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THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.04.2017

PRONOUNCED ON : 28.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Petition (MD) Nos.22979 of 2015, 18208 & 22579 of 2016

W.P. (MD) No.22979 of 2015

D.Raju .. Petitioner
- Vs -

1. The President,
Medical Council of India,
Pocket-14, Sector-8,
Dwaraka Phase-1, New Delhi -110077.
2. The President,
Indian Nursing Council,
Combined Council Building,
Kotta Road, Temple lane,
Opposite Mata Sundri College,
Near I.T.O., New Delhi - 110002.
3. The President,
Tamil Nadu Nurses and Midwives Council,
Jayaprakash Narayanan Maligai,
Old No.140, New No.56,
Santhome High Road, Near Santhome Church,
Mylapore, Chennai - 600 004.
4. The State of Tamil Nadu,
Represented by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Fort St George,
Chennai.
5. The Director,
Directorate of Tamil Nadu Government Medical Colleges,
Kilpauk, Chennai - 10.



6. The Nursing Superintendent,
Government Rajaji Medical College Hospital,
Madurai - 625 020. .. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondent No.1 to conduct inspection in all the Government Hospitals in Tamil Nadu and to ensure adequate and sufficient medical care to the needy people coming to the Government Hospitals in Tamil Nadu as early as possible within the time stipulated by this Court.

For Petitioner : Mr.S.Malaikani

For Respondents : Mr.R.Muthukumarasamy, AG
4 to 6 Asst. by Mr.M.Govindan, Spl.G.P.

- - - - -

W.P. (MD) No.18208 of 2016

C.Anand Raj .. Petitioner

- Vs -

1. The Principal Secretary,
Health and Family Department,
State of Tamil Nadu,
Fort. St. George, Chennai.

2. The Director,
Tamil Nadu Medical and Rural Welfare Directorate,
No.258, 3rd Floor,
DMS Complex, Annasalai,
Thenampettai, Chennai - 600 018.

3. The Deputy Director,
Office of the Deputy Director,
Medical and Rural Health Services Department,
Ramamoorthi Nagar, Viruthunagar,
Viruthunagar District.

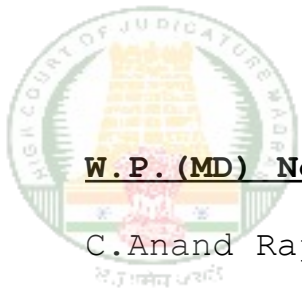
.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondents to fill the existing doctors vacancy in Virudhunagar district head quarters Government hospitals and Arupukottai, Srivilliputhur, Rajapalayam, Sathur, Tiruchuli, Kariapatty, Watrap and Tiruthangal Government Taluk hospitals in Virudhunagar district within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.R.Muthukumarasamy, AG
Asst. by Mr.A.N.Thambidurai, Spl.G.P.

- - - - -

**W.P. (MD) No.22579 of 2016**

C.Anand Raj

.. Petitioner

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- Vs -

1. State of Tamil Nadu,
Rep by its Principal Secretary,
Health and Family Department,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.
2. The Director of Medical Education,
State of Tamil Nadu,
Kilpakkam, Chennai - 600 010.
3. The Dean,
Thanjavur Government Medical College Hospital,
Thanjavur.
4. The Union of India,
Represented by,
The Principal Secretary,
Health and Family Welfare Department,
New Delhi.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondents (a) to provide heart lung machine, Cardiac Cath Lab in Cardiology department in Respondent No.3 hospital.

(b) To direct the respondent No.3 to perform by pass and cardiac stent fixing operations in night times.

(c) To direct the respondent No.3 to perform Linear Accelerator treatment to the cancer patients in Oncology Department as performing in Madurai Balarangapuram Government Hospital.

(d) To direct the respondent No.3 to perform Cochlear Implant Surgery in Ear, Nose and Throat (ENT) department in respondent No.3 hospital.

(e) To direct the respondents to provide adequate number of staff nurses on the basis of the inpatients and out patients in respondent No.3 hospital.

(f) To direct the respondents to take immediate action to reduce infant mortality rate in respondent No.3 hospital, by way of conducting death auditing by the officials depute by the respondent No.1 and other appropriate methods as this Hon'ble Court may deem fit.

(g) To direct the respondents to renovate and construct sufficient number of toilets in the old building of respondent

(h) to direct the respondents to effectively implement kidney,

liver, heart and other organ transplantation program in respondent No.3 hospital with in the time stipulated by this Hon'ble Court.

(i) To direct the respondents to create centralised communication system between all Government Hospitals in the State of Tamil Nadu to ensure availability of bed in an emergency on the basis of the direction issued by the Hon'ble Supreme Court of India in Paschim Bang Khet Mazdoor Samity and others Vs. State of West Bengal case, reported in (1996) 4 SCC 37. and

(j) to direct the respondents to extend the diagnosis by MRI scan, also in night hours in respondent No.3 hospital.

For Petitioner : Mr.R.Alagumani

For Respondents 1 to 3 : Mr.M.Govindan, Spl.G.P.

For Respondent 4 : Mr.N.Shanmugaselvam.

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C O M M O N O R D E R

(Order of the Court was delivered by **S.Nagamuthu, J.**)

Writ petition in W.P.No.22979 of 2015 has been filed as a Public Interest Litigation seeking a direction to the respondent No.1 to conduct inspection in all the Government Hospitals in Tamil Nadu and to ensure adequate and sufficient medical care to the needy people coming to the Government Hospitals in Tamil Nadu as early as possible within the time stipulated by this Court.

2. Writ petition in W.P.No.18208 of 2016 has been filed as a Public Interest Litigation seeking a direction to the respondents to fill the existing doctors vacancy in Virudhunagar district Head Quarters Government Hospitals and Arupukottai, Srivilliputhur, Rajapalayam, Sathur, Tiruchuli, Kariapatty, Watrap and Tiruthangal Government Taluk Hospitals in Virudhunagar district within the time stipulated by this Court.

3. Writ petition in W.P.No.22579 of 2016 has been filed as a Public Interest Litigation seeking a direction to the respondents (a) to provide heart lung machine, Cardiac Cath Lab in Cardiology department in Respondent No.3 hospital. (b) To direct the respondent No.3 to perform bye pass and cardiac stent fixing operations in night times. (c) To direct the respondent No.3 to perform Linear Accelerator treatment to the cancer patients in Oncology Department as performing in Madurai Balarangapuram Government Hospital. (d) To direct the respondent No.3 to perform Cochlear Implant Surgery in Ear, Nose and Throat (ENT) department in respondent No.3 hospital. (e) To direct the respondents to provide adequate number of staff nurses on the basis of the inpatients and out patients in respondent No.3 hospital. (f) To direct the respondents to take immediate action to reduce infant mortality rate in respondent No.3 hospital, by way of conducting

death auditing by the officials deputed by the respondent No.1 and other appropriate methods as this Hon'ble Court may deem fit.

(g) To direct the respondents to renovate and construct sufficient number of toilets in the old building of respondent No.3 hospital.

(h) to direct the respondents to effectively implement kidney, liver, heart and other organ transplantation program in respondent No.3 hospital within the time stipulated by this Hon'ble Court.

(i) To direct the respondents to create centralised communication system between all Government Hospitals in the State of Tamil Nadu to ensure availability of bed in an emergency on the basis of the direction issued by the Hon'ble Supreme Court of India in Paschim Bang Khet Mazdoor Samity and others Vs. State of West Bengal case, reported in (1996) 4 SCC 37 and (j) to direct the respondents to extend the diagnosis by MRI scan, also in night hours in respondent No.3 hospital.

4. Since, in essence, all these public interest litigations have been filed seeking improvement in the medical facilities to the patients in all the Government Hospitals, we heard them all together and passed several interim orders.

5. Now, according to the Position Note submitted by the Principal Secretary to Government, it is stated as follows:

"Medical Officers:

It is submitted that the sanctioned strength, men in position and vacancy in respect of the Medical Officers in Tamil Nadu Medical Service are as follows:

Sl. No.	Name of the Directorate	Sanctioned	Men in Position	Vacant
1.	Directorate of Public Health and Preventive Medicine.	5,915	4,914	1001
2.	Directorate of Medical and Rural Health Services.	4,056	3,199	857
3.	Directorate of Medical Education.	6,770	5,962	808
	Total	16,741	14,075	2,666

It is submitted that out of 2,666 vacancies, the Government have taken steps to fill up the said posts. Accordingly, 414 specialist posts comes under the Directorate of Medical Education have been selected through the walk-in-selection through the Medical Services Recruitment Board (MRSB) on 29.12.2016 and action is being taken to give posting orders to the selected candidates.



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It is also submitted that the Medical Services Recruitment Board has been directed to select 1223 candidates for the post of Assistant Surgeon in Tamil Nadu Medical Service. Accordingly, the Medical Services Recruitment Board has notified the above posts for conducting the written examination on 22.1.2017. But, due to agitation of student community in regard to "JALLIKATTU", the above said scheduled examination could not be conducted. However, the said examination was conducted on 12.2.2017 (Sunday) and merit list was published on 14.02.2017 by the MRB. The MRB has furnished the provisional selection list containing 1192 candidates to the Director of Public Health and Preventive Medicine for appointments. The Director of Public Health has conducted counselling on 28 to 30th March 2017. Out of 1192 candidates 910 candidates were opted for postings, 216 candidates were absent, 18 candidates were not opted and 8 candidates were withheld for verification of certificate.

NURSES:

It is submitted that the sanctioned strength, men in position and vacancy in respect of the Nurses in Tamil Nadu Medical Service are as follows:

Sl. No.	Name of the Directorate	Sanctioned	Men in Position	Vacant
1.	Directorate of Public Health and Preventive Medicine.	7,532	6,528	1,004
2.	Directorate of Medical and Rural Health Services.	7,270	6,792	478
3.	Directorate of Medical Education.	7,330	7,308	22
	Total	22,132	20,628	1,504

It is submitted that for filling up of the vacancy of 1,504 posts, all the above posts have been filled up and now the vacancy position in the said posts are as follows:

Sl. No.	Name of the Directorate	Vacancy as on date
1.	Director of Public Health & Preventive Medicine.	Nil

Sl. No.	Name of the Directorate	Vacancy as on date
2.	Director of Medical & Rural Health Services.	15
3.	Director of Medical Education.	44
	Total	59

Apart from this the Government have converted 729 posts of contract Nurses into regular Nurses vide G.O.Ms.No.21, Health and Family Welfare (AA1) Department dated 02.02.2017. Further in G.O.Ms.No.74, Health and Family Welfare (E1) Department dated 22.02.2016, among others 150 posts of Nurses have been sanctioned for the academic year 2017-2018. All these 879 posts have to be filled up from the contract Nurses according to their seniority by conducting counselling within a month's time.

HAEMODIALYSIS MACHINES:

It is submitted that the Haemodialysis machines have already been provided with the Secondary Care Hospitals and Tertiary Hospitals. However, orders have been issued to procure 102 Haemodialysis Machines for 20 Government Medical College Hospitals / Government District Headquarters Hospitals through National Rural Health Machines at a cost of Rs.5.81 crore. The details in respect of existing and proposed to install the above said machines are as follows:

Sl. No.	Name of the Directorate	Existing Machines	Proposed Machines
1.	Director of Medical & Rural Health Services.	79	62
2.	Director of Medical Education.	126	40
	Total	205	102*

*At present action is being taken by the Tamil Nadu Medical Service Corporation to procure and supply 102 machines to the Hospitals."

6. We have considered the above Note of the Government and the submissions of the learned counsel on either side.

<https://hcservices7ecourts.gov.in/hcservices/> 7. In our considered view, so far as the Haemodialysis machines are concerned, it is obvious that the addition of 102 machines



would not be sufficient. We are hopeful that the Government would increase the number of machines so as to cater to the needs. In addition, the Government shall also appoint sufficient number of specialist doctors in the Department of Urology as well as Nephrology and would also appoint sufficient number of technicians and supporting staff.

8. So far as the other reliefs sought for in W.P.(MD) No.22579 of 2016 are concerned, though several status reports have been filed, we find that there are lot of improvements to be made in the Thanjavur Medical College Hospital. In the Brief Consolidated Position Note, it is stated as follows:

"With reference to paragraph 2(b) of the affidavit i.e. Performing by pass and cardiac stent fixing operations in night times:

Open Heart Surgeries are done regularly in Thanjavur Medical College for past 6 months. Already 7 cases done as per the HOD Cardio Thoracic Surgery Department official letter.

Cath Lab installation is under process and after installation of Cath Lab Stent Fixing Surgeries will be done both day and night.

With reference to paragraph 2(c) of the affidavit i.e. Performing Linear Accelerator treatment to the Cancer Patients in Oncology Department as performing in Madurai Balarangapuram Government Hospital:

It is submitted that a Tender has been floated for the supply and installation of Dual Energy Linear Accelerator with 3 D treatment planning system, CT simulator and Radiation Field Analyzer vide Tender No.8024/TNMSC/ENG/2015 dated 16.10.2015 of the TNMSC Ltd., Chennai. After installation of Linear Accelerator treatment can be done.

With reference to paragraph 2(d) of the affidavit i.e. Cochlear Implant Surgery in Ear, Nose and Throat (ENT) Department:

It is submitted that Cochlear Implant Surgery can be done only under CMCHIS because cost involved in around Rs.7 Lakh per Surgery. In this regard, permission was obtained for performing Cochlear Implant Surgery from the Project Director, Tamil Nadu Health System Project vide Roc.No.6557/TNHSP/Ins/2012, dated 18.02.2017 and 23.03.2017.



With reference to paragraph 2(e) of the affidavit i.e. to provide adequate number of staff nurses on the basis of the inpatients and outpatients:

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It is submitted that the total sanctioned bed strength for Government Thanjavur Medical College Hospital, is 1176 and for Government Raja Mirasudar Hospital, Thanjavur is 470. As per the norms followed for Nurses is 1:6 ratio, for 1646 beds 274 nurses are only needed whereas 302 nurses are available. Hence, there is no shortage of staff nurse.

It is being the tertiary care institute the new born babies and infants are referred from private and peripheral hospital at the high risk/end stage. Because of more referral cases at the end stage the Infant Mortality Rate (IMR) of the institution seems to be higher not because of the insufficient of Staff Nurses.

With Reference to paragraph 2(f) of the affidavit i.e. to take immediate action to reduce infant mortality rate in Thanjavur Hospital, by way of conducting death auditing by the officials depute by the Government and other appropriate methods as this Hon'ble Court may deem fit:

A separate OG hospital is functioning in the name of Government Raja Mirasudhar Hospital, Thanjavur under the supervision of The Dean, Thanjavur Medical College Hospital, which caters exclusively for women, Neonatal, Infant and Children.

It is submitted that the Maternal Mortality Rate (Intra Mural) in Thanjavur Medical College Hospital is 7.86 which is below the average of state level 9.7 and the country level 17.4 But Extra Mural maternal mortality Rate 13.5 in the TMCH is due to referral of cases from the referral units such as PHCs and Private hospitals. Hence no need to conduct death audit by the Respondent No.12 as per the statement given by the Professor and HOD of Obstetrics Department, Government Raja Mirasudhar Hospital, Thanjavur.

Further the said hospital is being strengthened by the funds allotted by National Health Mission by



way of CemONC, EmONC, MCU and SNICU programmes of the Government of India. Thus the Infant Mortality rate is very much reduced at Government Raja Mirasudhar Hospital, Thanjavur. If at all the Mortality occurs only due to the referral cases from other Private/PHC Hospitals during the last stage of delivery.

Periodical review meeting at the institution level for death mortality is being conducted by the Dean, with pediatrics and Obstetrics specialist once in a month.

With reference to paragraph 2(g) of the affidavit i.e. to renovate and construct sufficient number of toilets in the old building respondent No.3 (The Dean, Thanjavur Medical College Hospital):

In Government Thanjavur Medical College Hospital, Thanjavur, there are total No. of 122 toilets and in Government Raja Mirasudar Hospital, Thanjavur 88 toilets are available which have been renovated recently and it is maintained by 184 Nos. of sanitary workers in Government Thanjavur Medical College Hospital, Thanjavur and 89 nos of sanitary workers in Government Raja Mirasudar Hospital, Thanjavur who have been recruited under outsourcing (contract basis). The salaries paid to the Outsourcing employees towards maintenance of toilets is Rs.14,02,080 per month and the amount of Rs.2,45,378 per month are spent towards purchase of consumables (Phenol, Cleaning acid, etc.)

With reference to paragraph 2(h) of the affidavit i.e. to effectively implement kidney, liver, heart and other organ transplantation program in Respondent No.3 hospital within the time stipulated by this Hon'ble Court:

It is submitted that to start the Human Organ Transplantation Programme various factors like infrastructure, manpower, equipments, paramedical staff are required which has to be implemented only in a phased manner.

The 'Transplant Authority of Tamil Nadu (TRANSTAN)' be registered as a Society, to function as a Apex body to coordinate and supervise the range of transplant activities including Cadaver Organ Transplant which are currently being done by the "Member Secretary". Towards maximizing



the connect between suitable organs and tissues of all deceased persons and those in need of transplantation of those organs and tissues and also to work towards networking all stakeholders in organ and tissue transplantation, including hospitals, medical personnel, organ and tissue donors, family of deceased donors, persons needing transplantation, persons having been transplanted, non-governmental organisations and individuals involved and State and Central Government to collectively promote long, healthy and productive lives for persons with organ and tissue failure and for those with human conditions leading to it.

With reference to paragraph 2(i) of the affidavit i.e. to create centralised communication system between all Government Hospitals in the State of Tamil Nadu to ensure availability of bed in an emergency basis:

It is submitted that Hospital Maintenance Information System (HMIS) has already been implemented within the hospital premises of all Government Hospitals in the State of Tamil Nadu.

With reference to paragraph 2(j) of the affidavit i.e. to extend the diagnosis by MRI scan also in night hours in Respondent No.3 hospital:

It is submitted that the MRI scan centre is maintained and administered by the Tamil Nadu Medical Services Corporation Ltd., and the working hours of the CT/MRI scan centres are instructed by the MD, TNMSC, vide circular Ref.No.Cir-01/ACCTS/TNMSC/2015, dated 07.09.2015 dating that all the CT/MRI scan centres should function between 8.00 A.M. to 6.00 P.M. on all working days. The call duty should be attended on intimation by hospital during emergency situation.

ACTION TAKEN BY THE GOVERNMENT FOR THE IMPROVEMENT OF THANJAVUR MEDICAL COLLEGE HOSPITAL:

The State Government have recommended for the upgradation of Medical College Hospital of Thanjavur and Tirunelveli Medical Colleges on par with All India Institute of Medical Sciences, New Delhi under Pradhan Mantri Swasthya Suraksha Yojana Scheme



and Family Welfare has granted approval for Upgradation of Thanjavur and Tirunelveli Medical Colleges under Phase-III Pradhan Mantri Swasthya Suraksha Yojana at a cost of Rs.150 crore each of which Government of India's share is Rs.120 crore and the State Government's share is Rs.30 crore.

2. The Revised Detailed Project Reports for Upgradation of Thanjavur and Tirunelveli Medical Colleges under PMSSY received from M/s.HLL Life Care Limited and the list of Medical equipment vetted by Apex Institution required for various specialities towards upgradation of Thanjavur and Tirunelveli Medical Colleges under Phase-II of PMSSY and the Revised Detailed Project report received from M/s.HLL Life Care Limited duly countersigned by the Deans of Thanjavur and Tirunelveli Medical Colleges and Director of Medical Education have been forwarded to the Government of India.

3. The Government of India, Ministry of Health and Family Welfare informed that the DPRs were examined by the Technical Committee may be complied and the revised DPRs may be submitted through State Government.

4. The Principal Chief Engineer, HLL Life Care Limited has informed that the revised DPRs have been sent to Ministry of Health and Family Welfare, Government of India for approval.

5. The Government of India has been addressed for early release of the grant-in-aid of Rs.120 crore for starting of construction work. State's share of Rs.30 crore for each project has been approved 'in-principle'.

6. The Government of India has communicated its approval for the project reports containing the Conceptual Drawings and Cost Estimates, submitted by M/s HLL Limited and vetted by the Technical Committee, in respect of Thanjavur and Tirunelveli Medical Colleges subject to certain conditions.

7. The Government of India has also informed that as far as the issue of funds release is concerned, PMSSY is a Central Sector Scheme and is being implemented by the Ministry directly through Project Management and Supervision Consultant (PMSC) and that the funds will be released directly to PMSC as and when required.



8. The Government of India was addressed requesting an early release of grant-in-aid for starting of construction work for upgradation of Thanjavur and Tirunelveli Medical College Hospitals.

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9. The Government of India in its letter dated 18.02.2017 has informed that the details of project fund released for upgradation of Thanjavur and Tirunelveli Medical Colleges under Phase-III Pradhan Mantri Swasthya Suraksha Yojana is as follows:

	Thanjavur Medical College, Thanjavur	Tirunelveli Medical College, Tirunelveli
Total contract cost approved	Rs.79,79,91,286/-	Rs.79,63,75,336/-
Funds released so far	Rs.16,51,22,916/-	Rs.14,85,76,274/-
Fund released now	Rs.19,00,00,000/-	Rs.22,45,51,565/-

10. It is submitted that funds allotted by the Government of Tamil Nadu for the territory care hospitals (Medical College Hospitals) from the year 2014-2017 is as follows:

Sl.No.	Period	Amount (Rs.In Crores)
1	2014-2015	2070.73
2	2015-2016	2234.41
3	2016-2017	2494.22

From the above it is evident that the Government of Tamil Nadu is sanctioning a vast amount for the Health Care of the Poor patients attending Government Medical College Hospitals."

9. We have carefully considered the above report. We feel that the various projects mentioned in the Note need to be expedited. So we direct the Government to expedite the process of improving the Thanjavur Medical College Hospital in various respects as stated in the Brief Consolidated Position Note submitted by the Government as extracted above. The said exercise shall be completed at least within a year from today. All the above writ petitions stand accordingly disposed of. No costs.

Sd/-

Assistant Registrar(CO)



To

1. The President,
Medical Council of India,
Pocket-14, Sector-8,
Dwaraka Phase-1, New Delhi -110077.
2. The President,
Indian Nursing Council,
Combined Council Building,
Kotta Road, Temple lane,
Opposite Mata Sundri College,
Near I.T.O., New Delhi - 110002.
3. The President,
Tamil Nadu Nurses and Midwives Council,
Jayaprakash Narayanan Maligai,
Old No.140, New No.56,
Santhome High Road, Near Santhome Church,
Mylapore, Chennai - 600 004.
4. The Principal Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Fort St George,
Chennai.
5. The Director,
Directorate of Tamil Nadu Government Medical Colleges,
Kilpauk, Chennai - 10.
6. The Nursing Superintendent,
Government Rajaji Medical College Hospital,
Madurai - 625 020.
7. The Director Tamil Nadu Medical and Rural Welfare Directorate,
No.258, 3rd floor, DMS Complex, Annasalai, Thenampettai, Chennai-18.
8. The Deputy Director O/O. The Deputy Director,
Medical and Rural Health Services Dept.,
Ramamoorthi Nagar, Virudhunagar, Virudhunagar District.
9. The Dean, Tanjavur Government Medical College Hospital,
Thanjavur.
10. The Principal Secretary,
The Union of India,
Health and Family Welfare Department, New Delhi.



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PRE DELIVERY COMMON ORDER
in Writ Petition (MD)Nos.22979 of 2015,
18208 & 22579 of 2016

RESERVED ON : 11.04.2017

PRONOUNCED ON : 28.04.2017

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