



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2017

CORAM:

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.A. (MD) No.471 of 2011
and
M.P. (MD) No.1 of 2011**

Dr.D.Gnanadurai

.. Appellant

Vs.

1. Tamil Nadue State AIDS Control Society,
Represented by its President /
The Secretary to the Government
of Tamil Nadu,
Health and Family Welfare Department,
Fort St.George,
Chennai - 9.

2. The District Collector,
Thoothukudi District.

3. The President,
Tuticorin District HIV Positive People Welfare Society,
Door No. 20A, I Street,
Subbiah Muthaliarpuram,
Backside of Thoothukudi Medical College Hospital,
Thoothukudi.

.. Respondents

PRAYER: Petition filed under Clause 15 of Letters Patent Act, to
set aside the order passed in W.P.(MD).No.3349 of 2011, dated
23.03.2011 on the file of this Court.

Prayer in WP(MD). 3349/ 2011 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a Writ of
Certiorarified Mandamus calling for the records pertaining to the
dismissal order passed by the 3rd respondent in his proceedings
dated 21.02.2011 and quash the same and consequently direct the
respondent to reinstate the petitioner with all the service and
monetary benefits.



For Appellant : Mr.T.A.Ebenezer
For Respondent 1 : Mr.A.Srinivasan
For Respondent 2 : Mr.M.Govindan
Special Government Pleader
For Respondent 3 : Mr.A.Thiruvadi Kumar

JUDGMENT

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

This writ appeal is directed against the order dated 23.03.2011 made in W.P.(MD).No.3349 of 2011.

2.The appellant was appointed as a Project Coordinator in the third respondent society. He was terminated by order dated 21.02.2011. He therefore filed W.P.(MD).No.3349 of 2011 questioning the same. The learned single Judge took a view that the third respondent society was not amenable to writ jurisdiction. In that view of the matter the writ petition was dismissed by order dated 23.03.2011. Questioning the same this intra - Court appeal has been filed.

3.The learned counsel appearing for the appellant brought to our notice the copy of order dated 08.09.2009 made in W.P.No.11079 of 2009. The Tamil Nadu State AIDS Control Society was shown as respondent in the writ petition. It was contended that Tamil Nadu AIDS Control Society is not a State instrumentality in terms of Article 12 of Constitution of India and therefore the writ petition would not lie. The learned single Judge noted that Government has perverse control over the said Society. It was finally held that the writ petition would lie against the Tamil Nadu State AIDS Control Society. The third respondent herein is directly coming under the control of the first respondent.

4.The learned counsel appearing for the respondents 1 to 3, would admit that funds are disbursed only by Central Government. The functioning of the first and third respondents are directly linked with various government schemes. When every functioning of the Society is controlled by the government their officials namely the third respondent is definitely a State instrumentality, which is amenable to writ jurisdiction of this Court.

5. We, therefore, hold that the writ petition filed by the writ petitioner herein against the third respondent Society is maintainable. We therefore set aside the order dated 23.03.2011 made in W.P.(MD).No.3349 of 2011.



6. Since the learned single Judge did not go into the merits of the matter, it is only just and proper that the matter is remitted to the file of the learned single Judge. Since the writ petition is of the year 2011, we request the learned Judge dealing with the concerned portfolio to accord priority for the disposal of the writ petition. This writ appeal is accordingly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

1. The President / The Secretary to
the Government of Tamil Nadu,
Health and Family Welfare Department,
Fort St.George, Chennai - 9.
2. The District Collector, Thoothukudi District.

Copy

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.T.A.Ebenezer, Advocate Sr.No.69956
+1cc to Mr.Balaji, Advocate Sr.No.69986
+1cc to Mr.A.Thiruvadi Kumar, Advocate SR.No.70136

DSK

VB/KP/SAR4/01/09/2017/3P/7C

W.A. (MD) No.471 of 2011
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