



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No. 6619 of 2019

WEB COPY

1.Senthil Kumar

2.R.Sakunthala

3.Balasubramanian

... Petitioners

Vs

1.The State Represented by
The Principal Secretary Health & Family
Welfare Department,
St.George Fort, Chennai - 9.

2.The Programme Officer,
National Trust,
Ministry of Social Justice & Empowerment,
Government of India,
New Delhi - 100 060.

3.The District Collector,
Tirunelveli District, Tirunelveli.

4.The District Differently Abled Welfare Officer,
Tirunelveli District,
Tirunelveli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 3rd respondent District Collector to take all steps to constitute District local level guardianship appointing committee under the Amended Mental Health Act immediately within the time frame to be fixed by this Court so as to enable the lunatic persons residing in Tirunelveli District to apply for the guardianship to the said committee get it enquired and certificate issued to enable them to get family pension and to grant such further or other relief as this Court thinks fit and proper in the circumstances of this case.

For Petitioners : Mr.P.Senthur Pandian

For Respondents : Mr.K.Mu.Muthu
Addl. Govt. Pleader for R1, R3 & R4

**ORDER**

Three mentally retarded persons filed these writ petitions through their caregivers. Unless certificate of guardianship is issued, it is not possible for the writ petitioners to get the benefit of family pension. It is only the local committee constituted in terms of the National Trust Act, 1999, which can issue the certificate. Section 13 of the said act reads as follows:-

"13. CONSTITUTION OF LOCAL LEVEL COMMITTEES-

(1) The Board shall constitute a local level committee for such area as may be specified by it from time to time.

(2) A local level committee shall consist of-

a) an officer of the civil service of the Union or of the State, not below the rank of a District Magistrate or a District Commissioner of a district.

(b) a representative of a registered organisation; and

(c) a person with disability as defined in clause (f) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996).

(3) A local level committee shall continue to work for a period of three years from the date of its constitution or till such time it is reconstituted by the Board.

(4) A local level committee shall meet at least once in every three months or at such interval as may be necessary."

2.The expression "board" has been defined as the board of trustee under Section 13 of the Act. The second respondent is the "board" within the meaning of the said provision. Therefore, the second respondent is under a statutory duty to constitute the local committee for Tirunelveli District. The second respondent is directed to constitute the District Level Committee in terms of Section 13 of the Act. Such proceedings will be issued within a period of eight weeks from the date of receipt of a copy of this order, if not already constituted. The writ petitioners had earlier moved the second respondent by invoking the provision of RTI Act. The second respondent by communication dated 19.02.2019, had quoted the aforesaid legal provision i.e., Section 13(2) of the Act. The communication does not any where state that the Local Level committee has actually been constituted. The learned Additional Government Pleader appearing for the third respondent states that the Local Level Committee has not been constituted. That is why, this Court is constrained to issue the direction as indicated above.



The writ petition is allowed by directing the second respondent to constitute the Local Level Committee in terms of Section 13(2) of the Act as far as Tirunelveli District is concerned.

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Sd/-

Assistant Registrar (CO)

/ True Copy /

Sub Assistant Registrar(CS)

To:

- 1.The Principal Secretary Health & Family
Welfare Department,
St.George Fort,
Chennai - 9.
 - 2.The District Collector,
Tirunelveli District,
Tirunelveli.
 - 3.The District Differently Abled Welfare Officer,
Tirunelveli District,
Tirunelveli.
- +1 CC to M/s.P.SENTHUR PANDIAN, Advocate
(SR-63570[F] dated 27/04/2019)
- +1 CC to M/s.SPL GP (SR-63963[F] dated 29/04/2019)

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