

Daily Orders for Case WP 18445/2021

Sl. No	Judge(s) Name	Date of Order	Daily Order
1	R DEVDAS	08/10/2021	<p>Learned AGA waives notice for respondents No.1 to 4. Learned Counsel Sri N.K.Ramesh, takes notice for respondents No.5 and 9. Learned Counsel Sri N.Khetty, takes notice for respondent No.6. Learned Central Government Counsel is directed to take notice for respondent No.7. Learned Counsel Smt.Ratna Shivayogimath, takes notice for respondent No.8. Issue notice to respondent No.10. Since the learned AGA had pointed out that similar matters for interim prayer were considered by this Court and interim orders were passed directing the petitioners to give an undertaking before the respondent-authorities, in case they propose to take up higher studies or fellowship, learned Counsel for the petitioners submits that these petitioners fall under a different category. Learned Counsel for the petitioners submits that the petitioners are students of respondent No.10-St.John's Medical College and in the brochure-Karnataka State Revised Information Bulletin for Centralised Counseling for Post Graduate Admissions to Degree/Diploma Medical and Dental Courses, a separate note was put up stating that St.John's Medical College eligibility and Other details are separately appended to the information Bulletin under the heading "St.John's Medical College". Further, at Clause 5.4 of the Bulletin, the information for admission in respect of St.John's Medical Colleges, Bangalore has been given. It is pointed out from clause 5.4(a) (ii) that the students were required to furnish certificate of two year rural service issued by the Director of the St.John's Medical College (hereinafter referred to as 'SJMC' for short). Further, as per Annexure '9', the Certificate Confirmation for PG Category 1 and 2 certifying that the said student who graduated from SJMC had done two years of rural service as required by the bond executed by him/her at the time of his/her admission is SJMC is separately given. The learned Counsel for the petitioners would therefore submit that it is clearly stated in the memorandum of writ petition that petitioners No.1, 2, 3, 5, 6, 10, 11, 13, 19, 24, 31, 36 and 38 had already undertaken two years of rural service at the SJMC and the other 25 petitioners have signed a Bond to do one year of compulsory service at SJMC in terms of the prescription in the Bulletin of the Karnataka Examinations Authority. The learned Additional Advocate General, appearing on behalf of the respondent-State would draw the attention of this Court to order dated 30.08.2019 in W.P.No.40566/2015 and connected matters, in the case of Ms.Bushra Abdul Aleem Vs. The State of Karnataka & others and connected matters to submit that this contention on behalf of the students of SJMC has already been considered by the co-ordinate Bench and their contention that they stand excluded from the provisions of the Act and the Rules for compulsory services has been negated. It is also pointed out from clause (11) of the Bulletin/brochure that all the candidates except those who have already undergone compulsory rural service after award of MBBS Degree are required to undertake the compulsory services and there is no separate exception carved out for the students who have secured MBBS Degree from SJMC. Having heard the learned Counsel for the petitioners, the learned AAG for the respondent-State and on perusing the information Bulletin and the particular paragraphs as pointed out by the learned AAG in the case of Ms.Bushra Abdul Aleem (supra), this Court finds that the separate provisions made in the Bulletin issued by the Directorate of Medical Education, Government of Karnataka and the Karnataka Examinations Authority, making separate provision for SJMC, MBBS Degree Holders enabling the students who prosecuted MBBS Course at SJMC to undergo two years of rural service and a Bond in that regard having been directed to be executed at the time of admissions to SJMC and another category of SJMC students, who had not already undergone two years rural service, who are required to execute a one year Bond to serve in St.John's National Academy of Health Sciences and/or its approved Health Care Centres after the completion of PG course and a bond to be executed which levies penalty of Rs.5 lakhs for contravention, it clearly shows that a separate provision has been made for the students of SJMC in the said Bulletin itself. Moreover, it has been asserted by the petitioners that they have either undergone two years of rural service as prescribed in the Bulletin and/or some of the petitioners have signed a bond to do one year of compulsory service. Therefore, the petitioners cannot be compelled to undergo the compulsory services, prima facie. Since the petitioners have made out a prima facie case for their exemption from the rural services, the petitioners are entitled for interim relief. It has also been submitted by the learned</p>

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			<p>Counsel for the petitioners that in view of the bond of one year compulsory service given by the 25 petitioners, they have already undertaken the service. Consequently, it is directed that the notification dated 04.10.2021 issued by the State Government shall not be operative as against the petitioners herein until further orders. It is made clear that this interim order shall be subject to the final outcome of this writ petition. If the petitioners do not succeed in this writ petition, they shall undergo compulsory services in terms of the provisions of law. The respondent-State is also permitted to move an application for vacating the interim order, if it is found that there was no separate exemption given under the Karnataka State Revised Information Bulletin at Annexure 'A'. It is made clear that the petitioners who furnish a certificate from SJMC that they have undertaken rural service are entitled for release of their testimonials/ marks cards and Registration and NOC from Karnataka Medical Council, which shall, however, be subject to the final outcome of this writ petition</p>