



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. NO. 13986 OF 2021

AND

W.M.P. NOS. 14859 & 14860 OF 2021

Dr.V.Kavitha

.. Petitioner

Versus

1. The Director of Medical and Rural Health Services,
Chennai - 600 006.
2. The Deputy Director of Medical and Rural Health Services & Family Welfare,
Vellore,
Vellore District.
3. The District Appropriate Authority/
Joint Director of Medical and Rural Health Services,
Vellore,
Vellore District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the impugned Lock and Seal order dated 11.06.2019 passed by the 2nd and 3rd respondents and the consequential impugned order passed by the 1st respondent in Ref.No.23872/E7/2/2021 dated 27.04.2021 and quash the same, consequently, direct the respondents to de-seal the petitioner's USG Scan Centre at Dr.Parvathi Hospital, No.311, Malang Road, Vaniyambadi, Tirupathur District.

For Petitioner : Mr.K.Balu

For Respondents : Mr. Stalin Abimanyu
Government Counsel

O R D E R

With the consent of both sides, this writ petition is taken up for final disposal.



2. The relief sought in the present writ petition is to issue a Writ of Certiorari to quash the Lock and Seal order dated 11.06.2019 passed by the respondents 2 & 3 and also the consequential order passed by the first respondent in Ref.No.23872/E7/2/2021 dated 27.04.2021 and to direct the respondents to de-seal the petitioner's USG Scan Centre at Dr.Parvathi Hospital, No.311, Malang Road, Vaniyambadi, Tirupathur District.

3. The petitioner is a registered medical practitioner, Gynaecologist & Obstetrician who runs an Ultrasound (Sonography) Scan Centre in the name and style of Dr.Parvathi Hospital at Vaniyambadi, only for the purpose of detecting abnormalities or certain congenital malformations or sex-linked disorders etc. Her mother Dr. Parvathi is the founder of the said Hospital and after her death, the petitioner is running the said Hospital. The said Scan Centre was registered under the provisions of Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 (hereinafter referred to as 'Act'). While so, on 11.06.2019, the respondents 2 & 3 conducted an inspection in the said hospital and they found three violations at the Ultra Sound Diagnostic Centre, due to which, they sealed the entire Hospital premises. Consequently, a Show Cause Notice was issued to the petitioner in Proc.No.3841/A3/2019 dated 05.09.2019, to which, she submitted a detailed explanation on 11.09.2019. Thereafter, on 16.01.2021, she preferred an Appeal before the first respondent herein. During the pendency of the said appeal, she filed a writ petition in W.P.No.7603 of 2021, for de-sealing the USG Scan Centre located at her Hospital. This Court vide order dated 15.04.2021, directed the first respondent to pass appropriate orders in the appeal filed by the petitioner, in the light of the earlier order passed by this Court in W.P. No. 7557 of 2018 dated 09.03.2021. But, the first respondent vide proceedings in Ref.No. 23872/ E7/2/2021 dated 27.04.2021, rejected the appeal preferred by the petitioner. Aggrieved by the same, the petitioner has come up with this writ petition.

4. The learned counsel for the petitioner submitted that despite the direction issued by this Court by order dated 15.04.2021 in W.P.No.7603 of 2021 filed by the petitioner, the first respondent without even considering the earlier order passed by this Court in W.P.No.7557 of 2018 dated 09.03.2021, simply rejected the appeal preferred by the petitioner, by the order impugned herein, which is wilful disobedience of the order of this Court. Therefore, the learned counsel prayed that appropriate direction may be issued to the respondents to reconsider the appeal preferred by the petitioner and pass orders afresh, in the light of the order dated 09.03.2021 passed in WP.No.7557 of 2018 in the case of similarly placed person.



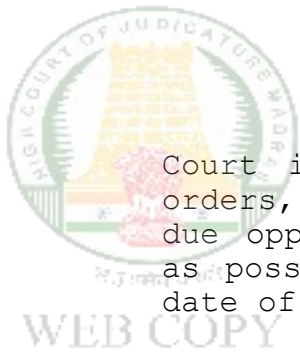
5. On the other hand, the learned Government counsel appearing for the respondents produced a copy of the communication in Ref.No.23872/E7/2/2021 dated 28.09.2021 sent by the first respondent viz., Director of Medical and Rural Health Services, wherein, the learned Government Counsel was requested to get two weeks time for revision of proceedings of the State Appropriate Authority and the Director of Medical and Rural Health Services in Ref.No.23872/E7/2/2021 dated 27.04.2021, in respect of the petitioner and to reissue the same with the merits of the case as per the Act and its Rules. Hence, the learned Government Counsel has no serious objection for granting such relief to the petitioner.

6. Heard the learned counsel on both sides and perused the materials placed before this Court.

7. Concededly, the petitioner's hospital premises was locked and sealed, pointing out certain violations in the ultra sound diagnostic centre, by order dated 11.06.2019. Following the same, a show cause notice dated 05.09.2019, came to be issued, as to why the registration issued to the said hospital should not be cancelled/ suspended, to which, she submitted her explanation. Besides this, she filed an appeal dated 16.01.2021 before the first respondent. By order dated 15.04.2021 passed in WP.No.7603 of 2021, filed by the petitioner, the said appeal was directed to be disposed of, by the first respondent, in the light of the order dated 09.03.2021, in WP.No.7557 of 2018, wherein, this court, following the decision of the Apex Court in Nevada Properties Pvt. Limited v. the State of Maharashtra [AIR 2019 SC 4554], to the effect that 'in case of commission of any criminal offence under Section 102 Cr.P.C, the respondents are empowered to only seize movable properties and they do not have the power to seal immovable properties', quashed the similar lock and seal notice and allowed the said writ petition. Without considering the said order dated 09.03.2021, as directed by this court in WP.No.7603 of 2021, the first respondent passed the order dated 27.04.2021 rejecting the petitioner's appeal, which in the opinion of this court, cannot be countenanced.

8. Now, the first respondent sent a communication dated 28.09.2021 to the learned Government counsel appearing for the respondents, intimating that the proceedings dated 27.04.2021 issued in respect of the petitioner, which is impugned herein, would be reconsidered on merits and as per the PCPNDT Act, 1994 and its Rules.

9. In view of the above, this Court deems it appropriate to direct the first respondent to reconsider the appeal filed by the petitioner, in the light of the earlier order passed by this



Court in W.P.No.7557 of 2018 dated 09.03.2021 and pass fresh orders, on merits and in accordance with law, after affording due opportunity of hearing to the petitioner, as expeditiously as possible, preferably, within a period of two weeks from the date of receipt of a copy of this order.

10. This Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrr/rsh

To

1. The Director of Medical and Rural Health Services,
Chennai - 600 006.
2. The Deputy Director of Medical and Rural Health Services & Family Welfare,
Vellore,
Vellore District.
3. The District Appropriate Authority/
Joint Director of Medical and Rural Health Services,
Vellore,
Vellore District.

+1cc to Mr.K.Balu, Advocate, S.R.No.50570
+1cc to the Government Pleader, S.R.No.50905

WP No. 13986 of 2021

SJ(CO)
PM/11/10/2021