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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-11-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.3603 of 2012

Kovai Medical Center And Hospital Ltd.,
Represented by its Director/Authorised Person,
Post Box No.3209,
Avanashi Road,
Coimbatore - 641 014.

..

Petitioner

vs.

1. Directorate General of Health Services,
Represented by the Director General,
(Medical General Section),
Nirman Bhavan,
New Delhi.

2. The Deputy Director General (M),
Directorate General of Health Services,
Nirman Bhavan,
New Delhi.

3. Additional Deputy Director General (BRS),
Directorate General of Health Services,
Nirman Bhavan,
New Delhi.

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Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the case in impugned order in No.C-18018/o5/2001-MG-PH (CDL) dated 27.12.2011, passed by the third respondent herein and to quash the same as arbitrary and illegal and consequently direct the respondents to make available for cross-examination Dr.J.Balasubramaniam, the then Officer of the State Health Authority who has given the Inspector Report dated 20.09.2000 which forms the basis of the proceedings before the respondents and only thereafter proceed to hear.



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For Petitioner : Mr.Rahul Balaji

For Respondents-1 to 3 : Mr.K.Venkatasamy Baabu,
Senior Panel Counsel.

O R D E R

The order dated 27.12.2011 passed by the third respondent is sought to be quashed in the present writ petition on the ground that the petitioner was not permitted to cross-examine Dr.J.Balasubramaniam, State Health Authority, who submitted an Inspection Report on 20.09.2000, which forms the basis for initiation of proceedings against the petitioner.

2. The learned counsel for the petitioner made a submission that the findings in the Inspection Report are contrary to the facts and the petitioner must be provided with an opportunity to rebut the findings made in the Inspection Report by the Health Authority of the State Government.

3. In this context, the learned counsel for the petitioner reiterated that an opportunity of cross-examining the Authority must be provided. Since the said opportunity is not provided, the petitioner is constrained to move the present writ petition.

4. This Court is of the considered opinion that the administrative actions initiated by conducting an inspection and submitting a report is only for the purpose of initiation of actions and on initiation only the aggrieved person gets the right to defend his case. Mere report will not be a cause for claiming an opportunity to cross-examine the Authority.

5. If at all the petitioner is of an opinion that some of the findings in the Inspection Report is incorrect, it is for him to submit all the relevant documents and evidences to rebut the findings made in the Inspection Report.

6. Contrarily, the Inspection Report submitted by the State Authorities, which is the administrative action, cannot provide the opportunity of cross-examining such Authority and such a procedure is not contemplated and in the event of allowing such procedure, it may not be possible for the Administrative Authorities to perform their public duties in accordance with the Statute.



7. In view of the fact that the petitioner pleads that they are possessing the documents to disprove the Inspection Report, an opportunity to that extent is to be provided. Accordingly, the petitioner is at liberty to submit the documents/objections/explanations, including legal submissions, within a period of four weeks from the date of receipt of a copy of this order and on receipt of any such documents/objections/explanations, including legal submissions, the respondents shall consider the same and take a decision on merits and in accordance with law and pass appropriate orders as expeditiously as possible and preferably, within a period of three months from the date of receipt of documents/objections/explanations, including the legal submissions from the petitioner.

8. With the abovesaid liberty, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

Svn

To

1.The Director General,
Directorate General of Health Services,
(Medical General Section),
Nirman Bhavan,
New Delhi.

2.The Deputy Director General (M),
Directorate General of Health Services,
Nirman Bhavan,
New Delhi.

3.The Additional Deputy Director General (BRS),
Directorate General of Health Services,
Nirman Bhavan,
New Delhi.

+1cc to Mr.Rahul Balaji, Advocate SR.No.59844

WP 3603 of 2012

GPL(CO)

CB(01/12/2021)