



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.12251 of 2018

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Manivannan Pathy

... Petitioner

Vs.

1.The District Collector,
Collectorate Campus,
Madurai District.

2.The Dean,
Government Rajaji Hospital,
Madurai,
Madurai District.

3.The Superintendent,
Central Prison,
Madurai District.

4.The Inspector of Police,
SPE/CBI/ACB,
Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents to shift the petitioners father Mr.Pathinettampadi who is undergoing treatment as inpatient at Government Rajaji Hospital, Madurai to any other Private Cardiac Speciality Hospital for treatment.

For Petitioner	: Mr.A.Srinivasan
For R1 to R3	: Mr.P.Kannidevan Additional Government Pleader
For R4	: Mr.N.Nagendran Special Public Prosecutor for CBI Cases

O R D E R

This writ petition has been filed for issuance of Writ of Mandamus directing the respondents to shift the petitioner's father Mr.Pathinettampadi, who is undergoing treatment as inpatient at Government Rajaji Hospital, Madurai to any other Private Cardiac Speciality Hospital for treatment.

2. Heard the learned counsel appearing for the parties.

3. The petitioner is the son of convicted prisoner, namely, Pathinettampadi. The petitioner's father was arrayed as an accused in C.C.No. 8 of 2003 on the file of the Special Judge for CBI Cases, Madurai. He was convicted by an order dated 14.11.2006 with rigorous imprisonment for 1 year with a fine of Rs.4000/-. An appeal was preferred before this Court, which was also dismissed by an order dated 26.03.2018. Thereafter, the petitioner's father preferred Special Leave Petition before the Hon'ble Apex Court and the same is yet to be numbered and an Interim Application for granting exemption from surrendering was filed before the Apex Court and the same was rejected on 04.05.2018 and 4 weeks time was granted for surrendering before the trial court and the petitioner's father appeared before the learned Special Judge, CBI Cases on 04.06.2018.

4. It is further averred that the petitioner's father is a Cardiac patient, who has undergone open heart surgery in the year 2006 and is under continuous medical treatment from then onwards. In the year 2009, he again underwent heart valve replacement. In the year 2014, there was some major complication when the petitioner's father visited the petitioner at Delhi and his heart functioning came down to 20% to 25%. Due to his old age, the doctors have implanted ICD Device (Medtronic) on 24.02.2014.

5. After the implantation of the ICD - Device, which supplies frequent Electric shocks for the Normal functioning of the heart, the petitioner's father has been undergoing regular medical examinations and he is surviving on the life saving drugs and his body condition is not immune to any stress or abnormal situations and any stress leads to problems in breathing, lowering of heart beat and leads to collapsing. His heart rate efficiency is only 30 to 33% (as against the normal efficiency of 60% and above). In order to save his life, the doctors gave the following advises:

a) Should not give more effort to heart by way of sitting down or lying down on the floor due to weak heart condition.

b) Since heart condition is poor he is advised not to use Indian style toilet as this would make him sit down in a squat position, which put enormous stress on his heart and can be life threatening.

c) Despite the heart valve replacement in 2009, there is still leakage in the valve, leading to impure blood in his body. This affects even his day to day function and he needs constant assistance. Any uncomfortable situation like, lack of proper ventilation and crowded place, he suffers breathlessness and may lead to chest pain.

<https://hcservices.ecourt.gov.in/hcservices/> did any other heart related drugs other than those prescribed to him because, his life saving drugs has been finalized over a period and some of the commonly use heart drugs



has been finalized over a period and some of the commonly use heart drugs are either ineffective or allergic. Furthermore, he is also allergic to many pain killers.

c) He is restricted to consume not more than 1 litre of water, since any further intake will affect the functioning of his kidney, thus resulting in more uric acid, leg and body swelling.

6. When the petitioner's father was surrendered before the learned Special Judge, CBI, Madurai on 04.06.2018, he had filed all the medical documents to prove his health condition and he was taken to the Central Prison, Madurai. Now the petitioner's father's health condition has become very worse and therefore, the prison doctor recommended for admitting him in the Government Rajaji Hospital, Madurai for medical observation. The Cardiology Department of the Government Rajaji Hospital, Madurai is not having facilities to treat the petitioner's father, who has undergone ICD - Device implant operation.

7. According to the learned counsel for the petitioner, advanced treatments could not be given in the Government Rajaji Hospital, Madurai and therefore, he seeks permission to shift the petitioner's father to Meenakshi Mission Hospital and Research Centre, Madurai to give proper treatment to him.

8. When the matter was called on earlier occasion, the learned counsel for the petitioner was directed to serve a copy to the learned Special Public Prosecutor appearing for CBI Cases.

9. Today, no counter affidavit has been filed on behalf of the respondents 1 to 3.

10. The learned Special Public Prosecutor appearing for the fourth respondent submitted that the fourth respondent has no objection for allowing the petitioner's father for providing the necessary treatment as requested by the writ petitioner, subject to usual conditions imposed by the Central Prison, Madurai.

11. The learned Additional Government Pleader appearing for the respondents 1 to 3 would further submit that he has filed the copy of the report dated 08.06.2018, with reference to the letter dated 246/CD/GRH/2018. The said report was communicated to the Dean, Government Rajaji Hospital, Madurai, wherein it has been stated that the petitioner's father, who is a convicted prisoner, needs surgical treatment, for which, he may be referred to Institute of Cardiology Government Rajiv Gandhi General Hospital, Chennai.

12. Today when the matter is taken up for hearing, the learned counsel for the petitioner would submit that the petitioner's father is not in a normal health condition to shift him to Chennai. Since his health condition has become worse, this Court has directed the Additional Government Pleader to file a status report from the second respondent. The second respondent has filed the status report before this Court, in which it has

<https://hccer.esojud.gov.in/hccer/esojud> follows:

'Because of his present poor cardiac status which class III dyspnoea and Paroxysmal Nocturnal Dypnoea,



patient is not fit for travel to Chennai at present".

13. From the above, it is made clear that the petitioner's father, who is a convicted prisoner, is not able to travel from Madurai to Chennai.

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14. In the light of the above stated facts and circumstances, taking into consideration the petitioner's father's health condition and recording the submission of the learned Special Public Prosecutor appearing for the fourth respondent, this Court directs the petitioner to give a representation on 12.06.2018 to the authorities to shift the petitioner's father, who is a convicted prisoner to Meenakshi Mission Hospital and Research Centre, Madurai.

15. On receipt of such representation, the third respondent is directed to pass appropriate orders in accordance with law and by taking into consideration the observation made by this Court after imposing usual conditions. Such order shall be passed on 14.06.2018. Thereafter, the third respondent is directed to make necessary arrangements to shift the petitioner's father to Meenakshi Mission Hospital and Research Centre, Madurai. The third respondent is also directed to ascertain the status of the health condition of the convicted prisoner on day to day basis. If the petitioner's father got recovery and the Doctor advised to discharge him from Meenakshi Mission Hospital, immediately the third respondent is directed to shift the petitioner's father to the Central Prison, Madurai.

16. The learned counsel for the petitioner undertakes that the medical expenses will be met out by the petitioner.

17. With the above directions, the Writ Petition is disposed of. No costs.

Sd/

Assistant Registrar (AE)

/True copy/

Sub Assistant Registrar

To

- 1.The District Collector,Collectorate Campus,Madurai District.
 - 2.The Dean,Government Rajaji Hospital,Madurai,Madurai District.
 - 3.The Superintendent,Central Prison,Madurai District.
 - 4.The Inspector of Police,SPE/CBI/ACB,Chennai.
- +1cc to Mr.A.SRINIVASAN, Advocate, SR.No. 68025

Copy to:

Special Public Prosecutor for CBI Cases

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