



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.No.2078 of 2022

Jayalakshmi Ganapathy

...Petitioner

Vs

1.The Deputy Commissioner of Police,
CBCID, OCU-II,
Chennai.

2.The Jail Superintendent,
Central Prison,
Puzhal, Chennai - 600 066.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 23.01.2022 and directing the respondents to submit health condition report and to provide proper medical treatment to petitioner's brother C.N.Shiv Shankaran by admitting him in a Private Hospital namely Malar Hospital, Chennai at the cost of C.N.Shiv Shankaran.

For Petitioner : Mr.Prabakaran
Senior Counsel
for Mr.MA.Gouthaman

For Respondents : Mr.Gokulakrishnan
Additional Public Prosecutor

ORDER

This writ petition has been filed for the issuance of a Writ of Mandamus, to direct the respondents to consider the petitioner's representation dated 23.01.2022 and further direct the respondents to submit health condition report and to provide proper medical treatment to petitioner's brother C.N.Shiv Shankaran by admitting him in a Private Hospital namely Malar Hospital, Chennai at the cost of C.N.Shiv Shankaran.



2. The case of the petitioner, in brief, is as under:-

i) The petitioner's brother C.N.Shiv Shankaran, who is undergoing incarceration from 16.6.2021 in Crime No.1 of 2021, is suffering from various ailments and before his arrest, on 8.6.2021, he had a heart ailment and thereby, he was taken to the Government Hospital, Mussoori and later, admitted in the Intensive Care Unit of MAX Super Speciality Hospital, Dhhradun, where he underwent implantation of three stents.

ii) During his confinement in Sub Jail, Chengalpattu, he had suffered a massive Heart Attack on 18.6.2021 and thereby, he was given treatment at Rajiv Gandhi Government General Hospital, Chennai and discharged on 26.6.2021 and thereupon, he was shifted to Central Prison, Puzhal.

iii) Whiles, again on 20.7.2021, he had suffered chest pain and thereupon, he was referred to Government Stanley Hospital and after treating him as inpatient, he was discharged on 28.7.2021.

iv) He had already underwent two eye surgeries on 19.12.2020 and 29.1.2021.

v) Since the petitioner's brother is in a precarious condition, he requires specialized treatment and in this regard, he himself had given a representation to the second respondent on 4.10.2021 and finding no action on the part of the second respondent, he had filed a Writ Petition in W.P.No.24213 of 2021 seeking proper medical treatment by admitting him in a private hospital at his cost and the same came to be disposed with some observation that if any medical exigency occur warranting some medical assistance from other specialized hospital, it would be arranged.

vi) Such being the position, the petitioner's brother fell unconscious on 22.1.2022 and he was admitted in Stanley Hospital for treatment and thereupon, the petitioner had submitted the present representation dated 23.1.2022 and seeking a direction to the respondents to consider her representation, the present writ petition has been filed.

3. The first respondent has filed a detailed counter with the following contentions:-

i) The petitioner's brother is facing many a case under POCSO Act and in some cases, final reports have been filed and some cases are under investigation. Whiles, for his ailments, specialized treatment is being given at Government Stanley Hospital, which is one of the oldest and reputed Hospital in the State having advanced facilities and if required, he would get any medical assistance from any other Government Hospital and there is no sub-standard in the treatment being given to him.



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ii) The petitioner's brother has been examined by a Committee headed by Professor of Medicine, Government Stanley Medical College and Hospital, vide Ref.No.000653/GSH/2022 dated 9.2.2022, wherein a team of Doctors had opined as under:-

"The treating team is of opinion that they have given the best care to Mr.Sivashankaran alias Mr.Sivashankar Baba on part with International standards. On the basis of his present clinical condition, if any medical exigency occurs, all the necessary investigations, treatment and expertise are available at Stanley Medical College Hospital, Chennai. Further, the Government Stanley Medical College & Hospital is functioning in an area to an extent of 47 acres of land and 2900 bedded tertiary care institution. Since 1938, the Hospital serves over 2400 inpatients and 9000 outpatients daily. Hence, specialised treatment at private Hospitals does not arise and the writ petition on the grounds of medical treatment requires to be dismissed."

iii) The remand prisoner himself moved W.P.No.24213 of 2021, and this Court, by order dated 25.11.2021, had disposed the writ petition with the following observation:-

"5. Considering the submissions and on perusal of the materials, it is seen, the Prison authorities are providing medical aid and treatment in the Prison Hospital and if any special treatment is needed, he is referred to the Stanley Government Hospital, Rajiv Gandhi Hospital, Chennai and to the Regional Institute of Ophthalmology, Egmore to the petitioner. Presently petitioner is taking treatment at the Stanley Government Hospital. The medical facilities at expertise in Government Stanley Hospital and other Government Hospitals are of high standard and the petitioner will be provided with proper treatment. If any medical exigency occur, needed to be attended from some other specialized hospital, the same will be provided to the petitioner but of course on the advice and recommendation of Government Doctor of Stanley Hospital or Rajiv Gandhi Government Hospital, Chennai at the cost of petitioner."

6. With the above observations and directions, the Writ Petition is disposed of. No costs."



iv) Such being the position, now, the remand prisoner Shiv Shankaran had instigated his sister, the petitioner herein to file the present writ petition only in order to evade the framing of charges in S.C.Nos.69, 70, and 71 of 2021 which stand posted to 16.2.2022 for framing of charges against the accused and if he is permitted to undergo medical treatment in private hospital, he would intimidate the witnesses and may tamper with the evidence which would hamper the investigation as well as the trial and thereby the respondent had prayed for dismissal of the writ petition.

4. When the matter was taken up for hearing on 21.3.2022, Mr.Prabakaran, learned Senior Counsel appearing for the petitioner submitted that though the relief sought for by the petitioner is a direction to provide proper medical treatment to the petitioner's brother C.N.Shiv Shankaran by admitting him in a Private Hospital at the cost of C.N.Shiv Shankaran, the fact remains that after treatment at Government Stanley Hospital and discharge therefrom, the petitioner's brother had been shifted back to Central Prison, Puzhal. He would also submit that the petitioner's brother is suffering from various ailments and as on date he had suffered heart attack twice which makes an alarm that he needs better care and specialized medical treatment and therefore, a direction may be issued to the respondents to provide treatment to the petitioner's brother at the Tamil Nadu Government Multi Super Speciality Hospital, Omandurar Governemnt Estate, Chennai 600 002 in case of any future eventuality.

5. Per contra, Mr.A.Gokulakrishnan, learned Additional Public Prosecutor appearing for the respondents would submit that the petitioner was admitted in Government Stanley Hospital, Chennai which is one of the oldest and reputed Hospital in the State having advanced facilities and the petitioner was taken care by a team of Doctors by forming a Committee headed by the Professor and HOD of Medicine, Government Stanley Medical College and Hospital and best possible treatment was given to the petitioner's brother and after the medical team found that the petitioner's brother was fit, he was shifted back to the Central Prison, Puzhal and as per the Doctor's Report, the condition of the petitioner's brother is stable and there is no requirement of any medical treatment as of now and therefore, there is no question of providing any sub standard medical treatment to him warranting his treatment at any private hospital, however, he would further submit that in case of any future eventuality, the treatment would be given to the petitioner's brother at the Tamil Nadu Government Multi Super



Speciality Hospital, Omandurar Government Estate, Chennai,
subject to approval of the Medical Board.

6. In view of the above, this court is of the view that no order is necessary in this writ petition. However, it is made clear that in case of any eventuality in future, the petitioner's brother may be shifted to the Tamil Nadu Government Multi Super Speciality Hospital, Omandurar Government Estate, Chennai, of course, with the approval of the Medical Board.

7. With the above observation, the writ petition is disposed of. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

arb/ssk.

To

1.The Deputy Commissioner of Police,
CBCID, OCU-II,
Chennai.

2.The Jail Superintendent,
Central Prison,
Puzhal, Chennai - 600 066.

3.The Public Prosecutor,
High Court of Madras.

+1 CC to Mr.MA.Gouthaman, Advocate sr 19953.

W.P.No.2078 of 2022

NRL(CO)
SP(05/04/2022)