

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.12.2017
Coram

The Hon'ble Mr. Justice T.S. Sivagnanam
&
The Hon'ble Mr. Justice K. Ravichandrababu

W.P.No.19764 of 2017

V. Jayakumar

...Petitioner

Vs.

1. Government of India,
Represented by its Secretary,
Ministry of Health & Family Welfare,
Nirman Bhavan,
New Delhi - 110 108.
 2. State of Tamil Nadu,
Represented by its Chief Secretary,
Fort St. George,
Chennai - 600 009.
 3. State of Tamil Nadu,
Represented by its Principal Secretary,
Health Department,
Fort St. George,
Chennai - 600 009.
- Respondents

...

Prayer:

Writ Petition , filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondents to identify V.Kootu Road, Aattupannai, Kallakurichi, Villupuram District or any other suitable location within the district of Villupuram for establishment of (All India Institute of Medical Science) AIIMS Institution, as an additional or alternative location among the location to be identified by the State of Tamil Nadu, after making a comprehensive study and objective assessment in consonance with the objectives of the Pradhan Mantri Swasthya Suraksha Yojana Scheme (PMSSY Scheme) and criteria laid down by the first respondent within a time frame, that may be stipulated by this Court.

For Petitioner : Mr.S. Haja Nazirudeen
Senior Counsel for
Mr. R. Tholgappian

For Respondent-1 : Mr.K.S. Jayaganeshan
Senior Standing Counsel
for the Central Govt.

For Respondents 2 & 3 : Mr.T. N. Rajagopalan
Government Pleader (I/c)

O R D E R

(Order of the Court was delivered by T.S.Sivagnanam, J.,)
Heard Mr.S. Haja Nazirudeen, the learned Senior Counsel appearing on behalf of Mr.R. Tholgappian, the learned counsel for the petitioner, Mr.K.S.Jayaganeshan, the learned Senior Standing Counsel for the Central Government and Mr.T.N.Rajagopalan, the learned Government Pleader (I/c) for the respondents 2 and 3.

2. This Writ Petition has been filed as a Public Interest Litigation, seeking for a direction upon the respondents to identify V.Kootu Road, Aattupannai, Kallakurichi, Villupuram District or any other suitable location within the District of Villupuram for establishment of All India Institute of Medical Science (AIIMS Institution), as an additional, or alternative location among the location to be identified by the State of Tamil Nadu, after making a comprehensive study and objective assessment in consonance with the objectives of the Pradhan Mantri Swasthya Suraksha Yojana Scheme (PMSSY Scheme) and criteria laid down by the first respondent.

3. When the case came up before the Division Bench on 04.08.2017, the learned Central Government Standing Counsel appearing for the first respondent pointed out that, identical Public Interest Litigations are pending before the Hon'ble Madurai Division Bench of this Court, in W.P.(MD) Nos.6447 and 11444 of 2017, and final orders have been passed in the said Writ Petitions on 02.08.2017. Therefore, the matter was adjourned to enable the learned Standing Counsel to produce the copy of the judgment passed by Madurai Division Bench. When the case is taken up today (12.12.2017), the copy of the said order, dated 02.08.2017, passed by the Division Bench of Madurai has been placed before us, from which, we find that the Division Bench, taking into consideration the submission made by the State Government as well as the Central Government, and the counter affidavit filed thereunder, issued certain directions. At this stage, it would be relevant to quote relevant paras from the said judgement, which reads as follows:-

"" 6.The Principal Secretary, Health and Family Welfare Department, pursuant to the direction given by this Court, filed a counter affidavit dated 12 July, 2017. The Principal Secretary in the said counter affidavit indicated that the Government has suggested five locations for establishing the All India Institutes of Medical Sciences Hospital, namely, Perundurai in Erode District, Chengalpattu in Kancheepuram District, Thoppur in Madurai District, Sengipatti in Thanjavur District and Pudukottai Town in Pudukottai District.

7.According to the Principal Secretary, it is for the Government of India to take a decision in the matter after considering the locational advantage of each of the locations in question. In view of the said counter affidavit, we have directed the learned Senior Panel Counsel appearing for Union of India to take instruction from the Ministry.

8.When the Writ Petitions were taken up for hearing today, Mr.R.Murugappan, learned Senior Panel Counsel for the Central Government, has produced the written instructions given by the Ministry of Health and Family Welfare of Government of India. The written instructions dated 2nd May, 2017, indicates that the State Government furnished its remarks on 04 May, 2017 and 12 July, 2017. the Government of India, thereafter, constituted a Sub Committee on 1st August, 2017, to assist the Selection Committee for detailed assessment of sites offered by the State for establishment of the All India Institutes of Medical Sciences Hospital in the State of Tamil Nadu. The Ministry of Health and Family Welfare Department further stated that the Sub Committee may have to visit the sites again for evaluation and awarding marks to each site based on the prescribed parameteres.

9. According to the Ministry of Health, it would take about a maximum period of two months for inspection and submission of report. The following paragraph of the written communication would make the

position clear:

" The proposals received from the State are to be evaluated by a Selection Committee on the basis of the parameters under challenge method. The Selection Committee would be of Secretary to Government of India level. The locations need to be ranked from the most suitable to the least suitable. The candidates (sites) securing the highest overall score out of 100 will be considered for establishment of AIIMS.

A Sub Committee has been constituted on 01.08.2017 to assist the Selection Committee and to make an initial assessment of the sites, offered by State Government, for establishment of AIIMS in the State. The Sub-Committee may have to visit the sites again for evaluation and awarding marks to each site based on parameters under challenge method. Therefore, it may take around 1.5-2 months for submitting its report."

10. The uncertainty in respect of the selection of the site for locating the All India Institutes of Medical Sciences in the State of Tamil Nadu is no longer subsisting in view of the stand taken by the Ministry of Health, Government of India.

11. The State Government has recommended five sites and out of those sites, one suitable site has to be selected by the Committee on the basis of marks awarded by following a prescribed criteria. There is an indication about the possible visit by the Sub Committee to note down the locational advantages of the short-listed sites. We hope that such visit would be completed as expeditiously as possible and a report would be submitted by the Sub Committee within a period of two months to the Central Government.

12. The counter affidavit filed by the Principal Secretary, Government of Tamil

Nadu, indicates that the initial inspection of locations were made from 22 April, 2015 to 25 April, 2015. The inspection appears to have concluded on 25 April, 2015, resulting in submission of report to the Government of India. Since the matter is pending for more than three years and to months, we expect the Government of India to finalize the site for establishing the All India Institutes of Medical Sciences as expeditiously as possible and in any case on or before 31st December, 2017, so as to enable the people of Tamil Nadu to hear the news about the establishment of All India Institutes of Medical Sciences on 1st January, 2018 and to celebrate it along with the New Year Celebrations.

13.The confusion created earlier that the State Government was in favour of a particular location is cleared now on account of the information furnished by the Government of India that the State Government has suggested five locations and there was no specific recommendation for a particular location.

14.The Writ Petitions are disposed of with the above observation. No costs.

15.We place on record the swift action taken by Mr.R.Murugappan, learned Senior Panel Counsel, who took written instructions from the Government of India with short notice.""

4. Since the identical issue has already been dealt with by a co-ordinating Bench at Madurai, and directions have been issued, it is not feasible for us to issue any direction in this Writ Petition, for, it may run contrary to the directions issued earlier. That apart, we find that the Villupuram District is not one of the Districts, which has been chosen and recommended by the State Government, as noted by the Division Bench, in para No.6 of its judgment, dated 02.08.2017 (supra).

5. The learned Senior Counsel for the petitioner would submit that the representations have been given by the petitioner, much earlier to the decision of the Division Bench. However, since already identical Writ Petitions have been

disposed of, the question of issue of writ of mandamus, as sought for by the petitioner, in this Writ Petition does not arise. However, the learned Senior Standing Counsel for the Central Government submits that the Special Committee has already accepted all the points cited, and submitted its report to the Selection Committee and the same is under active consideration before the Selection Committee.

6. In the light of the above, as already stated supra, the relief sought for in this Writ Petition cannot be granted. Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

msm/sd

To

1. The Secretary to Govt.
Government of India,
Ministry of Health & Family Welfare,
Nirman Bhavan,
New Delhi - 110 108.
2. The Chief Secretary,
State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
3. The Principal Secretary,
State of Tamil Nadu,
Health Department,
Fort St. George,
Chennai - 600 009.

+1cc to Mr.R.Tholgappian , Advocate, S.R.No.88594

+1cc to Mr.K.S.JeyaGaneshan, Advocate, S.R.No.88196

MR(CO)

RRK(09/02/2018)

W.P.No.19764 of 2017