



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.5738 of 2021

and W.M.P. (MD) Nos.4524 & 4525 of 2021

(Through Video Conference)

T.Rani

...Petitioner

Vs.

1) The District Collector,
The Collectorate,
Theni-Madurai Highway,
Karuvel,
Bommi Nayakan Patti,
Theni District 625 531

2) The Joint Director of Medical
& Rural Health Services,
Periakulam, Theni District.

3) The District Appropriate Authority,
TNCEA & PCPNDT Act,
Office of the Joint Director of
Medical & Rural Health Services,
Periakulam, Theni District.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Y-Notice dated 05.02.2021 of the 2nd respondent in Na.Ka.No.5959/Ni.Pi5/2018 and the impugned Notice dated 18.02.2021 of the 3rd respondent and Quash the same consequently directing the 2nd and 3rd Respondents to permit the petitioner to use the demised building, by opening the lock and seal of the sealed building.

For Petitioner : Mrs.L.Victoria Gowri

For Respondents : Mr.S.Angappan,
Government Advocate

O R D E R

This Writ Petition has been filed challenging the impugned notice dated 05.02.2021 issued by the second respondent and the subsequent notice issued by the third respondent dated 18.02.2021 directing the premises to be kept under Lock and Seal and for a consequential direction to the second and third respondents to permit the petitioner to use the premises.

2. When the matter came up for hearing on 21.04.2021, this Court passed the following order:-

<https://hcservices.ecourts.gov.in/hcservices/>



"The learned counsel appearing for the petitioner submitted that her husband, who is a Siddha Medicine Doctor, is not practising and he is bed ridden. The learned counsel further submitted that her husband has never run a Fertility Clinic in the subject property and even the son of the petitioner has only completed M.B.B.S. Therefore, neither the husband of the petitioner nor her son have the qualification to run a Fertility Clinic. She also took a specific stand that the pamphlet that has been relied upon by the respondents was not printed by the petitioner or her husband and no such pamphlet was distributed. She further submitted that the second floor of the premises has been sealed and there are no instruments that are available inside the premises to justify the stand taken by the respondents that a Fertility Clinic is being run by the petitioner in the said premises. It was further submitted that an affidavit will be filed before this Court undertaking that the husband of the petitioner neither intended to run any Hospital nor will run in future in the premises. The learned counsel requested this undertaking affidavit to be considered for the purpose of directing the respondents to remove the seal.

2. Registry is directed to post this case on 23.04.2021 under the caption "For Orders".

3. When the matter was taken up for hearing today, the learned counsel for the petitioner submitted that an undertaking affidavit is filed by the petitioner as per the directions issued by this Court and the petitioner undertakes not to run any Hospital in the premises, without obtaining proper permission from the concerned Authorities.

4. The relevant portion in the undertaking affidavit is extracted hereunder:-

"12. I further humbly submit that, under such circumstances, I fully undertake before this Hon'ble court that I will neither run any hospital in any of the floor of my building bearing Door No.8/346-A, situated at Theni Main Road, Near Kamarajar University, situated in 55cents land comprised in Survey Nos.2341/4 and 2341/3 of Thimmarasanayakkanur Village, Aundipatty Taluk, Theni District, in future without obtaining proper permission from all the concerned departments nor do I intend to use the said premises for running a hospital immediately by all means. In clear terms I undertake that I will not run a hospital at all without proper permission in the said building. "



5. The learned Government Advocate appearing on behalf of the respondents submitted that the respondents will comply with the directions issued by this Court and the petitioner must be further directed to participate in the proceedings initiated by the second respondent. In reply to the said submission, the learned counsel for the petitioner submitted that the petitioner will participate in the enquiry conducted by the second respondent and will submit all the relevant documents to substantiate the defence taken by the petitioner.

6. This Court has carefully considered the submissions made on either side and also the materials available on record and the undertaking affidavit filed by the petitioner.

7. Insofar as the notice issued by the second respondent dated 05.02.2021 calling upon the petitioner to attend the enquiry is concerned, this Court is not inclined to interfere with the said notice and the petitioner has to necessarily attend the enquiry and submit her explanation along with all the relevant materials. This Court wants to entertain this writ petition only for the limited scope of considering the plea made by the learned counsel for the petitioner seeking for the removal of the Lock and Seal, considering the undertaking affidavit filed by the petitioner.

8. On going through the undertaking affidavit filed by the petitioner and upon hearing the submissions made by the learned counsel for the petitioner, this Court is satisfied that the petitioner will not run any Clinic or Hospital, in the premises in question, without obtaining proper permission from the concerned Authorities. In view of the same, there shall be a direction to the third respondent to remove the Lock and Seal that has been put up in the premises and permit the petitioner to use the premises for residential purposes. This process shall be carried out by the third respondent immediately on receipt of the copy of this order.

9. The petitioner is directed to submit her explanation along with all the relevant materials for the notice issued on 05.02.2021 by the second respondent on or before 07.05.2021. The second respondent shall consider the same, after affording an opportunity to the petitioner and shall pass orders strictly in accordance with law within a period of six (06) weeks thereafter.

10. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

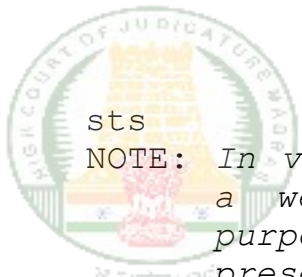
Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To:

- 1) The District Collector,
The Collectorate,
Theni-Madurai Highway,
Karuvel,
Bommi Nayakan Patti,
Theni District 625 531
- 2) The Joint Director of Medical
& Rural Health Services,
Periakulam, Theni District.
- 3) The District Appropriate Authority,
TNCEA & PCPNDT Act,
Office of the Joint Director of
Medical & Rural Health Services,
Periakulam, Theni District.

+1 CC to M/s.L.VICTORIA GOWRI, Advocate (SR-17278[F] dated 23/04/2021)

+1 CC to M/s.SPL GP (SR-17583[F] dated 26/04/2021)

Order made in
W.P. (MD) No.5738 of 2021

Dated:
23.04.2021

RK (27.04.2021) 4P 6C