



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.05.2022

Coram

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 11326 of 2022

and

WMP.No.10862 of 2022

Dr. K. Thangaraj

.. Petitioner

Versus

1. The Registrar,
Tamil Nadu Medical Council,
No.914, Poonamallee High Road,
Arumbakkam, Chennai - 600 106.
2. The Secretary,
National Medical Commission,
Pocket - 14, Sector - 8, Dwarka Phase - 1,
New Delhi - 110 077.
3. The Directorate of Medical and Rural Health Services,
359, Anna Salai,
Chokkalingam Nagar,
Teynampet, Chennai - 600 006.
4. M.Senthilkumaran

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 2nd respondent/1st Appellate Authority to dispose of the Appeal dated 20.04.2022 within the time to be prescribed by this Court.

For Petitioner : Mr. G. Asokapathy

Respondents 1 & 3 : Mrs. Anitha,
Special Government Pleader

For Respondent 2 : Ms. N. Subaranjani Ananth



O R D E R

The petitioner has come forward with this writ petition praying to issue a Writ of Mandamus directing the second respondent to dispose of the appeal dated 20.04.2022 preferred by the petitioner within the time to be prescribed by this Court.

2. The case of the petitioner is that he is a registered medical practitioner and practicing as an Anaesthesiologist Consultant since 2014. While the petitioner was working in Kumarasamy Hospital, Erode on 18.07.2020, one Mrs. Krithika, wife of Vishaak was admitted in the hospital at the advanced stage of pregnancy and she was attended by Dr. K. Sangeetha, who advised performing Lower Segment Ceasarean with Spinal Anaesthesia. As an Anaesthesiologist, the petitioner administered anaesthesia to the patient. During the course of ceasarean performed by the Doctors, the patient suffered cardiac arrest and she was transferred to another hospital and admitted in the Intensive care facility. The petitioner came to know that on 19.07.2020, the patient developed further complications and died. In this context, one Senthilmurugan has preferred a complaint before the National Human Rights Commission on 15.09.2020 alleging medical negligence on the part of the doctors of Kumarasamy Hospital. The Commission took cognisance of the case on 29.09.2020 in case No. 7078/22/49/2020 inter alia forwarded the complaint to multiple authorities including the Director of Rural and Health Services, Chennai as well as the Joint Director of Health Services, Erode and called for a report. On the basis of the order dated 29.09.2020 passed by the Commission, the Joint Director of Health Services, Erode conducted an enquiry on 16.10.2021 and subsequently cancelled the Clinical Establishment Act (CEA) Certificate issued to Kumarasamy Hospital, Erode by an order dated 18.10.2021. Further, the Director of Medical and Rural Health Services, Chennai through a letter dated 13.10.2021 requested the President of the first respondent to take action against the persons responsible for the death of the patient Krithika. Accordingly, a further enquiry was conducted by the first respondent - Disciplinary Committee on 21.10.2021. During the course of such enquiry, a few questions were posted to the petitioner and he was asked to leave. Subsequently, by a communication dated 24.02.2022, the first respondent called upon the petitioner to submit his reply to few questions on or before 26.02.2022. However, the communication dated 24.02.2022 was received by the petitioner only on 25.02.2022. The petitioner also, within the shortest time made available, submitted his reply. Ultimately, the first respondent passed an order on 24.03.2022 directing the Tamil Nadu Medical Council to remove the name of the petitioner from the Medical Register for a period of six months. Aggrieved by the order dated 24.03.2022,



the petitioner filed a statutory appeal before the second respondent. According to the petitioner, the appeal is pending before the second respondent without any progress. Therefore, the petitioner has come up with this writ petition to issue appropriate direction to the second respondent to expeditiously dispose of his statutory appeal.

3. Heard the learned counsel for the petitioner, the learned counsel for the second respondent and the learned Special Government Pleader appearing for the respondents 1 and 3 and perused the materials placed on record.

4. Taking note of the above facts and the submissions of the learned counsel for the parties, especially the period of punishment imposed on the petitioner by the first respondent, this Court is of the view that the petitioner can approach the second respondent with an application for interim stay of the order passed by the first respondent pending the appeal before the second respondent. Accordingly, liberty is given to the petitioner to approach the appellate authority/second respondent with an application for interim stay. If any such application is filed, the second respondent shall consider the same and pass appropriate orders thereof on merits and in accordance with law, within a period of two weeks from the date of filing of such application.

5. With the above direction, this Writ Petition is disposed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
VACATION OFFICER

//True Copy//

Sub Assistant Registrar

mrr/rsh

To

1. The Registrar,
Tamil Nadu Medical Council,
No.914, Poonamallee High Road,
Arumbakkam, Chennai - 600 106.
2. The Secretary,
National Medical Commission,
Pocket - 14, Sector - 8, Dwarka Phase - 1,
New Delhi - 110 07.



3. The Directorate of Medical and Rural Health Services,
359, Anna Salai,
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AK-II (CO)
CT 19/05/2022