



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2017

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.(MD) No.23216 of 2015

and

M.P. (MD) No.1 of 2015

WEB COPY

R.Saravanakumar

... Petitioner

-vs-

1. The Secretary to Government of Tamilnadu,
Public and Family Welfare Department,
Secretariat, Chennai.

2. The Director of Medical Education,
Kilpauk, Chennai-5.

3. The Government Medical College Hospital,
Rep. by its Dean,
Goripalayam,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 3rd respondent pertaining to its order bearing Ref.No.4372/P&D/2015 dated 20-11-2015 and to quash the same and consequently direct the respondents to grant permission to have a TANTEA Shop in the 3rd respondent premise by considering petitioner's representation dated 18-05-2015 within a time frame that may be stipulated by this Hon'ble Court.

For Petitioners : Mr.S.C.Herold Singh

For Respondents : Mr.T.S.Mohamed Mohideen
Addl. Govt. Pleader

ORDER

This writ petition has been filed, seeking to quash the order bearing Ref.No.4372/P&D/2015 dated 20-11-2015, by which the petitioner's request for opening a canteen in and around the hospital premises stood declined. The petitioner also sought a direction to the respondents to grant permission to have a TANTEA Shop in the 3rd respondent premise, by considering the petitioner's representation dated 18.05.2015.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.



3. It is represented by the learned counsel for the petitioner that the petitioner obtained permission from Tamil Nadu Tea Plantation Corporation Ltd., (in short "TANTEA") to run a stall in the 3rd respondent premises, pursuant to which, the petitioner also sent a request to the 3rd respondent for allotment of suitable shop in the hospital premises. It is further represented that the 3rd respondent has passed an one line cryptic order, rejecting the request of the petitioner by merely citing G.O.Ms.No.93/Health & Family Welfare (H2) Department dated 25.03.2015, which is contrary to the Government Order earlier issued in G.O.Ms.No.300. Therefore, aggrieved by the same, the petitioner is before this Court, questioning the same.

4. On the other hand, the learned Additional Government Pleader appearing for the respondents would submit that the Government Order cited in the impugned order operates as a bar in allotment of tea stall / canteen in and around the hospital premises and therefore, the request of the petitioner cannot be acceded to and there is no irregularity in passing the impugned order.

5. Heard both sides and perused the records placed on record.

6. A perusal of the impugned order would amply reveal the fact that it is in the form of non speaking order. The Hon'ble Supreme Court and this Court time and again insisted on the requirement of recording reasons and the quasi judicial order must be a speaking one. The Hon'ble Supreme Court in the case of **Mahabir Prasad Santosh Kumar vs. State of U.P.**, reported in **(1970) 1 SCC 764** held that merely giving an opportunity of hearing is not enough and further pointed out that where the order is subject to appeal, the necessity to record reason is even greater. Recording of reasons in support of a decision on a disputed claim ensure that the decision is not a result of caprice, whim or fancy, but was arrived at after considering the relevant law and that the decision was just.

7. Considering the facts and circumstances of the case and in the light of the judgment of the Hon'ble Supreme Court (cited supra), this Court is of the view that the impugned order has no leg to stand and is liable to be set aside.

8. In fine, this writ petition is allowed and the impugned order dated 20.11.2015 is set aside. The matter is remitted to the third respondent for fresh consideration, who, in turn, shall pass a detailed order, of course a speaking order, on the matter on merits and in accordance with law, after affording due opportunity of hearing to the petitioner, within a period of six weeks from



the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-I)

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/True Copy/

Sub Assistant Registrar

To:

1. The Secretary to Government of Tamilnadu,
Public and Family Welfare Department,
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2. The Director of Medical Education,
Kilpauk, Chennai-5.
3. The Government Medical College Hospital,
Rep. by its Dean,
Goripalayam,
Madurai District.

+1cc to Mr.S.C.Herold Singh, Advocate Sr.No.88459

+1cc to Spl.Government Pleader Sr.No.89085

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VB/MR/KKR/SAR2/11/12/2017/3P/6C

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