashing the impugned orders passed by the respondents No.4 and 5 ESI Corporation and its colleges against enforcing five years compulsory service bonds. Similarly other petitions were also filed by the students in W.P. Nos.23967-970/2019 and connected matters which were disposed of on

25.02.2020 taking note of the decision of the co-ordinate bench in the case of **Shabana Salahudheen and others** in W.P.No.29365-29368/2018 and connected matters. On 21.4.2020 this Court had issued emergent notice to the respondents.

2. Matter is called out. Except the learned counsel for the respondent No.8 Medical Council of India and the learned Additional Government Advocate, there is no representation for the other respondents. However, in view of the decisions rendered by this Court which are applicable to the petitioners, this petition is **allowed**.

3. A writ of mandamus is issued directing the respondents No.4 and 5 to issue an endorsement to the petitioners relieving them of all liabilities in terms of the judgment dated 14.02.2020 in W.P.Nos.29365-29368/2018.

4. The learned counsel for the petitioners further prays that in view of the COVID-19 pandemic, the respondent Nos.4 and 5 Institutions may be directed to upload the transfer certificate directly to the Karnataka Examinations Authority to enable the petitioners to proceed in the selection of seats. The 4th and 5th respondents are therefore directed that the transfer certificates of the petitioners may be uploaded directly to the Karnataka Examinations Authority in view of the peculiar facts and circumstances of this case surrounding the COVID-19 pandemic. The Karnataka Examinations Authority which is respondent no.3 shall also ensure that the transfer certificates are received from the respondents No.4 and 5 – Institutions.

5. The respondents No.4 and 5-Institutions are also directed to release all the original documents viz., the SSLC and PUC Marks cards and Transfer Certificate, Provisional Pass Certificate, Internship

Completion Certificate, No objection certificate, No Due Certificate, Study Certificate, Conduct Certificate, Bonafide Certificate, MCI Recognition Certificate, Pass Certificate, Academic Certificate, Attempt Certificate, Final Year MBBS Marks Card and Transfer Certificates. Consequently, respondent No.7-Rajiv Gandhi University of Health and Sciences is also directed to issue the original Degree Certificates after the documents are released by the respondents No.4 and 5-institutions. However, as directed to the respondents No.4 and 5 Institutions, it is also hereby directed respondent No.7-RGUHS shall upload the original Degree Certificates of the petitioners directly to the Karnataka Examinations Authority, in view of the difficult circumstances surrounding COVID-19 pandemic, the petitioners may not be able to run around for the original documents and submit the same to the Karnataka Examinations Authority. The Karnataka Examinations Authority is

also directed to accept the original Degree Certificates and other documents which may either be submitted by the petitioners or would be directly uploaded by the respondents No.4 and 5 as well as respondent No.7-RGUHS.

6. Similarly, respondent No.6-Karnataka Medical Council is also hereby directed to enroll the petitioners as Doctors and issue the registration certificates to enable the petitioners to pursue their Post Graduation course. It is brought to the notice of this Court that these certificates and documents were required to be uploaded before 21.04.2020. However, in view of the COVID-19 situation and the State Government and the Central Government having issued certain general directions and in view of the decision passed by this Court in these writ petitions and the writ petitions noted hereinabove, it would be appropriate to direct the respondent-authorities to accept the original documents

and certificates which would either be submitted by the petitioners or uploaded directly by respondents No.4 and 5 - Institutions as well as respondent No.7-RGUHS and the 6th respondent-KMC till 27.04.2020. The respondents-authorities are also specifically directed that they shall ensure compliance of the directions and also ensure that the formalities which are required to be completed shall be done so by extending the time till 27.04.2020.

Ordered accordingly.



KLY/

**Sd/-
JUDGE**