

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

WP.No.27647 of 2017

and

WMP.No.29576 of 2017

Dr.K.Thangamuthu

... Petitioner

vs.

1. State of Tamil Nadu
Rep. by the Secretary
Department of Health and Family Welfare
Fort St.George, Chennai.
2. The Medical Council of India
Rep. by its Secretary
Pocket - 14, Sector - 8
Dwarka, New Delhi - 110 077.
3. The Tamil Nadu Medical Council
Rep. by its Registrar
New No.914, Old No.569,
Poonamallee High Road,
Arumbakkam, Chennai-600 106.
4. Legal Ethics Committee
The Tamil Nadu Medical Council
Rep. by its President
New No.914, Old No.569,
Poonamallee High Road,
Arumbakkam, Chennai-600 106.

... Respondents

*R4 impleaded as per order dated 19.12.2017 in
WMP.No.31570 of 2017 in WP.No.27647 of 2017

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the 1st respondent to frame statutory rules or executive instructions incorporating guidelines as per the order of the Hon'ble Apex Court in Crl.Appeal Nos.144-145 of 2004 decided on 05.08.2005 Jacob Mathews Vs. State of Punjab & another (reported in 2005 (6) SCC 1) in consultation with the Indian Medical Association of Tamil Nadu and the 2nd respondent herein pursuant to the

recommendations dated 22.03.2014 submitted by the Ethics Committee within a time frame fixed by this Hon'ble Court.

For Petitioner	:	Mr.Ravikumar Paul Senior Counsel for Mr.Anand David
For Respondents	:	Mr.I.Sathish Additional Government Pleader for R1 Mr.V.P.Raman, for R2 Mr.G.Sankaran, for R3 R4 - Batta not filed

O R D E R

The petitioner is a practising medical Doctor. He filed the present writ petition seeking for mandamus directing the first respondent to frame statutory rules or executive instructions incorporating guidelines as per the order of the Hon'ble Apex Court in Crl.Appeal Nos.144-145 of 2004 decided on 05.08.2005, Jacob Mathews Vs. State of Punjab & another (reported in 2005 (6) SCC 1) in consultation with the Indian Medical Association of Tamil Nadu and the 2nd respondent herein pursuant to the recommendations dated 22.03.2014 submitted by the Ethics Committee.

2. When the matter was taken up on earlier occasion, it was informed that already guidelines were framed by the Tamil Nadu Government in G.O.Ms.No.220, Health and Family Welfare (Z1) Department, dated 04.07.2008. The learned Additional Government Pleader is directed to verify as to whether any further guidelines are issued or the guidelines issued in G.O.Ms.No.220 dated 04.07.2008, hold the field as on today.

3. Accordingly, the matter is listed today for further hearing. The learned Additional Government Pleader produced a letter dated 22.01.2019 addressed by the Principal Secretary to Government to the Additional Government Pleader of this Court, wherein, at Paragraph Nos. 2 & 3, it is stated as follows:

"2. In this connection, I am to state that in the reference 2nd and 3rd cited, suitable instructions have been issued to All District Collectors, Commissioner of Police Chennai, Superintendent of Police, Director of Medical Education, Director of Medical and Rural Health Services and Director of Public Health and Preventive Medicine to strictly follow the Acts and guidelines a time of instances of attack on

hospital premises and personnel and also to instruct the following:-

i. As per the Tamil Nadu Medicare Service persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss of Property) Act, 2008 (Act No.48) any offence committed under section 3 of the said Act shall be cognizable and non-bailable.

ii. the orders issued in G.O.(Ms).No.220, Health and Family Welfare Department, dated:4.7.2008 shall be strictly followed while registering case against the Medical officer for negligent act or omission.

iii. Hospital and Health Care should be given priority to avoid untoward incident.

3. In addition, the District Collectors have been instructed to review the issues in a quarter in the presence of Joint Director (Health), Deputy Director (Health Services), Dean, wherever medical colleges are located along with local law enforcing authorities and a representative from Indian Medical Association in that district will be a member to ensure that such occurrences are prevented. Moreover, in respect of Government Medical College Hospitals and Tertiary hospitals attached to them the Deans, concerned have been requested to have a Hospital Security Committee Monthly meeting to review the issues, every month and take necessary preventive and corrective measures wherein the Residential Medical Officer, Vice Principals, Jurisdictional Assistant Commissioner of Police/Deputy Superintendent of Police in the District, the representative from the Tamil Nadu Government Doctors Association, Nurses representative, one representative Professor, Assistant Professor, Post Graduate and Compulsory Rotatory Residential Internship (CRRI) Nominee should be included. The copy of the same enclosed herewith for ready reference."

4. In view of the above stated facts and circumstances, the learned counsel for the petitioner submitted that the above submission made by the first respondent may be recorded and the writ petition may be closed.

5. Considering the fact that the guidelines were already issued through G.O.Ms.No.220, Health and Family Welfare (Z1) Department, dated 04.07.2008 and in view of the fact that those guidelines are stated to be still in force, this writ petition is disposed of, by recording the above facts and circumstances. The Government of Tamil

Nadu is directed to inform the guidelines framed through G.O.Ms.No.220, Health and Family Welfare (Z1) Department, dated 04.07.2008 to all the authorities concerned immediately. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mk

To

1.The Secretary,
Department of Health and Family Welfare
Fort St.George, Chennai.

2. The Secretary
Medical Council of India
Pocket - 14, Sector - 8
Dwarka, New Delhi - 110 077.

3. The Registrar
Tamil Nadu Medical Council
New No.914, Old No.569,
Poonamallee High Road,
Arumbakkam, Chennai-600 106.

4. Legal Ethics Committee
The President Tamil Nadu Medical Council
New No.914, Old No.569,
Poonamallee High Road,
Arumbakkam, Chennai-600 106.

+1cc to Mr. V.P.Raman, Advocate SR.No. 5378

+1cc to Mr.Anand David, Advocate SR.No. 5563

+1 CC TO GOVERNMENT PLEADER SR.NO. 5524

A.SK(08/02/2019)

W.P.No.27647 of 2017

WEB COPY