

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.01.2015

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THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.146 of 2015 &
M.P.Nos. 1 & 2 of 2015

Cheran Tower Apartments
Residents Welfare Association
(Regd.No.78/2013)
rep. By its President

.. Petitioner

Vs.

1.The Secretary to Government of Tamil Nadu
Department of Health & Family Welfare
Fort St.Geroge, Chennai 600 009.

2.The District Collector
Coimbatore

3.The Commissioner
Corporation of Coimbatore, Coimbatore.

4.The Chairman
Tamil nadu Pollution Control Board
Guindy, Cheennai 600 032.

5.The Dean
Coimbatore Medical College & Hospital
Coimbatore 18.

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of Prohibition to prohibit the respondents from shifting the mortuary in the Coimbatore Government hospital, Coimbatore from the existing place i.e. from South West Corner (backside of the hospital) by having an opening in the narrow Geetha Hall Road, or any other place which is injurious to public health.

For Petitioner : Mr.M.Venkataxhalapathy, Sr.Counsel
for Mr.M.Sariram

For Respondents: Mr.R.Vijayakumar - R1, 2 & 5
Addl.Govt. Pleader
Mr.R.Shivakumar - R3
Mrs.Rita Chandrasekaran - R4

O R D E R

By consent of the learned counsel on either side, the writ petitions are taken up for final disposal at the admission stage itself.

2.Heard Mr.Mr.M.Venkatachalapathy, learned Senior Counsel appearing for the petitioner, Mr.R.Vijayakumar, learned Additional Government Pleader appearing for R1, 2 & 5 and Mr.R.Shivakumar, learned counsel for third respondent and Mrs.Rita Chandrasekaran, counsel for the fourth respondent.

3.The petitioner is an Association of residents of an apartment complex consisting of commercial and residential accommodation in Coimbatore. The petitioner Association seeks to prohibit the respondents from shifting the mortuary in the Coimbatore Government hospital, Coimbatore from the existing place i.e. from South West Corner (backside of the hospital) by having an opening in the narrow Geetha Hall Road. According to the petitioner, if that proposal is implemented, they would be put to hardship.

4.Firstly, it has to be noted that this Court cannot interfere in the discretion of the respondents in establishing the facilities in a Government Hospital. The facilities are established in public interest. Therefore, only when there are serious infirmities and action of the officials are thoroughly reckless, then alone the Court is entitled to examine the decision making process. In the affidavit filed in support of the writ petition, no such allegation has been made. But, they would state that if the mortuary gate is allowed to be opened in the narrow Geetha Hall Road, it would affect them.

5.This Court in order to ascertain the full facts, directed the Dean of the Coimbatore Medical College Hospital, Coimbatore to file a counter affidavit. Accordingly, counter affidavit has been filed, wherein it has been stated that the hospital was started in the year 1902 and it is functioning as Coimbatore Medical College Hospital from 1965 and it is serving the needy and poor patients of Coimbatore, Nilgiris, Erode, Tirupur and Karur Districts. But Cheran Tower was built on the back side of Hospital in Geetha Cafe Road only during 1994 and there is a 23 feet road between the Cherrran Towers and the Hospital Compound wall and the present new mortuary building is constructed inside the hospital premises 30 feet North away to hospital compound and 50 feet East away from hospital compound and that building was completely covered by ramps which are entirely closed on all sides and hence, the mortuary building will not be visible for outside public.

6.In the counter affidavit it has also been stated that Bio Medical waste of the hospital has been disposed/removed then and there daily by Tenko Therm Industries, Coimbatore, and hence there is

no unbearable odour and hence the question of affecting the health condition to the Cherran Town Residents does not arise. The liquid waste from the post mortem dissection hall is drained through single drainage system within the hospital premises and further connected to the already existing drainage system. There is no solid waste from the post mortem dissection hall.

7.Further, the Coimbatore Medical College Hospital has all special departments and is expanding daily. All State of art equipments, infrastructure are added to the existing departments. The New Mortuary building is in the best suited and selected site in the hospital premises and designed in a very decent manner to prevent the odour. The first floor is constructed for forensic medicine medical officers, students teaching hall and for keeping the medico legal documents. The second floor is constructed for cold storage room and post mortem dissection hall. The cold storage system is of international standards to prevent the spread of bad odour.

8.It is has also been stated that the new construction was designed to Ground + 2 floors and the construction was almost over. So, the newly constructed medico legal department and mortuary is very convenient and comfortable for the relatives of the deceased and public instead of the existing old mortuary which is located in front of the hospital which produces panic to the patient who are coming to the nearby casualty. So, the above building will not create any disturbance to the public.

9.Along with the counter affidavit an annexure has been filed, which gives the history of the construction. It was also signed by the Dean in which the following having stated:

1.Entry of all cases will be through the Main Entrance at Trichy Road

2.Casualty and Trauma wards are under construction in the new 57 crores worth Tower block.

3.Mortuary in the Legal Medicine Department has entry only from Trichy Road side and the exist alone is in the College Road and Cheran Towers in Geetha Cafe Road has no access to it at all.

4.All attenders, Police and Ambulance can be accommodated in the building itself and here will not be any crowd outside.

5.The state of art building that is constructed is in the best suited and selected site in the Hospital premises that no public will have any disturbances.

6.Anybody will be shifted only through Free Hearse Ambulance which already now use exist gate in College Road only.

7.The compound wall on all sides are to be raised to protect the Hospital area and to prevent any inconvenience.

8.The Mortuary that is built in the department of Legal Medicine is designed in a very decent and sophisticated way. 60% of the death occurs due to Road Traffic Accident etc. where the bodies after also must be kept in proper decent situation. The existing Mortuary in the Coimbatore Medical College Hospital is very old and fully damaged building which has to be only demolished. The new Mortuary is being built will provide a decent place for the deceased to stay till their final pilgrimage were done.

9.The exist gate of the hospital is not coming in front of Cheran Towers. Actually, the exist gate is located in the Arts College Road (photo enclosed). Temporarily Geetha Cafe Road compound wall has been demolished for the usage of PWD construction works and the same compound will be constructed after the completion of new Mortuary block."

10.The learned counsel for the fifth respondent submitted that the above conditions stipulated in the annexure form part of the counter affidavit. Therefore, the petitioner need not have any apprehension in this regard, since it has been not only signed by the Dean of the Coimbatore Medical College Hospital and annexed to the counter affidavit and all the respondents are bound to comply with, whatever has been stated in the points 1 to 9, mentioned above.

11.In the light of the above, Writ Petition is disposed of recording the stand taken in the counter affidavit as well as in the annexure mentioning 9 points and the respondents are entitled to open new mortuary also the gate provided with the entrance from * **Arts College Road**, subject to them following the averments stated in the counter affidavit, stated supra as well as the points 1 to 9 mentioned above. It is needless to state that the Pollution Control Board is entitled to examine as to the compliance that are required to be made for the purpose of opening mortuary and operating the mortuary in accordance with law.

The Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar
Dated: 9/2/15

*** Corrected as per order dated.10/4/15
made in M.P.No.3/15 in W.P.No.146/15**

**Sd/- Assistant Registrar
Dated: 17/4/2015**

//True Copy//

Sub Assistant Registrar

rpa

To

1. The Secretary to Government of Tamil Nadu
Department of Health & Family Welfare
Fort St.Geroge, Chennai 600 009.
2. The District Collector, Coimbatore
3. The Commissioner
Corporation of Coimbatore, Coimbatore.
4. The Chairman
Tamil nadu Pollution Control Board
Guindy, Cheennai 600 032.
5. The Dean
Coimbatore Medical College & Hospital,
Coimbatore 18.

To be Substituted the
Order already
despatched on 23/2/15

+1 cc to Mr.M. Sriram, Counsel Sr.20025
+1 cc to Government Pelader SR.4770
+1 cc to M/s. Rita Chandrasekar, Sr.4487
+1 cc to Mr.R.Shivakumar, sr.20336

W.P. No.146 of 2015

VGI (CO)
EU 12.02.15
CA(20/4/2015)