



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :09.11.2016

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THE HONOURABLE **MR. JUSTICE V. BHARATHIDASAN**

W.P(MD).No.21315 of 2015 &  
M.P.(MD).No.1 of 2015

S.Mohamed Thouffique

... Petitioner

Vs.

1.The Secretary to the Government of Tamil Nadu,  
Department of Health and Family Welfare,  
Chennai-600 009.

2.The Project Director,  
Tamil Nadu Health System Project,  
2<sup>nd</sup> Floor, DMS Annex New Building,  
No.259, Anna Salai, Teynampet,  
Chennai-600 006.

3.The Project Manager,  
Tamil Nadu Health System Project,  
No.226, Om Shakthi Towers,  
Kilpauk Garden Road,  
Kilpauk,  
Chennai-600 010.

4.The District Collector,  
Thoothukudi District,  
Thoothukudi.

5.The Authorised Officer,  
Meenakshi Mission Hospital and Research Centre,  
Mellur Road,  
Uthankudi, Madurai 107.

... Respondents

This Writ Petition has been filed under Article 226 of the Constitution of India praying for a Certiorarified Mandamus to call for the entire proceedings of the 2<sup>nd</sup> respondent in Na.Ka.No.259/ThaNaaSuThee/Kaapeedu-II/2015, dated 06.05.2015, quash the same and direct the respondents to take appropriate steps to refund the amount for a sum of Rs.1,45,000/- spent towards the petitioner's treatment within a time frame stipulated



For petitioner : Mr.P.Pethu Rajesh  
For respondents : Mr.V.Muruganandam for R1 & R4  
Mr.Thiruppathy for R5  
Mr.G.Prabu Rajadurai for R3

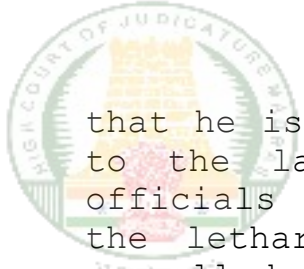
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**ORDER**

Challenging the order passed by the second respondent refusing reimbursement of medical expenses incurred by the petitioner, the present writ petition has been filed.

2. According to the petitioner, he belongs to a fisherman community and he has enrolled as a member in the Chief Minister's Comprehensive Health Insurance Scheme and his enrollment number is 0133281811592790023411. In the month of June, 2014, the petitioner suffered heart ailment and he was admitted in the 5<sup>th</sup> respondent hospital, wherein the doctors advised him to undergo Coronary Artery Bypass Graft Surgery and date for the said operation was fixed on 26.06.2014. Thereafter, he approached the coordinators and the officials of the fifth respondent hospital for getting the benefits under the above said scheme and the coordinator also assured him that the benefit under the said scheme will be provided to him at the time of treatment. On the contrary, the fifth respondent demanded a sum of Rs.1,45,000/- (Rupees one lakh fourty five thousand only) towards the surgery conducted on 26.06.2014 and the said officials assured him that the bill amount will be refunded after getting the same from the insurance company. Only at that point of time, the petitioner came to know that the benefits under the said scheme was not provided to him and he was discharged only after paying the entire amount on 02.07.2014. Thereafter, he made a claim for reimbursement to the second respondent and the fourth respondent on 08.01.2015 with all the medical bills explaining the above stated situation. Before the claim of the petitioner was considered by the fourth respondent, being the head of the District Monitoring and Grievance Committee, the second respondent passed the impugned order rejecting his claim stating that the petitioner did not approach the Liaison Officer before getting treatment and since he had already paid the amount, the amount cannot be reimbursed to him. Challenging the above-said order, the present writ petition is filed.

3. The learned counsel appearing for the petitioner submitted that admittedly, the petitioner is a member of the "Chief Minister's Comprehensive Health Insurance Scheme, he has also taken treatment in one of the authorized network hospital under the scheme and he is also eligible to get the benefit under the scheme. When the petitioner met the Liaison Officer as well as the officials of the fifth respondent hospital, they assured him



that he is eligible to get the benefit under the scheme. Only due to the lack of coordination by the Liaison Officer and the officials of the fifth respondent hospital and also because of the lethargic attitude of the authorities, the petitioner was compelled to pay the amount. In the above circumstances, the petitioner gave a representation to the fourth respondent, who is the head of the District Monitoring and Grievance Committee as well as to the second respondent. Before the fourth respondent, the original authority, the District Monitoring and Grievance Committee, pass any order, the second respondent without conducting an enquiry and without giving any opportunity to the petitioner, passed the impugned order rejecting the claim of the petitioner.

4. Mr.G.Prabhu Rajadurai, learned counsel appearing for the insurance company, the third respondent, submitted that they being the insurer of the scheme, they have to follow the guidelines strictly given under the scheme and the scheme does not provide for any medical reimbursement. It is only provided for cashless treatment. In the above circumstances, without any contract for any reimbursement, they are not in a position to pay the amount.

5. The learned counsel for the second respondent submitted that since the petitioner made a representation before the second respondent for passing an order in respect of medical reimbursement, the second respondent passed the impugned order. Therefore, there is no illegality in the order passed by the second respondent.

6. I have considered the rival submissions. There is no dispute with regard to the fact that the petitioner has enrolled himself as a member in the Chief Minister's Comprehensive Health Insurance Scheme and he is also taken treatment in one of the authorised network hospital under the the said Scheme and the Surgery undergone by the petitioner is also included in the list of Surgeries mentioned in the scheme. According to the petitioner, immediately after the admission in the hospital, he moved the authorities of the fifth respondent hospital and sought for assistance. At that time, the authorities assured him that the benefits under the said scheme will be provided to him at the time of treatment. On the contrary, the fifth respondent officials claimed a sum of Rs.1,45,000/- towards the bill for the surgery and the officials of the fifth respondent assured that the bill amount will be refunded after getting the same from the insurance company. Hence, the petitioner being left with no other option except to pay the bill amount and get himself discharged. Subsequently, the petitioner made a representation to the second respondent and fourth respondent, seeking for medical reimbursement. When the application is still pending with the fourth respondent, head of the District Monitoring and Grievance Committee, the second respondent who is only a member of the State



Monitoring and Grievance Committee, passed the impugned order without any enquiry whatsoever, for which he has no power. The second respondent only a member of the State Monitoring and Grievance Committee cannot independently pass any order regarding the claim of the petitioner.

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7. In the above circumstances, the impugned order passed by the second respondent is without any jurisdiction. Hence the impugned order passed by the second respondent is set aside. However, the application filed by the petitioner, before the District Monitoring and Grievance committee, the fourth respondent herein, is pending. Therefore, the fourth respondent, is directed to consider the petitioner's application, after giving an opportunity of hearing to the petitioner and pass appropriate orders, within a period of six weeks from the date of receipt of a copy of this order. While passing the orders, the fourth respondent is directed to consider the grievance of the petitioner that he is eligible to get the benefit under the Scheme and also social status of the petitioner and sympathetically consider the petitioner's request and pass suitable orders. If the petitioner wants to make any further representation before the fourth respondent, it is open to him to make fresh representation to the fourth respondent along with a copy of this order.

8. In the result, the Writ Petition is allowed. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Writ)

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Sub Assistant Registrar

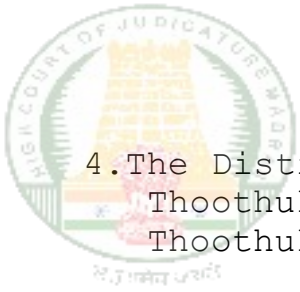
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To

1.The Secretary to the Government of Tamil Nadu,  
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Chennai-600 009.

2.The Project Director,  
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2<sup>nd</sup> Floor, DMS Annex New Building,  
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Kilpauk Garden Road,  
Kilpauk, Chennai-600 010.



4.The District Collector,  
Thoothukudi District,  
Thoothukudi.

5.The Authorised Officer,  
Meenakshi Mission Hospital and Research Centre,  
Mellur Road,  
Uthankudi, Madurai 107.

+1cc to Mr.P.Pethu Rajesh Advocate Sr.No. 67338

+1cc to Mr.K.M.Thirupathy Advocate Sr.No. 67605

+1cc to Mr.G.Prabhu Rajadurai Advocate Sr.No. 67567

JAM/22.11.16/CK/5p-9c

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