

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.02.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.30596 of 2014

Dr.S.Venkatesh Babu
Sri Sakthi Hospital,
4, Trivandrum Main Road,
Vannarpettai,
Tirunelveli,
Tamil Nadu - 627 003.

.. Petitioner

Vs.

1.The Commissioner,
Transport and Road Safety,
Government of Tamil Nadu,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Joint Transport Commissioner (Road Safety),
Government of Tamil Nadu,
Ezhilagam, Chepauk,
Chennai - 600 005.

3.The Deputy Secretary to Government
Department of Home, Transport (V),
Government of Tamil Nadu,
Secretariat, Fort St., George,
Chennai - 600 009.

4.The Principal Secretary to Government
Department of Home, Prohibition & Excise,
Government of Tamil Nadu,
Secretariat, Fort St., George,
Chennai - 600 009.

.. Respondents

PRAYER : Petitions have been filed Under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the fourth respondent in letter number 37729/Tr.V/2011-22, dated 16.07.2013, and the consequential order passed by the second respondent in letter number C1/45280/2008, dated 26.07.2013, quash

the same and consequently directing the respondents to provide partial sponsorship for Emergency Accident Relief Centre run by the petitioner from the year 2005 on the basis of the memorandum of understanding between the petitioner and the Government as well as on the basis of the petitioner's representations dated 18.05.2011, 28.06.2011 and remainders and in the light of the recommendations made by the District Collector and District Superintendent of Police vide letters dated 09.12.2009 and 11.07.2009 respectively.

For Petitioner : Mr.T.Mohan
for M/s.J.Antony Jesus

For Respondents : Mr.R.Vijayakumar AGP

O R D E R

By consent of the learned counsels on either side, the writ petition is taken up for final disposal.

2.Heard Mr.T.Mohan, learned Counsel appearing for the petitioner, and Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents.

3. The petitioner seeks for issuance of a Writ of Certiorarified Mandamus, to quash the order passed by the fourth respondent, dated 16.07.2013, by which the request made by the petitioner for conversion of the fully sponsored Emergency Accident Relief Centres (EARC), in the Tuticorin and Tirunelveli Districts into partially sponsored units was rejected.

4. The petitioner runs a Hospital at Tirunelveli and they are also managing seven EARCs from 2005 in Tuticorin and Tirunelveli Districts. The said scheme was implemented throughout the State of Tamil Nadu during 2002-03, as a public/private partnership under the scheme, they were fully sponsored EARCs and partially sponsored EARCs. The fully sponsored EARCs are administered by the private organisations by establishing the Emergency Accident Relief Centres at their own costs and administered by themselves. The partially sponsored EARCs is where there is a public participation and Government allotted funds. The petitioner was successfully running the programme from 2005, but on account of a calamity which happened in the family, as a result of which one of the Doctors was unable to pursue further, therefore, the petitioner submitted representations from 2011-13, requesting for partial financial grant. The petitioner pointed out that it will be the public, which will be affected, if the centres are shut down and explaining their difficulties, they requested for partial sponsorship, this has been rejected by way of impugned order.

5. Firstly, it has to be pointed out that the impugned order of rejection is devoid of reasons. Furthermore, the representation which was given by the petitioner in 2011, was rejected in 2013, without even affording an opportunity to the petitioner to explain in person as to why he seeks for partial assistance.

6. In the counter affidavit filed by the first respondent, they would state that only in places where there was no sponsors available at the relevant time, partial sponsorship was granted by the Government and as on date, only 11 centres are functioning under the partial sponsorship basis in the State. Further, it is stated that the petitioner fully knowing well the expenses, they would incur accepted the terms of the scheme and if they are unable to maintain the EARCs due to financial constraint, they have to take a decision in the matter whether to continue with it or not and the Government cannot be blamed. Further, there is some imputation against the petitioner stating that the EARCs at Panankulam and Gangaikondan maintained by the petitioner are not working for a long time and in this regard, photographs were also produced. With the above submissions, the respondents seek to justify the rejection of the petitioner's request.

7. As already pointed out that the representation given by the petitioner in 2011 was rejected during 2013. The reasons assigned in the counter affidavit do not find place in the impugned order. Further, with regard to the two centres, there is an allegation against the petitioner that it has been closed. This allegation was not made known to the petitioner nor any show cause notice was issued. Government in G.O.(2D).No.242, dated 13.04.2007, approved the Road Safety Policy and in terms of clause 15 of the annexure to the said Government Order, the object of the scheme is to promote involvement of private practitioners and hospitals in EMR and Trauma care through training, adequate safeguards and incentives. Therefore, the petitioner would state that the Government should have considered their case for granting such incentives. With regard to the allegations regarding those two centres, the petitioner has filed a reply affidavit stating that those two centres were located in a remote place and was not useful to the public and the petitioner has requested permission to relocate those two centres near Toll Plazas and such request is still pending with the respondent. The petitioner undertook to continue the services after relocation orders are issued.

8. In the light of the above, this Court is of the view that the matter requires reconsideration by the respondent by affording an opportunity to the petitioner and considering all the factors and also taking note that the petitioner has been managing these centres as fully sponsored unit since 2005.

9. In the result, the Writ Petition is allowed, the impugned order is set aside and the matter is remanded to the fourth respondent for fresh consideration and the fourth respondent shall take into consideration the plea raised by the petitioner and decide the matter afresh after affording an opportunity of personal hearing and pass orders on merits and in accordance with law. No costs.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

pbn

To

- 1.The Commissioner,
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Chennai - 600 005.
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1 cc to Mr.J. Antony Jesus, Adocate, sr. 11129
1 cc to government Pleader, Sr. 11268

W.P. No.30596 of 2014

MSM (CO)

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