



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.04.2017

WEB COPY

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

W.A.(MD) No.441 of 2017
against WP(MD)No.4275 of 2017 and
C.M.P.(MD).Nos.4073 and 4074 of 2017

Dr.M.Vijayalakshmi
Priya Hospital,
Sarnya Scan Centre,
No.555 Madurai Main Road,
Thirumangalam,
Madurai District.

... Appellant/Petitioner

Vs.

The Joint Director of Health Services,
Madurai at Usilampatti,
Madurai.

... Respondent/ Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent Act against the order, dated 14.03.2017 made in W.P.(MD).No.4275 of 2017.

Prayer in WP(MD). 4275/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus forbearing the respondent herein from proceeding against the petitioner pursuant to his proceedings Na.Ka.No.4277/Pa & Ko/2016 dated 07.12.2016 and consequently direct the respondent to return back the machineries and registers seized from the petitioners premises on 08.11.2016 without any further delay to enable the petitioner to run Saranya Scan Centre as per the Certificate of Registration valid upto 05.01.2010.



For Appellant : Mr.Veerakathiravan
Senior Counsel for
M/s.Veera Associates

For Respondent: Mr.S.Chandrasekar
Government Advocate

JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J]

Heard Mr.Veerakathiravan, learned Senior Counsel for M/s.Veera Associates and Mr.S.Chandrasekar, learned Government Advocate for the respondent. By consent of both sides, the appeal itself is taken up for final disposal.

2. This appeal is directed against the order, dated 14.03.2017, made in W.P.(MD).No.4275 of 2017. The appellant filed the writ petition to forbear the respondent from proceeding against her pursuant to the proceedings dated 07.12.2016 and directing the respondent to return back the scan machine and other registers seized from her premises on 08.11.2016.

3. The learned Single Judge in our view rightly dismissed the writ petition on the ground that the proceedings dated 07.12.2016 was only a show cause notice and there cannot be a mandamus directing the respondent not to proceed further in pursuance to the said show cause notice. More so, the writ petitioner has submitted her reply on 12.12.2016. Though copy of such reply has been annexed in the typed set of papers, there is no acknowledgement to prove that reply was received by the respondent. In any event, the allegation in the show cause notice is non maintenance of records etc.,

4. If the appellant has been permitted to establish a scan centre, there are stringent norms that are to be complied with in terms of both the Central and State enactments. What would be the consequence of non compliance is a matter to be decided by the respondent. In any event, since the machinery and the registers have been seized, we are of the view that the respondent should finalise the show cause notice and pass a final order on the same, within a time frame. Therefore, while confirming the order passed by the learned Single Judge, the appellant is directed to submit a detailed reply to the show cause notice, within a period of two weeks from the date of receipt of a copy of this order and on receipt of such reply, the respondent shall consider the same, examine the records that are available, afford an opportunity of personal hearing and pass a reasoned order on merits and in accordance with law, within a period of 3 weeks thereafter. If the



respondent is satisfied with the reply given by the appellant, then appropriate directions may be issued for the release of the seized machinery and register.

5. The writ appeal is dismissed with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Joint Director of Health Services,
Madurai at Usilampatti,
Madurai.

+ 1 CC TO M/s.VEERA ASSOCIATES, ADVOCATE IN SR No. 54174

JIKR
TE/RSK/SAR-IV : 27/04/2017 : 3P/3C

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