



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2016

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.22962 of 2016

and

W.M.P (MD) No.16435 of 2016

R.Ananthakumari

: Petitioner

Vs.

1. The State of Tamil Nadu rep. by its Secretary,
Education Department, Secretariat,
St. Fort George, Chennai - 9.

2. The Chief Educational Officer,
Theni District.

3. MD, India Health Care Service (TPA) Pvt. Ltd.,
rep. by the Senior Manager-operations,
No.27, Lakshmi Towers,
3rd Floor, Dr. Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

4. The Treasury Officer,
Theni.

**(The fourth respondent is suo-motu
impleaded as per second paragraph
of this order).**

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the third respondent made in GTM0141/TNNHIS/06/2015, dated 15.06.2015 quash the same and consequently direct the respondents to reimburse Rs.80,000/- with 12% interest to the petitioner.

For Petitioner

: Mr.C.Sankar Prakash

For Respondents 1,2 & 4

: Mr.A.Muthukaruppan,

Additional Government Pleader.

O R D E R

<https://hcservices.courts.gov.in/hcservices/> This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus praying to quash the proceedings dated



15.06.2015 passed by the third respondent and consequently direct the respondents to reimburse Rs.80,000/- with 12% interest to the petitioner.

2. The learned Additional Government Pleader would point out that the Treasury Officer, Theni is not added as a party. The learned counsel for the petitioner would submit that the claim for reimbursement has been made in respect of blood cancer. Therefore, non-impleadment should not further delay the claim.

2.1. Therefore, this Court has suo-motu impleaded the Treasury Officer, Theni as a party respondent in the writ petition as fourth respondent.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who took notice for the respondents 1, 2 and 4. By consent, the writ petition itself is taken up for final disposal.

4. The case of the petitioner is that she is working as a Teacher in Government School, Devathanapatti, Theni District. She is the subscriber under the Tamil Nadu Government Medical Insurance Scheme. Her son namely, A.R. Denel Koresh, was suffering from blood cancer and he was admitted in Regional Cancer Centre, Thiruvananthapuram and she has paid a sum of Rs.80,000/- for purchase of medicine. Thereafter, she gave a representation to the respondents to reimburse the amount, i.e actual medical expenditure of Rs.80,000/-.

4.1. But, the third respondent has rejected the claim of the petitioner on the following grounds:

- (i) The scheme is on cashless basis and no payment is to be paid by the petitioner to the approved hospitals (network hospitals);
- (ii) Payment will be made to the network hospitals only for approved treatment procedures listed in the GO; and
- (iii) Any claim in deviation of the above said procedure is liable to be rejected.

The said order is under challenge in this writ petition.

5. The learned counsel for the petitioner would submit that only because of the compulsion on the part of the hospital authorities, payment was made, otherwise the petitioner was not even in a financially sound position to make any payment.



6. The learned counsel appearing for the petitioner relied upon the Judgment of the Principal Bench of this Court in **N.Raja v. The Government of Tamil Nadu rep. by its Secretary, Adi Dravidar Welfare Department, Fort St. George, Chennai - 600 009 and Others** reported in **2016(3) CTC 394**, where-under, it has been held that when the Insurance Company is not liable on account of the violation of the terms and conditions of the contract, it is the duty of the Government to reimburse the medical expenses incurred. This Court while passing the Judgment has also highlighted the concern expressed by the Division Bench, under which, the Government has been directed to clarify certain aspects and the said directions are as follows:

(i) The State shall make it clear that if for some reason, which is satisfactory, the Claimant is unable to take treatment in a network Hospital but has been advised or had to go to a non-network Hospital, then his claim would be considered under the Rules.

(ii) If the Claimant has been advised some procedure which is not covered by the Scheme, there again, it must be made clear that he can apply under the Rules.

(iii) To safeguard duplication of payment, the Government can make sure and when they apply under the Rules, that the Claimant himself certifies that he has not made claim under the Scheme or vice-versa.

(iv) The State shall inform every network Hospital that if it receives Complaints from Claimants that money was demanded for admission or for treatment, then that Hospital will be removed from the network. This warning is necessary, since, at times of crisis, the Claimants will not be in a position to argue with the Hospital that this is a 'cashless' Scheme. We are aware that there is an officer of the Star Health Insurance Company at every network Hospital to ensure that Hospitals adhere to the terms of the Scheme, but, yet, it is better to make this position clear to the Hospitals, since one of the questions that has arisen before us is that whether the Claimants will be entitled to reimbursement if, by mistake, they pay cash".

7. Under such circumstances, in the light of the Judgment of the Principal Bench of this Court in **N.Raja v. The Government of Tamil Nadu rep. by its Secretary, Adi Dravidar Welfare Department, Fort St. George, Chennai - 600 009 and Others** reported in **2016(3) CTC 394**, the learned order dated 15.06.2015 passed by the third respondent is set aside and the fourth respondent, Treasury Officer,



Theni is directed to sanction the medical expenses incurred by the petitioner, subject to records being produced.

8. The writ petition is allowed on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Education Department,
Government of Tamil Nadu,
Secretariat,
St. Fort George, Chennai - 9.
2. The Chief Educational Officer,
Theni District.
3. The Treasury Officer,
Theni.

+1cc to Special Government Pleader, SR.No.79542
+1cc to Mr.C.Sankar Prakash, Advocate, SR.No.79281

ORDER MADE IN
W.P (MD) No.22962 of 2016
and
W.M.P (MD) No.16435 of 2016
02.12.2016

smn
MK/SS2-KSM/20.1.2017/4p/6c