

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.24113 of 2023

Dr. N. Mahehwari & others **Petitioners**
Mr. Avijit Mishra, Advocate

-versus-

State of Odisha & others **Opposite Parties**
Mr. I. Mohanty, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

02.08.2023

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioners as well as the learned Additional Standing Counsel for the State. Perused the Writ Petition as well as the documents annexed thereto.
3. The present Writ Petition has been filed with the following prayer :

“Under these facts and circumstances, it is most humbly prayed therefore, that this Hon’ble Court may graciously be pleased to direct Opp. Party No.3 to return back all the original certificates and documents to the Petitioners which has been retained since the petitioners took admission to PG Courses and further be pleased to direct Opp. Party No.4 to release P.G. Pass Certificates and Mark Sheets of the Petitioners immediately,

Or in the alternative pass any other order/orders as deem fit and proper in this case.”

4. It is submitted by Mr. Mishra, learned counsel appearing for the Petitioner that being aggrieved by the illegal conduct of the Opposite Parties withholding the original certificates submitted by the Petitioner for verification, the Petitioner has approached this Court for a direction to the Opposite Parties to return the Original certificates and other

documents submitted to the Opposite Parties. In the aforesaid context, learned counsel for the Petitioner referred to the order passed Dr. Swathi Kechchawar G @ Swathi Kechchannar & others vs. State of Odisha and others in W.P.(C) No.16062 of 2022 vide order dated 29.06.2022. In the aforesaid case a coordinate bench of this Court vide an interim order dated 29.06.2022 directed the Opposite Parties to return the Original certificates of PG Pass Certificates and the Mark Sheets of the Petitioners during the pendency of the writ application. He further contended that the subsequently the case was not contested, accordingly the aforesaid writ petition was disposed of as infructuous.

5. Similarly, relied before this Court was placed on another order passed by the Coordinate Bench in Dr. Binayak Panda & others vs. State of Odisha & others in W.P.(C) No.17735 of 2022 vide order dated 17.10.2022. On perusal of the aforesaid order it appears that all similar matters were tagged and disposed of vide order dated 15.12.2022. Accordingly, the writ petitions were disposed of as the same as infructuous in view of the fact that by interim order the P.G. pass certificates and mark-sheet certificates were provided to the Petitioner in all those cases.

6. Learned Addl. Standing Counsel, on the other hand submitted that the original certificates were submitted before the authorities for the purpose of verification. Therefore, after verification the same were retained by the authorities and have not been returned thereafter. However, he further contended that in the event, this Court directs the Opposite Parties have returned the original documents to the Petitioner. Further, learned Addl. Standing Counsel referring to a resolution of the Health and Family Welfare Dept. dated 09.12.2021 submitted that there is a provision in the said resolution that to ensure that they performed their duties during the two years of bond period after passing out the authorities have taken a policy decision to keep the original certificates

with the authorities till conclusion of the bond period of two years

7. In reply to the same learned counsel for the Petitioner submitted that the Petitioners are governed by a resolution dated 03.02.2017 particularly by clause 1(e) to the said resolution. He further submitted that there is no such provision to retain the certificate by the authorities.

8. Considering the submission made by learned counsels for the respective parties and keeping in view the factual background of the present case, this Court is of the considered view that the Opposite Parties have no authority to retain the original certificates of the Petitioners in the absence of any authority of law nearly basing upon some executive surplus. It is further made clear that the original certificates are the assets of the persons concerned. Therefore, the Opposite Parties instead of retain the original certificates and take an undertaking from such post P.G. bond doctors that they shall complete the P.G. bond period of two years after completion of their courses in the respective medical institutions in the State of Odisha. In such view of the matter, this Court has no hesitation in directing the Opposite Party Nos.3 and 4 to release the original certificates in favour of the Petitioners. However, while releasing such certificates it is open to the Opposite Parties in view of the conditions prescribed in Clause-1(e) of the resolution dated 03.02.2017 shall insist that the Petitioner gives a declaration in the form of affidavit shown before any Executive Magistrate as per their prescribed format before handing over to the certificates to the petitioners. Accordingly, the Petitioners are directed to approach the Opposite Party Nos.3 and 4 along with the certified copy of this order within a week from today. In the event, the Petitioners approach the Opposite Party Nos.3 & 4, the Opposite Party Nos.3 & 4 shall do well to implement this order as expeditiously as possible preferably within two weeks from the date of production of the certified copy of this order.

9. With the aforesaid observations/ directions, the writ application stands disposed of.

Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)
Judge

Anil

