



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 16.07.2021**

**CORAM:**

**THE HON'BLE MR.JUSTICE N.ANAND VENKATESH**

**W.P. (MD).No.11998 of 2021**

WEB COPY  
S.Malliga

... Petitioner

**Vs.**

The Chairman / District Collector,  
Local Level Committee,  
Under National Trust Act - 1999,  
Sivaganga District, Sivaganga.

... Respondent

**Prayer:** Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus directing the respondent to appoint the petitioner S.Malliga, W/o.Late Shanmugam (Aadhar Card 8413 5072 2728) as guardian of her son Karthikeyan for the protection of his person property based on the application dated 13-01-2021.

|                |                                           |
|----------------|-------------------------------------------|
| For Petitioner | : Mr.V.S.Kumaraguru                       |
| For Respondent | : Mr.M.Lingadurai,<br>Government Advocate |

**ORDER**

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the respondent to act upon the application submitted by the petitioner on 13.01.2021, wherein, the petitioner has sought for recognizing her as a guardian of her son Karthikeyan.

2. The case of the petitioner is that she was married to one Shanmugam and out of the said wedlock, four children were born. Out of those four children, one son and one daughter had already died and the petitioner lost her husband on 25.04.2017. Thereafter, the petitioner is left with two sons. One son, namely, Sureshkumar, is already married and he is living separately. The other son, namely, Karthikeyan, is suffering from a mental disorder and he is taken care by the petitioner. Thus, the petitioner is the caretaker and natural guardian of her son Karthikeyan.

3. The petitioner wanted her to be recognized as the guardian in order to protect her son and to protect the property. The son of the petitioner is aged about 40 years and hence, the petitioner has to necessarily get a proper certificate from the competent authority to act as a guardian. Since the application made by the petitioner to appoint her as a guardian was not considered, the present Writ Petition has been filed before this Court seeking for appropriate directions.



4. Heard Mr.V.S.Kumaraguru, learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Government Advocate appearing for the respondent.

5. The original Mental Health Act, 1987, had a provision for appointment of a guardian for a person, who is suffering from mental disorder. This Act was repealed and the new Act came into force in the year 2017, which superseded the Mental Health Act, 1987. Unfortunately, this Act had no provision for appointment of a guardian to a person suffering from mental disorder

6. The only Act under which the application can be made for appointment of guardian for a person suffering from mental disorder is the National Trust Act, 1999. The National Trust Act for the Welfare of the Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, deals with the appointment of a guardian to a person suffering from mental disorder. An application can be made in this regard under Section 14 (1) of the above said Act before the respondent, who is the competent Authority. The petitioner has therefore made an application on 13.01.2021 to the respondent to appoint her as the guardian for the person and the property of her son. Unfortunately, the same has not been considered and it is kept pending.

7. Taking into consideration the facts and circumstances of the case and the limited relief sought for in this petition, there shall be a direction to the respondent to act upon the application submitted by the petitioner on 13.01.2021 and issue the necessary Guardianship Certificate to the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order.

8. The petitioner is directed to make a fresh representation to the respondent along with all the relevant documents and also a copy of this order.

9. The Writ Petition stands disposed of with the above directions. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

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

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that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Chairman / District Collector,  
Local Level Committee,  
Under National Trust Act - 1999,  
Sivaganga District, Sivaganga.

+1 CC to M/s.V.S.KUMARAGURU, Advocate (SR-22907[F] dated 16/07/2021 )

+1 CC to M/s.SPL GP ( SR-23198[F] dated 19/07/2021 )

**W.P. (MD) .No.11998 of 2021**

**Dated :16.07.2021**

RK (27.07.2021) 3P 4C