

ITEM NO.59

COURT NO.9

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 53/2022

N. KARTHIKEYAN & ORS.

Petitioner(s)

VERSUS

THE STATE OF TAMIL NADU & ORS.

Respondent(s)

([ONLY I.A. NO. 185985/2022 (CLARIFICATION/DIRECTION) IS BEING LISTED UNDER THIS ITEM.]

IA No. 185985/2022 - CLARIFICATION/DIRECTION)

Date : 02-12-2022 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE VIKRAM NATH

For Petitioner(s) Mr. Devadatt Kamat, Sr. Adv.
Mr. Suhrith Parthasarathy, Adv.
Mr. Shankar Narayanan, Adv.
Ms. Rashmi Nandakumar, AOR

For Respondent(s) Ms. Aishwarya Bhati, ASG
Ms. Aakanksha Kaul, Adv.
Ms. B.L.N. Shivani, Adv.

Mr. Amit Anand Tiwari, AAG
Dr. Joseph Aristotle S., AOR
Ms. Devyani Gupta, Adv.
Ms. Tanvi Anand, Adv.
Mr. Shobhit Dwivedi, Adv.
Ms. Nupur Sharmna, Adv.
Mr. Sanjeev Kr. Mahara, Adv.
Ms. Vaidehi Rastogi, Adv.

Mr. Gaurav Sharma, AOR
Mr. Dhawal Mohan, Adv.
Mr. Prateek Bhatia, Adv.
Ms. Mitushi Goyal, Adv.

Mr. P. Wilson, Sr. Adv.
Mr. K.V. Jagdishvaran, Adv.
Ms. G. Indira, AOR
Mr. Harnaman Singh, Adv.
Mr. P. Gandeepan, Adv.

Ms. Koj Yaajung, Adv.
Mr. Kashyap, Adv.
Mr. Appoorv, Adv.

UPON hearing the counsel the Court made the following
O R D E R

IA No. 185985/2022 in W.P.(C) NO.53/2022

The State of Tamil Nadu has approached this Court with this I.A. for clarification of the order dated 16.03.2022 that the said order is also applicable to all subsequent academic years, till the disposal of the present writ petition.

We have heard Mr. Amit Anand Tiwari, learned AAG for the State of Tamil Nadu, Mr. P. Willson, learned senior counsel for in-service candidates in one of the petitions, Ms. Aishwarya Bhati, learned Additional Solicitor General of India for the Union of India and Mr. Devadatt Kamat, learned senior counsel appearing for the non in-service candidates.

Ms. Bhati submits that in the last year, number of seats reserved for in-service candidates could not be filled up. It is submitted that the Super Specialty seats are valuable and a national asset, and they cannot be permitted to remain vacant. Ms. Bhati further submits that the Union of India on an All-India basis does not permit any in-service reservation.

While passing the order on 16.03.2022, we have, prima facie, relied on the judgment of the Constitution Bench of this Court of Tamil Nadu Medical Officers Association v. Union of India, reported in (2021) 6 SCC 568. The judgment in the case of Preeti Shrivastava and Another v. State of M.P., reported in (1999) 7 SCC 120, was also pressed into service, at that stage, by the learned ASG as well as the learned counsel appearing on behalf of various in-service candidates.

However, we find that the judgment in the case of Tamil Nadu Medical Officers Association (supra) had a direct bearing on the issue for consideration before this Court.

We appreciate the anxiety expressed by the learned ASG that the issue requires to be decided finally.

However, insofar as the present academic year is concerned, we find that the State of Tamil Nadu needs to be permitted to fill in the post on the basis of the G.O. No.462 of 07.11.2020. Insofar as the apprehension of the learned ASG with regard to the seats remaining vacant is concerned, we find that certain directions could be issued to ensure that the seats do not remain vacant.

We, therefore, permit the State of Tamil Nadu to fill in the seats reserved on the basis of G.O. No.462 dated 07.11.2020, within a period of 15 days from today. On the 16th day from today, the State of Tamil Nadu will inform the Union of India with regard to all the seats which remain unfilled from the in-service category, which shall be permitted to be filled in by the Union of India, on the basis of All India merit list.

List the main matter i.e. W.P. (c) No. 53/2022 for hearing on 14.02.2023. To be listed at Serial No.1.

We further direct that the parties prepare a single convenience compilation of the documents, on which the parties would rely. On behalf of the State of Tamil Nadu Mr. Joseph Aristotle S., and for Union of India, Mr. G.S. Makker, would work jointly to prepare the said compilation.

The application is, accordingly, disposed of.

(NARENDRA PRASAD)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)