

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.01.2020

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.26140 of 2019

V.Manikandan

.. Petitioner

..Vs..

1.The Medical Superintendent,
Katchur Primary Health Centre,
Katchur, Tiruvallur District,
Tiruvallur - 602 026

2.Deputy Director of Health Services,
No.54/5, Assoor St., Tiruvallur H.O,
Tiruvallur - 602 001.

3.The Mission Director,
National Health Mission,
DMS Annex Building,
DMS campus, 5th floor,
Anna Salai, Teynampet,
Chennai - 600 006.

4.Secretary to Tamilnadu Government,
Health and Family Welfare Department,
Secretariat, Fort St George,
Chennai - 600 009.

5.The President,
Tamilnadu Medical Council,
No.914, Poonamallee High Road, Arumbakkam,
Chennai - 106.

R5 impleaded as per order dated
24.09.2019 in W.M.P.No.27121 of
2019 in W.P.No.26140 of 2019 by
PDAJ.

6.The Directorate of Public Health,
Government of Tamil Nadu,
No.359, DMS Campus, Anna Salai,
Teynampet West, Chennai - 600 006.

.. Respondents

R6 impleaded as per order dated 01.11.2019 made in
W.M.P.No.29215 of 2019 in W.P.No.26140 of 2019 by PDAJ.

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the authority for severe disciplinary action against medical negligence of the Doctors and Medical assistant of the 1st respondent which causes severe damage to cells in brain and nervous system condition of the child and also give treatment to rectify the condition without charging medical fees for the hi-fi treatment.

For Petitioner : Mr.S.Venugopal

For R1 to R4 : Mr.R.Govindasamy
Spl. Government Pleader

For R5 : Mr.G.Sankaran

ORDER

The Writ Petition has been filed in the nature of Writ of Mandamus, seeking disciplinary action for medical negligence of the Doctors and Medical Assistant of the 1st respondent namely, the Medical Superintendent, Katchur Primary Health Centre in Tiruvallur District which caused, according to the petitioner damage to the cells in the brain and nervous system of the child of the petitioner herein.

2. The child of the petitioner was born in the home on 11.02.2019 at 1.00 a.m. Thereafter, around 10.30 a.m the mother and the child went to the Katchur Primary Health Centre at Tiruvallur District. The loss of the time from the time of birth and the date of arrival at the hospital has turned out to be very crucial and it is the grievance of the learned counsel for the petitioner that the Hospital Authorities in the 1st respondent had not properly treated the mother and the child in the first instance. Subsequently, the child was shifted, with the help of Government ambulance, to the 3rd respondent namely, National Health Mission, Special New Born Care Unit and it is complained that there was again failure to treat the child properly. Now the child is taking treatment at Children Hospital, Egmore, Chennai.

3. By order of this Court, the Tamil Nadu Medical Council and the Directorate of Public Health, Government of Tamil Nadu were also impleaded as respondents 5 and 6. The learned counsel for the 5th respondent has filed a report stating that the child was admitted to the Children Hospital, Egmore, Chennai, on 14.12.2019 where the treatment is given as on date.

4. An affidavit has also been filed by Doctor R. Shanmugam, the Registrar of the Tamil Nadu Medical Council, Chennai, who has stated the history of the medical treatment which has been given and has finally stated as follows:

"10.However to arrive at a conclusion as to whether there is any civil negligence in this case, the original case sheets are to be examined and the treating Doctors and the complainant are to be heard in person by the Disciplinary Committee of this Council and then arrive at a final decision and it may take minimum two months to arrive at the final decision and to report."

5. In view of the fact that as on date treatment is being afforded for the child at the Children Hospital, Egmore, Chennai, and on the basis of the affidavit extracted above that a decision would be taken with respect to initiation of disciplinary proceedings for the medical negligence if any found, I hold no further orders are required in the Writ Petition. It is needless to point out that more than taking action against the Doctors for medical negligence if any, the paramount necessity is to ensure the safety of the mother and the child and ensure that the child is taken care properly and to the best extent possible.

6. The learned counsel for the petitioner stated that though care is afforded to the child, there could be some more upgrading of the care taken. In this connection it is hoped that the concerned medical Doctors would bestow their professional knowledge and personal attention for the welfare of the child and give the best treatment possible for the child at the Children Hospital Egmore, Chennai. The 5th respondent may proceed with his enquiry in accordance with law as per the affidavit extracted above.

7. The Block Medical Officer Dr.S. Ramachandran, is present in Court, whose presence is acknowledged.

8. With these observations, the Writ Petition stands disposed of. No orders as to cost.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

smv

To,

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Katchur, Tiruvallur District,
Tiruvallur - 602 026

2.Deputy Director of Health Services,
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No.359, DMS Campus, Anna Salai,
Teynampet West, Chennai - 600 006.

+1cc to Mr.G.Sankaran, Advocate SR.No.2879

+1cc to Mr.D.Giribabu, Advocate SR.No.2599

+1cc to Government Pleader SR.No.3486

W.P.No.26140 of 2019

SR(CO)
GMY(11/02/2020)

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