

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 14.11.2018

CORAM
THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.29693 of 2018
and W.M.P.No.34660 of 2018

Tamil Nadu Medical Laboratories Association,
(Registered under the Tamil Nadu
Societies Registration Act, 1975
Reg.No.117/2012)
H-11, H Block,
2nd Street, Anna Nagar East,
Chennai 600 102
Rep by its President T.Kannan

.. Petitioner

Vs.

1. The Principal Secretary to Government
Health and Family Welfare Department,
Secretariat, Chennai 600 009.

2. The Director,
Directorate of Public Health
and Preventive Medicine,
No.359, Anna Salai,
DMS Complex, Chennai 600 018

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the
Constitution of India praying to issue a Writ of declaration to
declare the proviso (1) of Clause VIII under heading Clinical
Laboratories in Annexure-I covered by Rule 6 of the Tamil Nadu
Clinical Establishments (Regulations) Rules 2018, published in
Government Gazette dated 04.06.2018 to the extent of minimum
space requirement for all Clinical Laboratories situated at
Rural and Urban areas and to maintain NABL Standards as
unconstitutional and discriminate.

For Petitioner : Mr.S.S.Kumar

For Respondent - 1 : Mr.A.Rajaperumal
Additional Government Pleader

O R D E R

The prayer sought for in this Writ Petition is for the
issuance of declaration to declare the proviso (1) of Clause
VIII under the heading Clinical Laboratories in Annexure-I
covered by Rule 6 of the Tamil Nadu Clinical Establishments
(Regulations) Rules 2018, published in Government Gazette dated

04.06.2018 to the extent of minimum space requirement for all Clinical Laboratories situated at Rural and Urban areas and to maintain NABL Standards as unconstitutional and discriminate.

2. The petitioner is an association of the Tamil Nadu Medical Laboratories registered under the Tamil Nadu Societies Registration Act, 1975. The members of the petitioner-Association are working in Clinical Laboratories and carrying on their services related to bio-medical, bio-chemical, clinical pathology, biopsy, bacteriological, genetic investigations and diagnostic tests.

3. It is stated that the Government of Tamil Nadu has brought the Tamil Nadu Clinical Establishments (Regulations) Rules, 2018 (in short TN CER Rules), vide G.O.Ms.No.206, Health and Family Welfare(Z2) dated 01.06.2018 and it was notified and published in the Official Gazette in No.199 dated 04.06.2018.

4. The grievance of the petitioner is that so far as the clinical laboratories are concerned, the minimum space /building for sample collection, First Aid Room, Processing, Report preparation etc of 500 square feet is required in rural areas and 700-1500 square feet is required in Urban areas.

5. Learned counsel has given a comparative chart pointing out that for a Consulting room, Clinic, poly clinic, hospital, maternity hospitals, clinical laboratories etc all of which require to have only a minimum of 100 square feet, whereas clinical laboratories are now directed to have 700 to 1500 sq.ft. which is discriminatory. It is also stated that in this regard, a representation has been given to the respondents on 10.10.2018 to withdraw the said conditions and to maintain standards as per the National Accreditation Board and Testing and Calibration of Laboratories (NABL) and re-consider the same as 1000 of clinical laboratories across the country are now put to much hardship in view of the said Rule.

6. Though the petitioner has challenged in this Writ Petition with respect to Proviso (1) of Clause VIII under the Heading Clinical Laboratories in Annexure-I covered by Rule 6 of the Tamil Nadu Clinical Establishments (Regulations) Rules 2018, the learned counsel for the petitioner submits that it would suffice if a direction is given to the first respondent to consider the petitioner's representation dated 10.10.2018 and dispose of the same within a time frame that may be fixed by this Court.

7. Accordingly, the first respondent is directed to consider the representation dated 10.10.2018 given by the petitioner-Association and dispose of the same on merits and in accordance with law, after affording an opportunity of hearing

to the petitioner as well as any of the interested parties, within a period of four weeks from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Srn/av

To

1. The Principal Secretary to Government Health and Family Welfare Department, Secretariat, Chennai 600 009.
2. The Director, Directorate of Public Health and Preventive Medicine, No.359, Anna Salai, DMS Complex, Chennai -600 018

+2ccs to Mr.S.S.Kumar, Advocate, S.R.No.77519
+1cc to the Government Pleader, S.R.No.77999

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rrs 23/11/2018

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