IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 6th DAY OF JANUARY, 2023

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

W.P.No.200151/2022 (S-RES)

BETWEEN:

Dr.Satyakka D/o Gurunath,
Age : 29 years, Occ: Doctor,
R/o Ramamadir Gorkha Galli, Bidar
Now at H.No.147 LIG,
Behind Mini Vidhan Soudha,
Basavakalyan, Tq : Basavakalyan,
Dist : Bidar – 585 327.

.... Petitioner

(By Jairaj K.Bukka, Advocate)

AND:

1. The Government of India,
   Rep by its Joint Director,
   Medical Council of India,
   Dwaraka, New Delhi – 110077.

2. The State of Karnataka,
   Rep. by its Principal Secretary
   Department of Health and
   Family Welfare Service,
   M.S.Builidng, Bangalore - 560 001.

3. The Commissioner,
   Health and Family Welfare Service,

Anandrao Circle,
Bangalore – 560 009.

4. The Director,
Department of Health and
Family Welfare Service,
Anandrao Circle,
Bangalore – 560 009.

5. The Chief Administrative Officer &
The Member Secretary,
Special Requirement Committee,
Department of Health and
Family Welfare Service,
Arogya Soudha, Magadi Road,
Bangalore – 560 009.

... Respondents

**(By Sri Sudhirsingh R.Vijapur, DSGI for R1;
Sri Viranagouda M.Biradar, AGA for R2 to R4;
R3 to R5 are served)**

This writ petition is filed under Articles 226 and 227 of the Constitution of India praying to issue writ in nature of certiorari or any other writ quashing the impugned endorsement passed by the 5th respondent vide Sl.No.SRC/21/2021-22 dated 01.09.2021 at Annexure-L and issue a writ in the nature of mandamus of any other writ or direction to the 5th respondent to consider the petitioner challan (MK 7001970520 dated 29.09.2020 at Annexure-F1) and thereby issue direction to the 5th respondent authority to appoint the petitioner as General Duty Medical Officer in accordance with law.

This petition coming on for Preliminary Hearing in 'B' Group, this day, the court made the following:-

ORDER

Heard Sri Jairaj K.Bukka, learned counsel appearing for the petitioner and learned Additional Government Advocate appearing for the respondents.

2. The petitioner in this case is aggrieved by the endorsement dated 01.09.2021 at Annexure-L wherein respondent No.5 has rejected the application filed by the petitioner who was filed an application to consider her candidature for the post of Medical Officer in terms of notification dated 10.09.2020. The Competent Authority issued notification on 10.09.2020 inviting applications for the post of Medical Officer in different discipline and prescribed the qualification. In terms of the qualification prescribed, the applicant must possess MBBS Decree from the University established in India. Admittedly, the petitioner has secured her graduation in Medicine from the University in China. In other words, in terms of the notification at Annexure-E, the degree from foreign

University is not recognized. Under the circumstances Annexure-L is issued.

3. Learned counsel for the petitioner would submit that the petitioner is presently working as Medical Officer at Harkood, Bidar District. Thus, it is submitted that the petitioner is qualified for the post, which is called for by the respondents and he would submit that respondent No.5 was error in issuing the endorsement at Annexure-L.

4. Learned counsel for the petitioner has also produced the notification issued by the State of Maharastra and also the selection list, pursuant to the said notification and it is his contention that in State of Maharastra while recruiting the Medical Officers, the persons with medical degree from Foreign University are recognized.

5. Learned counsel for the petitioner would also submit that in terms of Annexure-D, the petitioner has cleared the screening test. Accordingly, he would submit that the petition is to be allowed.

6. Learned Additional Government Advocate for the respondents No.2 to 4 would submit that in terms of Annexure-E, the qualification is prescribed by the State of Karnataka and the State of Karnataka has got the power to prescribe necessary qualification for the Medical Officers to be appointed by the State. The eligibility criteria fixed by the Maharastra State is not binding on the State of Karnataka.

7. It is also submitted that that the screening test cleared by the petitioner may enable the petitioner to practice medicine in India. However, that cannot be the basis for the petitioner to compel the State of Karnataka to recognize the degree from University in China to consider her application seeking appointment.

8. This Court has considered the contentions raised at the bar and also perused the records.

9. Admittedly the petitioner is Medical Graduate from a University in China and on 10.09.2020 notification was issued by the competent authority and the

qualification is prescribed for the post of Medical officers and the qualification prescribed would clearly reveal that the candidate must possess the medical degree from the University in India. Merely because neighboring States have followed a different yardstick where they have recognized the medical degree from the foreign University, it cannot be contended that the qualification prescribed by the State of Karnataka in not recognizing the Medical Degree from the foreign University is erroneous. The State is within its power to prescribe the qualification for the posts, which it intends to fill-up. Under the circumstances, the endorsement at Annexure-L is inconsonance with the notification at Annexure-E. It is also to be noted that notification at Annexure-E is not called in question.

10. Under the circumstances, petitioner is not entitled to relief claimed in the petition. Accordingly the petition is dismissed.

Sd/-
JUDGE

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