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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.14762 of 2020

S. Loganayagi

.....Petitioner

Vs

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai-600 009.

2. The Chairman,
Tamil Nadu Medical Council,
No.914, Poonamallee High Road,
Amaravathi Nagar, Arumbakkam,
Chennai-600 020.

3. The Chairman,
Appasamy Hospitals,
Appasamy Medi Care Centre Pvt Ltd.,
No.1 & 2 SBI Officers Colony 1st street,
Near Arumbakkam, Chennai-600 106.

.....Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 & 2 to take appropriate action against the 3rd respondent and direct the 3rd respondent to return the amount of Rs.7,79,716/- (Rupees Seven lakhs and Seventy Nine Thousand Seven Hundred Sixteen Only) which was collected from the petitioner for treatment given to her mother Lalithakumari.

For petitioner : Mr. S. Illamvaludhi

For R-1 : Mr.K. Kartikeyan,
Government Advocate

For R-2 : Mr. G. Sankaran,

For R-3 : Mr. Nagu Shah

ORDER

The present petition has been filed seeking a direction to the 3rd respondent to return the amount to the petitioner collected towards the treatment of her mother.



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2. The case of the petitioner is that the petitioner's mother was initially taken to M.G.M Hospital for abdomen pain, where she was tested Negative for COVID, however, due to inadequacy of I.C.U wards in the said hospital, she was taken to the 3rd respondent hospital on 07.08.2020, wherein, the COVID report issued by the said M.G.M Hospital was not accepted and the patient was once again advised to undergo COVID test, for which the report was not given by the 3rd respondent hospital, however, the petitioner's mother was admitted in the COVID I.C.U ward. At which time, the petitioner was asked to pay a sum of Rs.2,00,000/- on 07.08.2020 towards the treatment being given. When the petitioner approached the said hospital to adjust the said amount through the insurance, the same was refused by the 3rd respondent, however, the said amount was paid. Thereafter, the petitioner was demanded to pay a sum of Rs.5 Lakhs towards the treatment for COVID, for which the bill was also not given. While being so, the petitioner approached the 3rd respondent hospital on 19.08.2020 to discharge her mother, however, the same was refused by the 3rd respondent hospital and the petitioner was demanded a sum of Rs.5,17,715/- if her mother had to be discharged. Thereafter, the amount was paid as demanded by the 3rd respondent hospital. Thereafter, the petitioner's mother was died on 29.09.2020, due to the improper treatment given by the 3rd respondent hospital, which resulted in filing of the present Writ Petition seeking the above relief.

4. Learned counsel for the petitioner submits that the fees collected by the 3rd respondent hospital towards COVID treatment was more than the amount prescribed in the G.O.(Ms). No.240 dated 05.06.2020, Health and Family Welfare (EAPI-1) Department as the said Hospital comes under the category of Hospitals covered under the G.O. Further, the 2nd respondent vide letter dated 01.12.2020 had instructed the 3rd respondent hospital to refund the excess amount collected from the petitioner towards COVID treatment for her mother, despite which, the 3rd respondent has not taken any steps with regard to the same.

5. Learned counsel for the 2nd respondent submits that already the proceedings have been initiated against the 3rd respondent hospital and after conducting adjudication between the petitioner and the 3rd respondent hospital, appropriate orders will be passed in accordance with law, within the time frame fixed by this Court.

6. This Court heard the learned counsel on the either side and perused the materials available on record.



7. In view of the aforesaid submissions made by the learned counsel on the either side, this Court directs the 2nd respondent herein to adjudicate the matter between the petitioner and the 3rd respondent hospital and pass appropriate orders in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition is disposed of with the aforesaid direction. No Costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

NHS

To

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai-600 009.
2. The Chairman,
Tamil Nadu Medical Council,
No.914, Poonamallee High Road,
Amaravathi Nagar, Arumbakkam,
Chennai-600 020.
3. The Chairman,
Appasamy Hospitals,
Appasamy Medi Care Centre Pvt Ltd.,
No.1 & 2 SBI Officers Colony 1st street,
Near Arumbakkam, Chennai-600 106.

+1cc to Mr.N.Nagu Sah, Advocate, S.R.No.1500
+1cc to the Government Pleader, S.R.No.2036

W.P.NO.14762 of 2020

RR[co]
NSK 31/01/2022