

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.13479 of 2017
and
WMP.No.14552 of 2017

K.Tamil Selvakumar

.. Petitioner

Vs.

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai - 600 009.
2. The Director of Medical Education,
162, EVR Salai, Kilpauk, Chennai - 600 010.
3. The Director,
Government Royapettah Hospital,
Chennai - 600 104.
4. Dr.Gunasekaran,
Dean,
Government Chengleput Medical College Hospital,
Chengleput District.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, for a Writ of Mandamus, directing the 1st respondent to take action against the 4th respondent based on the illegality committed in opening bank account and the report dated 04.05.2016 submitted by the 2nd respondent.

For Petitioner : M/s.Lita Srinivasan

For Respondents: Mr.E.Manoharan (for R1 - R3)
Addl.Govt.Pleader

O R D E R

(Order of the court was made by SUBRAMONIUM PRASAD, J.)

Mr.K.Tamil Selvakumar, a practicing advocate has filed the instant Public Interest Litigation for a direction to the first

respondent, Secretary to the Government, Health and Family Welfare Department, Chennai, to take action against Dr.Gunasekaran, Dean, Government Chengleput Medical College Hospital, Chengleput District, for his action, for opening bank accounts on the report dated 04.05.2016, submitted by the Director of Medical Education, Kilpauk, Chennai/the 2nd respondent herein.

2. The petitioner states that, he being a member of the Bar is taking efforts to eradicate corruption and evils from the society. He states that in 2014, he visited Government Royapettah Hospital, Chennai, in connection of the treatment of a person and found that the hospital lacks basic amenities. He states that medical supplies were out of stock. On enquiry, he came to know about the corruption in the hospital. He states that his enquiry revealed that the drugs supplied to the hospital are controlled by Dr.Gunasekaran, Dean, Government Chengleput Medical College Hospital, Chengleput/the 4th respondent. According to the petitioner, the 4th respondent would agree for purchases only when the suppliers gave commission to him. He states unless commission is paid, the 4th respondent does not sanction purchase of the medicines.

3. He states that the 4th respondent has been given a car bearing registration number TN 10 AK 8427, for agreeing to purchase medicines. He further states that the 4th respondent has opened a savings bank account under the name of "Centenary Day", in Indian Bank, Clock branch, Chengelpet and he has directed the suppliers and contractors to deposit their commission in the same account. The petitioner also states that he had send representations to the Hon'ble Chief Minister Cell and the Director of Medical Education, Chennai, to take suitable action. He states that the Director of Medical Education, Chennai, has issued a notice dated 13.01.2015 bearing Na.Ka.47781/Nil/5/2014, calling upon one P.Ragavendran to appear for an enquiry, who had deposed regarding the malpractice committed by the 4th respondent.

4. The petitioner also states that, Government Royapettah Hospital, is maintained by the Public Works Department. He would state that the money is being collected by the 4th respondent and that the contention of the 4th respondent that he has been spending money from his account for the construction of other activities for the hospital is completely false. The petitioner therefore has prayed for a direction to the Secretary, Health and Family Welfare Department, to take action against the 4th respondent, based on the illegality committed by the 4th respondent in opening a bank account.

5. On the report dated 04.05.2016, submitted by the Director of Medical Education, Chennai/the 2nd respondent herein, notice

was issued on the petition. Secretary to the Government, Health and Family Welfare Department, Chennai and the Director of Medical Education, Chennai/the 1st and 2nd respondents, respectively, have filed the counter. Instead of paraphrasing the counter, it would be very appropriate to reproduce the contents of the counter.

"4. With reference to the averments made in paragraph 3 and 4 of the affidavit, it is submitted that 90% of the drugs required for the Hospital mentioned in the third respondent were purchased from the Tamil Nadu Medical Services Corporation (TNMSC) and funds were maintained by the TNMSC itself. Moreover the drugs were already placed in the CPC list which was approved by the Government. The remaining 10% of the drugs were purchased for the welfare of the patients by following the codal procedures. Hence, the contention of the petitioner is totally false.

5. With reference to the averments made in paragraphs 5 to 8 of the affidavit, it is submitted that in GO Ms No 17. Health and Family Welfare (EAPM) department dated 23.01.2017. orders were issued. among other things, for operating the Chief Ministers Comprehensive Health Insurance Scheme (CMCHIS) fund in the Medical Education side, the Committee has been constituted in each Medical Colleges and Hospitals for maintenance of accounts and approval of expenditure. The following will be the members of the Committee

- (a) Dean Chairman
- (b) Respective HODs in Medical Colleges... Member
(Concerned Department)
- (c) Nodal Officer of the Insurance scheme ... Member
- (d) Administrative Officer / Junior Administrative officer ... Member
- (e) FA&CAO/CAO/AO/AAO ... Member
- (f) Medical Stores In-charge/Senior most Pharmacist ... Member

Hence, the purchase of the Medicines and equipments have been purchased by following the codal procedures.

6. It is further submitted that one Thiru.Ragavender, Advocate has given a complaint petition and made certain allegations against Dr.N Gunasekaran. formerly Medical Superintendent, Government Royapettah Hospital. Chennai, retired as Dean. Government Chengalpattu Medical College Chengalpattu In this regard, the Government have nominated the second respondent as inquiry officer to inquire the allegations made against the fourth respondent. The inquiry officer has stated that the allegations made against the fourth respondent is held as not substantiated.

7. It is further submitted that for celebrating centenary celebration of Government Royapettah Hospital, Chennai a Committee has been formed for providing better facilities in the Hospital and hence a bank account opened in Indian Bank and donation have been received through this bank account In this bank account, money has been received from the donors 24 3 12 to 2 9 2014 and transaction was up to Rs.6,95,609/- and necessary vouchers were available for spending money. Further, the construction works have been done through Public Works Department (PWD) and hence the fourth respondent was no way connected to this works. During the enquiry, the complainant Thiru.Ragavendra has not submitted any evidences to prove the allegations against the fourth respondent.

8. It is submitted that lot of works has been done to improve the Government Royapettah hospital activities viz., construction works, purchase of equipments etc Based on the complaint petitions against the fourth respondent, the Government have nominated the then Director of Medical Education to inquire the allegations made against the fourth respondent. Based on the findings of the inquiry officer, the Government have issued orders permitting the fourth respondent to retire from Government service on his date of superannuation on 31.05 2017 vide G O.Rt No. 400, Health and Family Welfare department dated 31 05.2017."

6. Heard the counsel for the parties.

7. The 4th respondent has superannuated on 31.05.2017. Respondent No.1, has stated that he has initiated an enquiry by nominating the then Director of Medical Education, Chennai. He has submitted the enquiry report. It is stated in the counter

that after perusing the enquiry report, the 4th respondent was permitted to retire on 31.05.2017.

8. In view of the statement in the counter, we do not propose to order another enquiry, as prayed for. We dispose of the writ petition on the basis of counter affidavit as filed by the respondents. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pkn.

To

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai - 600 009.
2. The Director of Medical Education,
162, EVR Salai, Kilpauk, Chennai - 600 010.
Puducherry.
3. The Director,
Government Royapettah Hospital,
Chennai - 600 104.
4. Dr.Gunasekaran,
Dean,
Government Chengleput Medical College Hospital,
Chengleput District.

+1cc to Government Pleader sr.69347

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and
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mr(co)
nr 09/10/2019

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