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W.P. No.3781 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No.3781 of 2022 and
W.M.P.No.3910 of 2022

Thillai Lokanathan

... Petitioner

Vs.

1.Government of Tamil Nadu
Rep. By Health Secretary to Government
Fort St. George, Chennai.

2.The General Manager,
MD India Health Insurance Pvt., Ltd.,
Guna Complex, 610/5010,
Thiru-vi-ka Kudiyiruppu,
Teynampet, Chennai – 600 018.

3.The General Manager,
Apollo Hospital,
Greaves Road, Chennai.

4. The Deputy General Manager,
United India Insurance Company Ltd.,
Tamil Nadu Chief Ministers Comprehensive
Health Scheme-Project Office, No.226,
OM Shakthi Towers, Kilpauk Garden Road,
Kilpauk, Chennai – 600 010.

... Respondents

[R4 impleaded vide order dt. 23.08.2022
made in WMP.No.21057/2022]



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PRAYER : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents to reimburse a sum of Rs.3,60,000/- with 12% interest from 05.08.2021 till the date of reimbursement.

For Petitioner : Mr.A.P.Surya Prakasam

For Respondents : Mr.U.M.Ravichandran
Special Govt. Pleader for R1

: Mr.G.Guruswaminathan
for M/s.Nageswaran & Narichania
for R2 & R4

: Ms.A.Ruth Celestina for R3

ORDER

The prayer sought for herein is for a writ of mandamus directing the respondents to reimburse a sum of Rs.3,60,000/- with 12% interest from 05.08.2021 till the date of reimbursement.

2. The petitioner is a member of the Chief Minister Comprehensive Health Insurance Scheme (in short 'CMCHIS').

3. While so, in order to take a routine treatment the petitioner admitted in the 3rd respondent Hospital and she underwent the treatment, after completing the treatment, the petitioner was discharged and for the entire treatment, the hospital charges and other medical expenses were



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directed to be paid by the petitioner, accordingly the petitioner paid the said amount to the 3rd respondent hospital.

4. In order to reimburse the same which comes to Rs.3,60,000/-, the petitioner has made a request to the respondents i.e. respondents 1 and 2 as well as the 4th respondent. The State Government i.e. the 1st respondent seems to have conducted an enquiry and pursuant to the enquiry, on behalf of the 1st respondent, the Project Director, Tamil Nadu Health Systems Project in his letter dated 06.06.2022 has stated the following:

“In this regard, an enquiry committee was formed comprising of TNHSP and UIIC officials to look into the allegation of the petitioner for denial of cashless treatment under CMCHIS. The petitioner appeared before the Committee on 22.03.2022 and submitted her statement. However, there was no representation from Apollo Hospitals in spite of prior communication. When the hospital authorities were informed through TPA to attend this office for submitting their statement on a later date (23.05.2022) they did not attend.

It is noted that the hospital has failed to guide the patient for availing cashless treatment under CMCHIS and violated the norms by collecting money from an eligible



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beneficiary for the treatment covered under the scheme and also the hospital has not responded even after multiple times of reminder.

Hence UIIC shall instruct M/s.Apollo Hospital, Greaves Road, Chennai to refund the amount of Rs.3,60,000/- to Tmt.Thillai Lokanathan and strict warning may be issued to the hospital for refraining from such irregularities in the future.”

5. Only under these circumstances, the petitioner has moved the present writ petition.

6. Heard Mr.A.P.Surya Prakasam, learned counsel appearing for the petitioner and Mr.U.M.Ravichandran, learned Special Government Pleader for the 1st respondent, Mr.G.Guruswaminathan, learned counsel appearing for respondents 2 and 4 and Ms.A.Ruth Celestina, learned counsel for the 3rd respondent.

7. The learned Special Government Pleader for the 1st respondent would submit that, there are certain procedure to be adopted by any hospital where such a patient is admitted who is covered under the



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CMCHIS Scheme. Since it is a cashless scheme, no cash could have been collected by the 3rd respondent hospital from the petitioner therefore in violation of the norms since amount has been collected, a direction was issued on behalf of the 1st respondent by the Project Director on 06.06.2022 directing the Insurance Company to give instruction that the amount collected by the 3rd respondent hospital from the petitioner is to be refunded to the petitioner.

8. However, Mr.G.Guruswaminathan, learned counsel appearing for the respondents 2 and 4 Insurance Company would submit that, though there has been a tripartite agreement between the Insurance Company and the hospital concerned under which the CMCHIS scheme is being implemented where the entire treatment is a cashless treatment scheme and after taking treatment from any hospital listed in this regard the patient who is the member of the scheme can make an application to reimburse the same and the Insurance Company would reimburse the same to the hospital concerned, therefore demanding any money directly from the patient i.e. the member of the scheme by any hospital including the 3rd respondent is against the contract conditions. Therefore, in violation of such contract conditions, the 3rd respondent is not entitled to



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seek for reimbursement and in this regard the cash received or amount received from the patient i.e. the petitioner shall be refunded that is the stand of the Insurance Company also.

9. However, the learned counsel for the petitioner would submit that, when a patient goes to the hospital on an emergency basis to take a treatment immediately, the patient cannot wait for a while whether the Insurance Company will come and give any guarantee. Since it is a cashless scheme under which the patient has to be treated therefore hospital cannot be asked to treat the patient and later on behalf of the hospital claim can be made. Invoking this kind of cashless scheme may not be possible at the 11th hour when patient rushes to the hospital for emergency treatment where if admission is made by the hospital authorities and seek the payment, the patient does not have any other option except to make the payment, accordingly this petitioner also made the payment.

10. However, the learned counsel appearing for the 3rd respondent hospital would submit that, even though it is a cashless scheme, whether the petitioner would be entitled to get the reimbursement and to what



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extent that reimbursement would be possible cannot be gauged or measured at the time when the patient is admitted by the hospital concerned.

11. The learned counsel for the 3rd respondent hospital further submits that, first of all the procedure or surgery or treatment given or underwent by the petitioner is concerned, it is not one of the treatment which is covered under the cashless scheme.

12. Moreover, for making such a procedure/surgery or treatment the particular hospital i.e. 3rd respondent hospital has not been included as one of the listed hospital under the scheme, therefore it become necessitated for the hospital to demand the money from the petitioner, accordingly the money was paid by the petitioner, therefore in this regard the hospital cannot be blamed she contended.

13. I have considered the said submissions made by the learned counsel for the parties and have perused the materials placed before this Court.



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14. So far as the claim made by the petitioner being a member of the CMCHIS scheme is concerned, the petitioner is a member of the scheme and whoever the member of the scheme would be entitled to get whatever the treatment for which the member is entitled to and when the petitioner requests the treatment from a hospital whether the particular procedure was authorised, or the hospital was empaneled or listed in the list of hospitals under the scheme, cannot be inferred by any member of the scheme at the 11th hour when they come up for emergency procedure.

15. Moreover, insofar as the medical reimbursement is concerned, this Court already has held in number of cases that if the disease is not one of the listed disease and the hospital is not one of the listed hospital, for that reason alone the reimbursement cannot be denied. If it is rejected by the Insurance Company concerned by citing the contract condition between the Government and Insurance Company, it is for the Government to make the payment by way of reimbursement.

16. This kind of orders in many number of cases have been passed by this Court. Therefore drawing analogy from the said orders, this Court



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feels that, in this case also if at all the Insurance Company is not coming forward to reimburse the amount payable to the petitioner which the petitioner paid to the 3rd respondent hospital, it is for the 1st respondent or the Project Director, Tamil Nadu Health Systems Project who is undertaking the Scheme for CMCHIS to workout the modalities as to how the reimbursement has to be made. Therefore, in this regard the communication cited on behalf of the 1st respondent by the Project Director dated 06.06.2022 cannot be countenanced and therefore, this Court feels that a direction can be given to the respondents concerned suitably so that a quietus can be given to the issue to meet the ends of justice.

17. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

(i) That there shall be a direction to the 1st respondent to reconsider the issue i.e. the plea raised by the petitioner for reimbursement of the medical expenses incurred by the petitioner for taking treatment at the 3rd respondent hospital and accordingly as per the contract conditions between the Government and the Insurance Company whichever



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amounts are eligible to be reimbursed that shall be calculated and be reimbursed immediately to the petitioner.

(ii) Insofar as the remaining amount is concerned, a communication to that effect can be given either to the 1st respondent or on his behalf or the Insurance Company to the petitioner and on receipt of such communication, it is open to the petitioner to re-agitate the issue in the manner known to law. The needful as indicated above shall be undertaken by the respondents within a period of four weeks from the date of receipt of a copy of this order.

18. With these directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Speaking order : Yes/No

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To

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R.SURESH KUMAR, J.

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