BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.12.2022**

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.2404 of 2014
and
M.P(MD) No.1 of 2014

P.Vasudevan ... Petitioner

Vs.

1. United India Insurance Company Ltd.,
   Divisional Officer – VI,
   Represented by Divisional Manager,
   V-Floor, P.L.A.Rathna Towers,
   212, Anna Salai, Chennai – 6.

2. The General Manager,
   Labour Welfare Department,
   Tamil Nadu State Transport Corporation,
   Madurai Region,
   Madurai – 10.

3. The Joint Director,
   Medical and Rural Health Services Department,
   Madurai District Headquarters,
   Usilampatti, Madurai District. ... Respondents

PRAYER : Writ 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 of the first respondent letter dated 26.07.2013 and quash the same and directing the respondents to reimburse the medical expenses amount of Rs.20,000/- (Rupees Twenty Thousand only) to the petitioner which was paid by him to the approved Hospital under the New Health Insurance Scheme, 2012 for the petitioner's daughter Abinaya's surgery of Lasic Laser Operation on both eyes covered under G.O.Ms.No.243 Finance (Salaries) Department dated 29.06.2012.

For Petitioner : Mr.A.Haja Mohideen

For Respondents : Mr. G.Prabhu Rajadurai (For – R1)

: Mr.J.Senthilkumariah (For - R2)

ORDER

The present Writ Petition has been filed challenging the order passed by the first respondent herein, rejecting the claim of the petitioner for the claim of Medical Insurance for the treatment of his daughter.

2. The claim of the petitioner is that he was working as a Senior Tradesman under the second respondent. As per the Government Scheme, he has taken health care assistance through the first respondent. Since his daughter has suffered with vision problem in both eyes, he had taken treatment through Aravind Eye Hospital, Madurai. They have diagnosed her

and advised to do Laser surgery on her both eyes and therefore, he had admitted his daughter in the said hospital and had made an application for cashless treatment under the insurance policy. However, the same was rejected on the ground that it was only a treatment for correction of eye sight by a Lasic Laser surgery which is not covered under the New Health Insurance Scheme, 2012.

3. He would further contend that the order impugned is clearly in violation of the insurance policy. He would further submit that the hospital is an approved hospital and that only on the advise of the Doctors at the hospital, the petitioner's daughter had undergone treatment of laser correction for better eye sight. He would further submit that it is an after thought for the respondents to contend that the procedure undergone by the petitioner's daughter is only a correction of eye sight and that procedure is not covered under the National Health Insurance Scheme, 2012. Such reason assigned in the impugned order is only to deny the rightful claim of the petitioner.

4. Countering the same, the learned Counsel appearing for the first

respondent had contended that the treatment that has been undergone by the petitioner is cosmetic in nature. It is not necessary that every person should undergo laser operation for correction of their eye sight. Only to avoid wearing spectacles, the petitioner's daughter had undertaken the treatment, which is not a treatment, for which, the insurance policy covers. He would also submit that in the insurance policy, the contract was admitted and that he cannot invoke the power under Article 226 of the Constitution of India to seek enforcement of contract.

5. I have considered the rival submissions made by the learned Counsels on either side.

6. As rightly pointed out by the learned Counsel for the first respondent, the claim of the Insurance is arising out of a contract in insurance policy, and this Court, in exercise of power under Article 226 of the Constitution of India, cannot specifically enforce such contract. However, liberty is given to the petitioner to approach the appropriate forum and the period between the date of filing of this writ petition, till the date of passing of this order, shall be excluded, if the petitioner approaches the

appropriate forum in view of Section 14 of Limitation Act, 1968.

7. In the result, this Writ Petition is dismissed with the above said liberty. No costs. Consequently, connected Miscellaneous Petition is closed.

19.12.2022

Index : Yes / No
Internet : Yes / No
ebsi/mm

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K.KUMARESH BABU, J.

ebsi/mm

Order made in
W.P(MD)No.2404 of 2014

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