



WEB COPY



W.P.No.17521 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2022

CORAM:

**THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE**

**W.P.No.17521 of 2022**

E.Palanisamy

... Petitioner

Versus

1. The Government of Tamil Nadu,  
Represented by its Secretary,  
Finance (Salaries) Department,  
Fort St.George,  
Chennai-600 009.
2. The Government of Tamil Nadu,  
Represented by its Secretary,  
School Education Department,  
Fort St.George,  
Chennai-600 009.
3. The Director,  
Office of the Director of Treasuries and Accounts,  
2<sup>nd</sup> Floor, Panagal Building,  
Saidapet, Chennai.
4. The District Collector,  
Salem District.
5. The Joint Director,  
Medical and Rural Health Services,  
Room No406, 4<sup>th</sup> Floor,  
Collectorate Complex, Salem.



W.P.No.17521 of 2021

6. The Managing Director,  
The United India Insurance Co Ltd.,  
PLA Rathna Towers, 5<sup>th</sup> Floor,  
212, Anna Sali, Chennai-600 006.
7. The Director,  
SRM Institutes for Medical Science (SIMS),  
No.1, Jawaharalal Nehru Salai,  
Vadapalani, Chennai-26.
8. District Level Empowered Committee (DLEC),  
O/o The District Collector, Room No.101, 1<sup>st</sup> Floor,  
Collectorate Campus, Salem-636 001.  
(R8 impleaded vide Court order dated 25.07.2022  
made in WMP No.17823 of 2022 in WP No17521  
of 2022)

.... Respondents

**Prayer:-**Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.Ka.No.8037-12/Ka5/2021 dated 02.07.2021 on the file of the 5<sup>th</sup> respondent and quash the same as illegal and to issue consequential direction directing the 5<sup>th</sup> respondent to reimburse the medical expenses of Rs.3,27,197/-(Rupees Three lakhs and twenty seven thousand one hundred ninety seven only) incurred by the petitioner for treatment with 12% interest for delayed payment .

For petitioners: :Mr.V.Anandhamurthy

For Respondents :Mr.Sanjay Gandhi  
Government Advocate



W.P.No.17521 of 2021

## **ORDER**

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This writ petition has been filed challenging the order dated 02.07.2021 passed by the fifth respondent rejecting the petitioner's request for medical reimbursement amounting to Rs.3,27,197/- on the ground that the hospital, in which, he took treatment is a non-network hospital.

2. The petitioner has availed medical insurance policy with the sixth respondent Insurance Company. The petitioner was working in the Education Department when he had to undergo emergency medical treatment. The fifth respondent who is the facilitating agency, based on the sixth respondent's rejection, has also rejected the petitioner's claim for reimbursement for a sum of Rs.3,27,197/-, alleged to have been incurred by him for his medical treatment. The sixth respondent Insurance Company has rejected the petitioner's claim since the petitioner did not take treatment in a network hospital as per the Insurance Policy. The reasons for approaching this Court under Article 226 of the Constitution of India is that the impugned order was passed by the fifth respondent and not by the District Level Empowered Committee. The petitioner had impleaded the District Level Empowered Committee as eighth respondent in this writ petition subsequent to the filing of this writ petition.



W.P.No.17521 of 2021

WEB COPY

3. It is now brought to the notice of this Court by the learned Government Advocate appearing for the respondents that based on the instructions received by him that it was only the eighth respondent viz. “District Level Empowered Committee” who had passed the impugned order and the order passed by the District Level Empowered Committee has also been placed before this Court by the learned Government Advocate today.

4. Admittedly the District Level Empowered Committee is the competent authority to pass the impugned order. Therefore, the contention of the petitioner that District Level Empowered Committee did not pass the impugned order is unwarranted.

5. Admittedly, if the petitioner is aggrieved by the order of the District Level Empowered Committee, he will have to file a statutory appeal before the State Level Empowered Committee. Instead of filing statutory appeal, the petitioner has directly approached this Court by filing this writ petition under Article 226 of the Constitution of India which is not maintainable.

6. Learned counsel for the petitioner is now satisfied based on the



W.P.No.17521 of 2021

submissions made by the learned Government Advocate appearing for the respondents as well as after perusing the order passed by the District Level Empowered Committee and seeks liberty for the petitioner to file a statutory appeal as the time limit for filing the same has already got expired in view of filing of this writ petition.

7. No prejudice would be caused to the respondents if the petitioner is allowed to file statutory appeal as against the order of the District Level Empowered Committee rejecting the petitioner's application seeking for medical reimbursement.

8. Learned counsel for the petitioner also relies upon an order passed by the learned Single Judge of this Court in W.P.(MD)No.13429 of 2013 dated 28.05.2019 in the case of ***S.Marimuthu vs Government of Tamil Nadu and Others*** reported in ***MANU/TN/6214/2019*** for the purpose of substantiating the petitioner's claim that even in cases where a patient has undergone treatment in a non-network hospital, such patient is entitled for medical reimbursement as per medi-claim policy.

9. Apart from the decision cited by the learned counsel for the



W.P.No.17521 of 2021

petitioner, there are also several other decisions supporting the very same view.

No prejudice would be caused to the respondents if the decisions relied upon by the learned counsel for the petitioner is considered on merits while passing final orders in the petitioner's statutory appeal.

10. This Court also is of the considered view that the statutory right of the petitioner to file statutory appeal cannot be defeated in view of the fact that he has erroneously approached this Court under Article 226 of the Constitution of India instead of filing statutory appeal.

11. In the counter filed by the fifth respondent before this Court they have reiterated what has been observed in the impugned order while rejecting the petitioner's application seeking for medical reimbursement. The fifth respondent reiterates that upon taking treatment in a non-network hospital, the petitioner is not entitled for medical reimbursement.

12. For the foregoing reasons, this writ petition is disposed of by directing the petitioner to file statutory appeal if aggrieved by the impugned order passed by the District Level Empowered Committee before the State Level Empowered Committee within a period of fifteen days from the date of



W.P.No.17521 of 2021

receipt of a copy of this order and on receipt of the said statutory appeal, the

State Level Empowered Committee shall pass final orders on merits and in accordance with law after giving due consideration to the authorities produced by the petitioner in support of his claim that even if medical treatment is taken in a non-network hospital, the petitioner is entitled for medical treatment. The State Level Empowered Committee is directed to pass orders within a period of six weeks from the date of receipt of the statutory appeal from the petitioner.

13. The petitioner is directed to send a copy of the authorities which the petitioner relies upon along with a copy of this order to the State Level Empowered Committee for effective implementation of this order.

No costs.

08.11.2022

Sr

Index: Yes/No

Speaking Order/Non-Speaking Order

To

1. The Secretary,  
Government of Tamil Nadu,  
Finance (Salaries) Department,  
Fort St. George,  
Chennai-600 009.

**ABDUL QUDDHOSE,J.**

Sr

2. The Secretary,



W.P.No.17521 of 2021

Government of Tamil Nadu,  
School Education Department,  
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Chennai-600 009.

3. The Director,  
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**W.P.No.17521 of 2022**

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