

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2019

CORAM:

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

W.P.No.32948 of 2018
and
W.M.P.No.38191 of 2018

Varaaki

.. Petitioner

Vs.

- 1.The State rep. by its Principal Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai-9.
- 2.The Chairman
Joint Action Committee of Govt. Doctors Association
(JAC-GDA), Madurai.
- 3.The State President, Service Doctors
Post Graduate Doctors Association
DAOS Quarters
Govt. Stanley Medical Colleges
Chennai-1.
- 4.The State President
Tamil Nadu Medical Officers Association
No.39, R.S.Pillai Street,
Tindivanam - 604 001.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Mandamus, directing the first respondent to take action against the respondents 2 to 4 to call off this strike notice issued by them to be held on 04.12.2018 and on subsequent dates as illegal and to direct them to settle the dispute through negotiations and to restore peaceful function of the Government Hospitals in order to maintain public order and health.

For Petitioner : Mr.V.Balu

For Respondents : Mr.E.Manokaran,
Additional Government Pleader.

O R D E R

(Order of this Court was made by SUBRAMONIUM PRASAD, J.)

Claiming himself to be a public interest litigant, Mr.Varaaki, has sought for a Writ of Mandamus, directing the first respondent, to take action against the respondents 2 to 4 to call off this strike notice issued by them to be held on 04.12.2018 and on subsequent dates, as illegal and to direct them to settle the dispute through negotiations and to restore peaceful functioning of the Government Hospitals in order to maintain public order and health.

2. Mr.V.Balu, learned counsel for the petitioner, submitted that strike notified on 04.12.2018, was suspended. He further submitted that in a batch of writ petitions filed before the Hon'ble Madurai Bench of this Court, for a similar prayer, Court has sought for details, as to problems, difficulties expressed by the Doctors. In this regard, a meeting is also scheduled on 18.02.2018.

3. In the abovesaid circumstances, learned counsel for the petitioner requested this Court, to tag the instant writ petition No.32948 of 2018, alongwith the batch of cases pending on the file of the Hon'ble Madurai Bench of this Court.

4. Strike notice dated 30.11.2018, has been given by the Tamil Nadu Doctor's Association to the Secretary, Public Health Department, Chennai calling for a strike on 04.12.2018.

5. Admittedly, strike scheduled on 04.12.2018, did not take place.

6. In the said circumstances, there is no need to issue a Mandamus, against the Principal Secretary to the Government, Health and Family Welfare Department, to take action against respondents 2 to 4, to call off the strike notice, issued by them to be held on 04.12.2018. Contention that there could be a strike on subsequent dates and therefore, the same should be declared as illegal, depends upon the outcome of the negotiation of the Tamil Nadu Doctor's Association, with the Government and if any strike notice issued, then the principal of "Ubi Jus Ibi Remedium" applies. There cannot be any anticipatory mandamus, expecting that there will be strike notice by Tamil Nadu Doctor's Association.

7. Writ petition has become infructuous and therefore, the same is dismissed. No Costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

dm

To

- 1.The State rep. by its Principal Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai-9.
- 2.The Chairman
Joint Action Committee of Govt. Doctors Association
(JAC-GDA), Madurai.
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+1 cc to The Government Pleader, Advocate Sr.No.10005

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and

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EV(CO)
CSL/05.03.2019