



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.10.2021

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CORAM:

THE HONOURABLE Mr. JUSTICE M.SUNDAR

W.P.No.18103 of 2021 and
W.M.P.Nos.19329 & 20860 of 2021

N.A.Abu Thahir
Managing Director,
Abu Estate Pvt. Ltd.,
No.926, Poonmallee High Road,
Chennai - 600 084.

...Petitioner

Vs.

1. The Commissioner,
Greater Corporation of Chennai
Rippon Building,
Chennai - 600 003.
2. The Revenue Officer,
(Revenue & Finance Department),
Greater Corporation of Chennai,
Rippon Building, Chennai - 600 003.
3. Designated Officer,
O/o.Food Safety Office,
No.33, West Jones Road,
Saidapet, Chennai - 600 015.
4. The Commissioner of Food Safety,
O/o. Commissioner of Food Safety,
5th Floor, DMS Complex,
259, Anna Salai,
Teynampet, Chennai - 600 006.
5. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.

(R5 - Suo motu impleaded vide order dt 28/09/2021)

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus forbearing the respondents 1 and 2 from taking any coercive measures to collect the property tax arrears pertaining to the 'Hotel Abu Sarovar



Portico' (Abu Palace) at No.926, Poonamallee High Road, Chennai - 600 084, until the 3rd and 4th respondents pays the amount due to the petitioner.

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For Petitioner : Mr.P.Sesubalan Raja

For Respondents : Ms.Amirta Dinakaran
State Counsel (for R2 to R4)

: Ms.S.Vaitheeswari (for R1)
Standing counsel for Corporation

ORDER

This common order will govern the captioned main Writ Petition and the two 'Writ Miscellaneous Petitions' ('WMPs' in plural and 'WMP' in singular for the sake of convenience and clarity).

2. At the outset, WMP.No.20860 of 2021 which has been filed with a prayer to implead the three Medical Institutions will stand closed as unnecessary owing to the stated position of the fifth respondent viz., Director of Medical Education which will be alluded to elsewhere infra in this order.

3. Read this in conjunction with and in continuation of earlier proceedings made in the previous listings on 01.09.2021 and 28.09.2021 which read as follows:

'Order dated 01.09.2021:

Mr.P.Sesubalan Raja, learned counsel for sole writ petitioner is before this Virtual Court.

2. Adverting to paragraph No.10 of the writ affidavit, learned counsel submits that at the request of respondents 3 and 4, the hotel i.e., 'Hotel Abu Sarovar Portico' accommodated Doctors who were on duty in Corona wards on certain specific terms of arrangements. Payments in this regard has delayed is his say. This delay has a cascading effect on the payment of property tax to respondents 1 and 2 and therefore, the property tax payable as set out in paragraph No.7 of writ affidavit got delayed is his further say. Learned counsel drew the attention of this Court to paragraph No.8 of writ affidavit and submitted that the writ petitioner and company in which writ petitioner is director i.e., company which runs the hotel were put to serious inconvenience.



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3. This writ petition is being entertained as a one off exception owing to larger public cause for which the property was made available i.e., accommodating Doctors who were on duty in Corona wards during the peak of epidemic which is referred to as 'Covid 19' and which none could portend or presage. Therefore, it is made clear that this writ petition being entertained will not serve as precedent.

4. Be that as it may, Ms.Vaitheeswari, learned standing counsel for Chennai Corporation accepts notice on behalf of respondents 1 and 2 and Ms.Amirta Dinakaran, learned State counsel accepts notice on behalf of respondents 3 and 4.

5. Learned State counsel for respondents 3 and 4, on instructions, submitted that payments have been cleared till April 2021 and thereafter, monies have to be paid by the respective medical institutions directly to writ petitioner i.e., hotel. In this regard, learned counsel for writ petitioner draws the attention of this Court to Page Nos.7, 8 and 9 of the typed set of papers which are three bills raised by writ petitioner on three different medical institutions. The terms of arrangements between respondents 3 and 4 and writ petitioner and change in the arrangements post April 2021 (if any) may have to be looked into. To be noted, if it is not before this Court and counsel undertake to circulate the same. Further to be noted, arrangement qua accommodation to Doctor serving in Corona Wards is not disputed.

6. Learned counsel for writ petitioner and respondents' counsel seek time to get instructions on above and revert to this Court so as to examine the possibility of directing the dues from medical institutions to be paid directly by respondents 3 and 4 to respondents 1 and 2 to clear property tax arrears and to pay balance if any to writ petitioner. To be noted, on instructions, learned counsel for writ petitioner submits that writ petitioner is agreeable to such a course if it is feasible.

7. Learned standing counsel for respondents 1 and 2 to get instructions on the averments articulated in paragraph No.8 of writ affidavit and revert to this Court.



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8. In the light of the narrative thus far, respondents 1 and 2 shall not take any coercive steps between now and next listing which will be on Monday.

9. List in the 'Admission Board' on Monday i.e., on 06.09.2021.'

Order dated 28.09.2021:

'The stated position of Tamil Nadu Food Safety and Drug Administration Department vide communication dated 09.09.2021 bearing reference R.No.6635/2021/S13/FSD, which reads as follows:

TAMIL NADU FOOD SAFETY AND DRUG ADMINISTRATION DEPARTMENT

From
Dr. P. Senthil Kumar, I.A.S.,
Commissioner (F&D),
Food Safety and Drug
Administration Department,
DWS Campus,
No.225, Anna Salai,
Chennai-600 005.

To
The Director of Medical Education,
Directorate of Medical Education,
Kilpauk,
Chennai-60

R. No.6635/2021/S13/FSD Dated: 09.09.2021.

Sr.

Subj: TN Food Safety Department - W.P.No.18103 of 2021 filed by N.A. Abu Thahir, for not called the provision of Food and accommodation to the Covid-19 treated Doctors, Nurses and Other Health Workers-Regarding.

Ref: 1. Govt.Lt.No.14074/M-1/2021-1 dated 27.04.2021, Health and Family Welfare Department
2. This Office R.No.2535/2020/S13/F&D dated 08.09.2021 and 31.05.2021
3. W.P.No.18103 of 2021 in the High Court of Madras filed by petitioner N.A. Abu Thahir, Director, Abu Exista Pvt.Ltd., No.226, Poonamallee High Road, Chennai-600 084

I bring your kind attention of references 1st and 2nd cited, it has been informed that all the Government Medical Institutions treating Covid-19 patients may make necessary arrangements to provide food and accommodation to Doctors, Staff Nurses, and other health workers working in COVID-19 isolation wards of various Government Institutions at their level, and get allocation of funds from Government for the purpose through their Heads of Department from March 2021.

In the reference 2nd cited, the petitioner N.A. Abu Thahir, Director, Abu Exista Pvt.Ltd., No.226, Poonamallee High Road, Chennai-600 084 has filed a writ petition in Honble High Court of Madras - basically the bill for Rs.1,20,25,000/- for accommodation Doctors for the period from 05.08.2021 to 28.07.2021 in which bills were sent to you but not yet closed the bills towards the petitioner. Hence, it is requested to make necessary arrangements to settle the bills of petitioner as per order vide reference 1st cited.

Copy to
N.A. Abu Thahir
Director,
Abu Exista Pvt. Ltd.,
No. 226, Poonamallee High Road,
Chennai-600 084.

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2. Therefore, the Director of Medical Education, Directorate of Medical Education, Kilpauk, Chennai-600 010 is suo-motu impleaded as fifth respondent in the captioned writ petition. Ms.Amirta Dinakaran, learned



State counsel accepts notice for the impleaded fifth respondent and seeks time to get instructions and revert to this Court. Registry to carryout necessary and consequential amendments in the case file.

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3. List on Monday (04.10.2021).'

4. Pursuant to earlier proceedings made in the previous listing on 28.09.2021, consequential amendments qua the fifth respondent being impleaded have been made and learned State Counsel Ms.Amirta Dinakaran who accepted notice on behalf of the fifth respondent submits that she has received written instructions from the fifth respondent and learned counsel volunteered to share the written instructions with the Court and a scanned reproduction of the same is as follows:



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MEDICAL EDUCATION DEPARTMENT

From

Dr. R.Narayanababu, M.D., DCH.,
Director of Medical Education,
Kilpauk, Chennai – 600 010.

To

✓ The Government Pleader
Government High Court of Madras,
Chennai – 600 04.

Ref.No: 23461/H&D2(3)/2021, Dated: 01.10.2021.

Sir,

Sub: Hospital and Dispensaries – W.P.No.18103 of 2021 and
Wmp.No.20860 and 19329 of 2021 filed by Thiru. N.A. Abuthahir,
Chennai before the Hon'ble High Court of Madras – Reply furnished
– Regarding

- Ref: 1) Government Letter No.14574/M-1/2021-1, dated: 27.04.2021,
Health and Family Welfare Department.
2) Letter R.No.6635/2021/S13/FSD, Dated: 09.09.2021 of the
Commissioner, Food Safety and Drug Administration
Department.
3) Directions received from Hon'ble High Court of Madras, Chennai
Dated: 28.09.2021.
4) This office reference even no dated: 20.09.2021(addressed to the
Government.

With reference to the instructions issued by the Hon'ble High Court in
W.P.No.18103 of 2021 on 28.09.2021, I am to state that the Director Medical Education
has been suo-motu impleaded as 5th respondent in the above case and has been
instructed to get instruction in this regard.

On perusal of the affidavit, I am to state that during the lockdown all the Head of
the Institutions were requested to provide accommodation to the Doctors and other
staffs who were on duty in the Corona Wards to prevent the spread of COVID-19.

The expenditure incurred towards the provision of food and accommodation to
the above Medical and Para Medical Staff were settled through the Food Safety and
Drug Administration Department till February 2021.

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5. The penultimate paragraph of the written instructions is of utmost relevance and significance as it says that the entire consideration is likely to be settled by 31st October, 2021.

6. The above draws the curtains on the captioned main Writ Petition and W.M.P.No.19329 of 2021 (interim injunction prayer) therein.

7. Captioned Writ Petition will now stand disposed of recording the stated position of the fifth respondent.

8. All other observations made in earlier proceedings on 01.09.2021 and 28.09.2021 will stand [more particularly Paragraph 3 of the proceedings/orders dated 01.09.2021].

9. The demand for property tax qua writ petitioner's property will now be kept in abeyance for five weeks from today i.e., upto 08.11.2021.

10. Thereafter if the tax remains unpaid, it is open to the Chennai Corporation more particularly respondents 1 and 2 to proceed in accordance with law.

11. Accordingly, the captioned Writ Petition stand disposed of. Consequently, connected miscellaneous petitions are disposed of as mentioned in this order. No costs.

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

Sgl

To

1. The Commissioner,
Greater Corporation of Chennai
Rippon Building, Chennai - 600 003.
2. The Revenue Officer,
(Revenue & Finance Department),
Greater Corporation of Chennai,
Rippon Building, Chennai - 600 003.
3. Designated Officer,
O/o.Food Safety Office,
No.33, West Jones Road,
Saidapet, Chennai - 600 015.



4. The Commissioner of Food Safety,
O/o. Commissioner of Food Safety,
5th Floor, DMS Complex,
259, Anna Salai,
Teynampet, Chennai - 600 006.

5. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.

+1 CC to The Government Pleader sr 52467.

W.P.No.18103 of 2021

EV(CO)
SP(22/10/2021)