

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12/6/2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR  
AND  
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.13105 of 2019

D. Arul ... Petitioner

Vs

1. The Secretary to Government  
Health and Family Welfare Department  
Fort St. George  
Chennai 600 009.
2. The Director  
Directorate of Indian Medicine & Homeopathy  
Aringnar Anna Hospital campus  
Arumbakkam  
Chennai 600 106.
3. The District Siddha Medical Officer  
Government District Head Quarters Hospital Campus  
Kancheepuram District 631 501.
4. The Joint Director  
O/o the Joint Director of Health Services  
Thiruvallur  
Thiruvallur District 602 001.
5. The Chief Medical Officer  
Government Hospital  
Palaverkadu  
Ponneri Taluk  
Thiruvallur District 601 205.
6. The Assistant Medical Officer (Siddha)  
Government Hospital  
Palaverkadu  
Ponneri Taluk  
Thiruvallur District 601 205.
7. Mr.G.Krirubanandan ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents 1 to 4 to take appropriate action against the seventh respondent by disposing the representation dated 22/1/2019, within a stipulated period.

For petitioner ... Mr.G.Thangavel

For respondent ... Mr.E.Manoharan  
Additional Government Pleader  
for R.R.1 to 6.

O R D E R

(Order of the Court was made by S.Manikumar,J)

Instant writ petition has been filed, to direct the respondents 1 to 4, to take appropriate action against the seventh respondent, by disposing the representation of the petitioner, dated 22/1/2019, within a stipulated period.

2. Petitioner is the founder trustee of NAM NEETHIYIN KURAL, registered under Trust Act, vide, Document No.661 of 2016, dated 9/5/2016, in order to safeguard public interest, in the matter of providing medical facilities in government hospitals. There is Siddha in Government Hospital, at Palaverkadu Village, Ponneri Taluk, Thiruvallur District, from 24/10/2003 onwards.

3. Mr.G.Kirubanandan, seventh respondent is working in the said Hospital, under the control of Chief Medical Officer, General Hospital, Palaverkadu, the fifth respondent. Local people, affected by the conduct of the 7th respondent, have lodged a complaint. It become necessary, for the petitioner, to clarify the issue, by personally visiting the hospital. It revealed that the seventh respondent, was not working properly; that he was not present during the scheduled hours of the hospital; that he does not treat the patients properly, and because of that, patients have to undergo undue hardship and sufferings. Enquiry of the petitioner, also revealed that there is no regular Medical Officer for Siddha medicine, and only officers on deputation are visiting the hospital, to do the need of public.

4. In the year 2017, an Assistant Medical officer was appointed as a regular Duty Officer. Dereliction of duty, on the part of the seventh respondent was intimated by the Assistant Medical Officer (Siddha), Government Hospital, Thiruvallur District, the sixth respondent herein, to the Director, Directorate of Indian Medicine and Homeopathy, Arumbakkam, Chennai and the District Siddha Medical Officer, Government District Head Quarters Hospital Campus, Kancheepuram District, respondents 2 and 3 respectively, through complaint letters, dated 7/2/2018, 6/3/2018, 10/7/2018, 23/7/2018, 29/9/2018, 11/10/2018 and 8/11/2018, respectively. However, the District Siddha Medical Officer, Government District Head Quarters Hospital Campus, Kancheepuram District, the third respondent, who is supposed to take appropriate action against the seventh respondent, did not come forward, to initiate any proceedings. The seventh respondent is continuing his position as a pharmacist, according to his own way of functioning, without attending the prescribed period of hospital hours.

5. Petitioner has contended that duty hours of the hospital is from 7.30 a.m., to 12.00 noon and from 3.00 p.m., to 5.00 p.m. Whereas the seventh respondent never used to come to the hospital within the prescribed duty hours, but used to visit the hospital only at 11.30 hours and thereafter, used to leave the hospital at 1.30 p.m.

6. Petitioner has further contended that in most of the days, fifth respondent, namely Mr. Mohammed Hussain, used to drop the seventh respondent in his car, in order to meet the requirements of the seventh respondent. As such, the fifth respondent has been colluding with the seventh respondent and both of them, are not present in the hospital, during duty hours.

7. Subject matter was intimated, as a complaint dated 1/12/2018, to the authorities concerned, by the petitioner, and he has requested the authorities to take appropriate action against the seventh respondent. Since the authorities did not take any action, on 2/1/2019 petitioner got information, under Right to Information Act, 2005, with regard to the actual functioning of the Siddha unit, in the said Government Hospital, Palaverkadu. It revealed that there was misappropriation of funds by misusing Siddha medicines. A reply, dated 14/1/2019, was received with facts of improper management of siddha medicine, by the seventh respondent.

8. Petitioner has further contended that the Assistant Medical Officer (Siddha), Government Hospital, Thiruvallur District, the Sixth respondent has given a reply, on 14/1/2019 and clarified that no accounts was properly maintained by the seventh respondent and there was no record for auditing the subject matter. There were no appropriate registers, as on 6/12/2017, for maintaining the stock of medicines and proper account is not available and not maintained for the past nine years from 1/4/2009 to 30/11/2017, except from 1/4/2015 to 3/11/2015 and from 1/12/2017 to 30/4/2018. Therefore, it has become necessary for the petitioner, to personally visit the office of District Siddha Medical Officer, Government District Head Quarters Hospital Campus, Kancheepuram District and Office of the Joint Director of Health Services, Thiruvallur District, the third and fourth respondents respectively, in person and he enquired about the action taken against the seventh respondent, with reference to the complaint, dated 1/12/2018. The third and fourth respondents did not view the subject matter seriously. Again, the petitioner has sent a reminder, dated 22/2/2019 to the respondents 1 to 4, for taking appropriate action against the seventh respondent. Since no action is taken on the complaints, petitioner has come up with the present writ petition praying for the relief as stated supra.

9. Supporting the above averments, petitioner has enclosed the representations sent by the Assistant Medical Officer (Siddha) Government Hospital, Palaverkadu, Ponneri Taluk, Thiruvallur District, sixth respondent.

10. Heard Mr.G.Thangavel, learned counsel for the petitioner and Mr.E.Manoharan, learned Additional Government Pleader for the respondents 1 to 6.

11. Going through the material on record, it is evident that the petitioner herein has only vindicated the grievance of the sixth respondent, in discharging her duties, as well as the non-performance of the duties and responsibilities by the 7th respondent, as a pharmacist in Government Hospital, Palaverkadu, Ponneri Taluk, Thiruvallur District. Incidentally, petitioner has also pointed out that patients also suffered due to the late attendance of the seventh respondent, his attitude towards the patients and other alleged irregularities.

12. Earlier, when the matter came up for hearing, we directed Mr.E.Manoharan, learned Additional Government Pleader for the respondents 1 to 6, to ascertain as to whether the sixth

respondent has been notified as a Public Information Officer, under the Act.

13. Reverting, the learned Additional Government Pleader submitted that Assistant Medical Officer (Siddha), sixth respondent is the Public Information Officer and accordingly, information has been given. Learned Additional Government Pleader also submitted that based on the complaints of the Assistant Siddha Medical Officer, sixth respondent and surprise inspection of the District Siddha Medical Officer, Kumbakonam District, an enquiry has been conducted. Report dated 31/7/2018 has been submitted by the District Medical Officer to the Directorate of Indian Medicine & Homeopathy, Chennai.

14. District Siddha Medical Officer, Kumbakonam District, has recorded certain irregularities committed by Mr.G.Kirubanandhan, the seventh respondent. The seventh respondent has given an undertaking that the irregularities pointed out would not recur again.

15. Based on the enquiry report and undertaking of the 7th respondent, proceedings in RC.No.9987/E2/2/2018, dated 7/6/2019, has been issued by the Director, Indian Medicine and Homeopathy Department, Chennai, to the effect that Mr.Kirubaanandan, Pharmacist Government Hospital, Pazhaverkadu, Thiruvallur District, has been diverted to Government Hospital, Thirukazhukundram, Kanchipuram District, for three days, in a week.

16. Since action has already been taken, we are of the view that there is no need to direct respondents 1 to 4, to take action against the seventh respondent, by considering the representation, dated 22/1/2019, of the writ petitioner. It is hoped that the Doctor, as well as the Pharmacist, in the said Hospital discharge their duties efficiently and sincerely, in the best interest of the patients.

17. With the above observation, writ petition is disposed of. No costs.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government  
Health and Family Welfare Department  
Fort St. George  
Chennai 600 009.
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Directorate of Indian Medicine & Homeopathy  
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Thiruvallur District 601 205.

+1cc to the Government Pleader Sr.48549  
+1cc to Mr.G.Thangavel, Advocate Sr.48747

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ssd[co]  
srg 29/07/2019

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