

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.NO.9327 OF 2020

AND

W.M.P.NO.11405 OF 2020

TamilNadu Association for the Rights
of All Types of Differently Abled
and Caregivers TARATDAC
Rep.by its State Secretary
S.Namburajan Reg.No.29/2010
No.69 V.G.P.Road,
Saidapet, Chennai.

... Petitioner

Vs

1. The Secretary to Government,
State of Tamil Nadu,
Department of Health and Family Welfare,
Fort St.George, Chennai-600 009.
2. The Commissioner,
Greater Chennai Corporation Rippon Building,
Chennai 600 003.
3. The Director,
Institute of Mental Health, Kilpauk,
Chennai-600 010.
4. The State Commissioner of Differently Abled,
State of Tamil Nadu, No.5,
Kamarajar Salai, Chennai 600 005.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents (i) To treat the inmates of the 3rd respondent institute who are tested Covid positive and having symptoms in a separate ward with treatment facilities in the Rajiv Gandhi Government Hospital or the newly constructed covid care Hospital at Guindy King Institute (ii) To treat inmates of the 3rd respondent institute who are tested Covid positive but

asymptomatic persons in an isolation ward in the 3rd respondent institute itself.

For Petitioner .. Mr.K.C.Karl Marx

For Respondents .. Mr.G.K.Muthukumar,
Spl.Govt. Pleader
for R1, R3 and R4
Mr.Raja Srinivas for R2

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

This public interest litigation has been filed by the petitioner seeking appropriate direction that the inmates of the third respondent Institute who are tested positive for COVID-19 will have to be treated in a separate ward. A further prayer has been sought for to give treatment to the asymptomatic patients also in isolation ward in the third respondent Institute itself.

2. The petitioner in substance seeks a separate and exclusive treatment for those who are having mental ailment at the third respondent Institute.

3. Learned Special Government Pleader appearing for respondents 1, 3 and 4 submitted that the doctor who examines the patient on ground would take a call in this regard. Therefore, a decision would be made based upon the nature of ailment already being suffered by a patient who tests positive for COVID-19. On that basis, he would be either taken to the Care centre, Covid care hospital or the Covid hospital. Thus, it depends upon the nature and severity of the ailment.

4. Learned counsel appearing for the petitioner, by way of reply, submitted that inmates of the third respondent will have to be tested first. Therefore, until and unless the said exercise is done, no one would know as to whether they are tested positive or not.

5. Learned counsel appearing for the petitioner also further submitted that there may be a case where a child having autism might require the assistance of his parents. In such a case, the child could not be segregated from them and therefore, appropriate direction will have to be issued in this regard.

6. On this issue, we leave it to the doctor who gives treatment to take a call. We expect that the doctor and the respondents to keep in mind the condition of the patient and take a decision.

7. Taking note of the submissions made, we direct the respondents to conduct the test for all the inmates of the third respondent, who are suffering from mental ailment, within a period of one week from the date of receipt of a copy of this order. Those persons stand on a different footing as they may not be in a position to express and inform their ailment. Those who are tested positive are to be given adequate treatment based upon their physical condition such as asymptomatic, mildly symptomatic, moderately symptomatic and severe symptomatic and co morbidities. Based upon the same, the Doctor, who examines such a person will have to take a call on the admission to be made in the Care centre, Covid Care Hospital or the Covid Hospital as the ailment would decide the place in which the treatment is to be given and the facilities attached to it. Needless to state that the respondents should keep in mind the condition of a mentally challenged persons which might include a separate treatment. We do not wish to elaborate as we expect the doctors to take care of the aforesaid position.

8. With the above observation, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1. The Secretary to Government
State of Tamil Nadu, सत्यमेव जयते
Department of Health and Family Welfare,
Fort St. George,
Chennai-600 009.
2. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai 600 003.
3. The Director,
Institute of Mental Health Kilpauk,
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4. The State Commissioner of Differently Abled,
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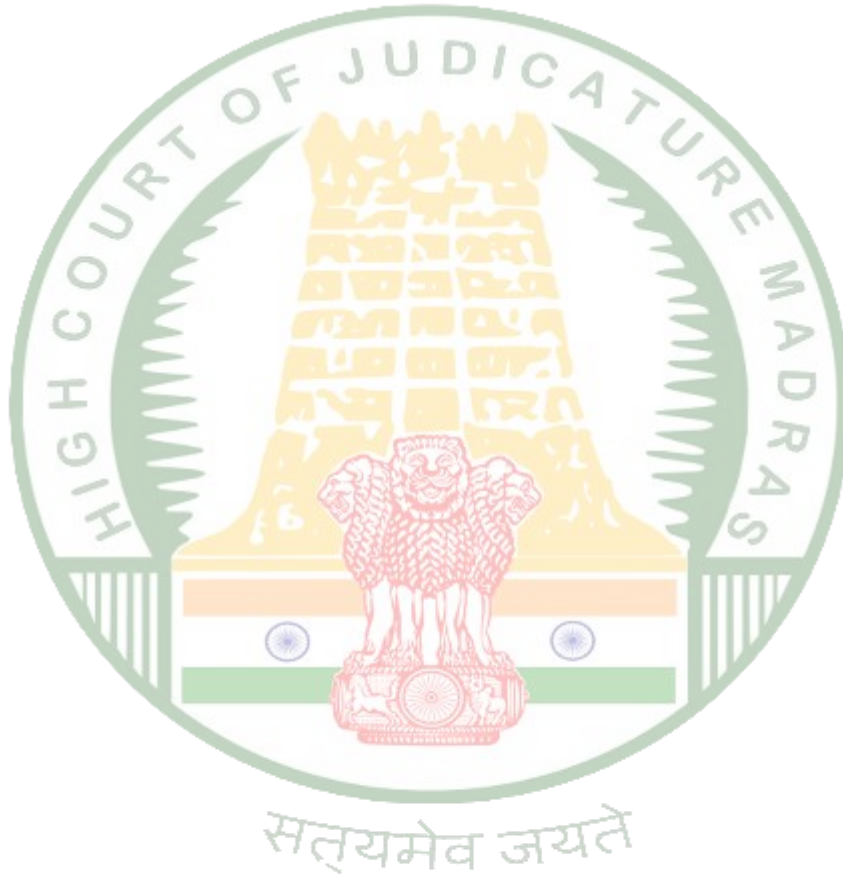
+1cc to the Government Pleader, S.R.No. 24899

W.P.No.9327 of 2020

AND

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BR(CO)
CS/22/07/2020



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