



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.06.2022

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THE HONOURABLE Mr. JUSTICE ABDUL QUDDHOSE

W.P.No.3233 of 2022

AND

W.M.P.No.3372 of 2022

Arokiya Mary

.. Petitioner

Vs.

1.The State of Tamil Nadu

Rep. by its Commissioner and Secretary to Government
Health and Family Welfare Department
Fort St. George, Chennai 600 009

2.The Managing Director

Directorate of Medical and Rural Health Services
D.M.S. Complex No.356-361
Anna Salai, Chennai 600 006

3.The Deputy Director

Medical, Rural Health Services and Family Welfare
District Family Welfare Bureau
Government Head Quarters Hospital Compound
Tiruppur 641 604

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents 2 and 3 to consider the petitioner's application dated 14.09.2018 under the Rule 8 of the Tamil Nadu Clinical Establishments (Regulations) Rules, 2018.

For Petitioner : Mr.K.Rajendra Prasad

For Respondents : Mr.B.Vijay
Additional Government Pleader

O R D E R

This writ petition has been filed for a mandamus seeking for a direction to the respondents 2 and 3 to consider and pass orders on the application submitted by the petitioner on 14.09.2018 under Rule 8 of the Tamil Nadu Clinical Establishments (Regulations) Rules, 2018 (for brevity "the



Rules, 2018").

2. According to the petitioner, even though she applied for recognition under Rule 7 of the Rules, 2018, in the year 2018 itself, her application has not been considered till date. It is also the contention of the petitioner that as per Rule 8 of the Rules, 2018, her application has to be disposed of within 180 days from the date of the application. Since the said application has not been considered till date, the petitioner has filed this writ petition.

3. Heard Mr.K.Rajendra Prasad, learned counsel for the petitioner and Mr.B.Vijay, learned Additional Government Pleader appearing for the respondents.

4. The respondents have already filed their counter affidavit. According to the respondents, the petitioner holds a Diploma in Community Medical Services and Essential Drugs. The Joint Director of Medical and Rural Health Services, Tiruppur was asked to inspect the petitioner's hospital and submit a report, as it falls under the control of the Tiruppur District Siddha Officer. In his report dated 25.03.2022, it has been stated that the petitioner will have to register with the Tamil Nadu Indian Medical Association and the Tamil Nadu Siddha Medical Council and obtain a certificate of registration to register the hospital under the Tamil Nadu Hospitals Act. However, the petitioner has stated that she was not qualified to work as a Physician on the basis of RAMP, CMS & ED certifications and that her medical educational qualifications were not recognised by the Central Indian Medical Association Act, 1970.

5. According to the respondents, since the petitioner is not a doctor as she possess only a Diploma in Community Medical Services and Essential Drugs from a recognised university, she is not entitled for recognition. Only under the aforesaid circumstances, the petitioner's application has not been considered by the respondents.

6. However, the learned counsel for the petitioner would submit that the petitioner has produced only genuine certificates and he would further submit that unless and until a final decision is taken rejecting the petitioner's application, she will also not be in a position to file a statutory appeal, if aggrieved by the rejection order.

7. Admittedly, no final orders has been passed with regard to the petitioner's application submitted under Rule 7 of the Rules, 2018, till date. The learned counsel for the petitioner has also relied upon Rule 8 of the Rules, 2018, which mandates



the respondent to pass orders within a period of 180 days from the date of receipt of the application.

8. This being the case, this Court is of the view that no prejudice would be caused to the respondents, if the petitioner's application is considered on merits in accordance with law, after affording a fair hearing to the petitioner including granting her the right of personal hearing.

9. For the foregoing reasons, this Court directs the 3rd respondent to pass final orders on the petitioner's application filed under Rule 7 of the Rules, 2018, seeking recognition, within a period of twelve weeks from the date of receipt of a copy of this order, after affording her the right of personal hearing.

With the aforesaid directions, these writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

- 1.The Commissioner and Secretary to Government
Health and Family Welfare Department
Fort St. George, Chennai 600 009
- 2.The Managing Director
Directorate of Medical and Rural Health Services
D.M.S. Complex No.356-361
Anna Salai, Chennai 600 006
- 3.The Deputy Director
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District Family Welfare Bureau
Government Head Quarters Hospital Compound
Tiruppur 641 604.

+1cc to M/s.K.Rajendraprasad, Advocate, S.R.No.32260
+1cc to the Government Pleader, S.R.No.33080

W.P.No.3233 of 2022

RSI(CO)
SB(17/06/2022)