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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 26985 of 2013

and

M.P.No.1 of 2013

and

W.M.P.No.1673 of 2018

1. Dr.P.Rammohan

2. Dr.R.Kalavalli

... Petitioners

Vs.

1. The Joint Director of Health Services,
Thiruvallur, Thiruvallur District.

2. Mala

3. The Tamil Nadu Medical Council,
No.914, Poonamalle High Road,
Arumbakkam,
Chennai - 106

(R3 Suo Motu impleaded vide order

dated 25.10.2021 in W.P.No.26985 of 2013)

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records relating to Na.Ka.No.3384/ Ni2/2013 dated 4.9.2013 on the file of the first respondent herein and quash the same.

For Petitioners :Mrs.Zeenath Begum

For Respondents :M/s.N.Senthilselvi
Government Advocate [For R1]

Mr.R.Rajan
[For R2]

Mr.G.Sankaran
[For R3]



O R D E R

The relief sought for in the present writ petition is to quash the notice issued to the writ petitioners calling of an enquiry in proceedings dated 04.09.2013.

2. The main contention raised on behalf of the petitioners is that, the Joint Director of Health Services has no jurisdiction to conduct an enquiry in respect of the allegations of medical negligence as the Joint Director is an officer of the State Government and therefore, the writ petition is to be allowed.

3. Further, it is contended that the petitioners are private medical practitioners and therefore, they are not amenable to the jurisdiction of the Joint Director of Health Services.

4. This Court is of the opinion that there is a force on the contention raised on behalf of the petitioners. Admittedly, the writ petitioners are private medical practitioners therefore, the Joint Director of Health Services of the Medical Department of the Government of Tamil Nadu has no jurisdiction to conduct an enquiry in respect of the allegations of medical negligence against the private medical practitioners. Under these circumstances, the Tamil Nadu Medical Council was Suo Motu impleaded by this Court to enquire into the allegations raised against the petitioners. Accordingly, Mr.G.Sankaran appeared for the Tamil Nadu Medical Council, who in turn, submitted a copy of the letter dated 29.10.2021 addressed Joint Director of Health Services, with the request to send the copy of the records, enabling them to take a decision.

5. In this view of the matter, the first respondent / Joint Director of Health Services, Thiruvallur District, is directed to handover the copy of records relating to his file Na.Ka.No.3384/Ni2/2013 and along with all relevant records to the third respondent-Tamil Nadu Medical Council within a period of two (2) weeks from the date of receipt of the copy of this order. On receipt of the files, the 3rd respondent is directed to initiate all appropriate actions by following the procedures as contemplated as expeditiously as possible and without causing any undue delay in dealing with such complaints of medical negligence.



6. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

nti/kak

To

1. The Joint Director of Health Services,
Thiruvallur, Thiruvallur District.

2. The Tamil Nadu Medical Council,
No.914, Poonamalle High Road,
Arumbakkam,
Chennai - 106.

+lcc to Mr.G.Sankaran, Advocate Sr.63867
+lcc to Mrs.Zeenath Begum, Advocate Sr.63187
+lcc to the Government Pleadeer Sr.63487

W.P.No.26985 of 2013

gpl[col]
srg 16/12/2021