



W.P.No.20395 of 2018

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2023

CORAM

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.20395 of 2018

Kasthuri

... Petitioner

Vs.

1. The Medical council of India
Rep by its Secretary,
Section 8, Dwarka Phasr- I,
New Delhi-110077.

2. TamilNadu Medical council,
Rep by its Registrar,
No.914 Poonamallee High Road,
Arumbakkam, Chennai 600 106.

3. Dr.Tamilselvi Periyasamy
Obesity Clinic of Kovai Medical centre &
Hospital,
Avinashi Road, Coimbatore-14.

4. Dr.Nalla.G.Palaniswami
Chairman & M.D.of Kovai Medical centre &
Hospital, Avinashi Road, Coimbatore-14.

5. Dr.Thavamani Devi Palaniswami
Director & Doctor of Kovai Medical
centre & Hospital,



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WEB COM Avinashi Road Coimbatore- 14.

6. Kovai Medical centre and Hospital (KMCH),
Rep by its Managing Director,
Avinashi Road, Chennai 641 014.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to quash the order passed by the 1st respondent dated 27/03/2018 No.MCI-211(2)(124-Appeal)/2017-Ethics /182778 and consequently direct the first respondent to consider the petitioners appeal on merit.

For Petitioner : Mr.S.Ranjithkumar

For Respondents : Mrs.Subha Ranjani, Standing Counsel R1
Mr.Dhalapathy Vijayaraghavan RR3 to 6
Mr.Nedunchezhiyan R2

ORDER

The petition has been filed seeking to quash the order passed by the 1st respondent dated 27/03/2018 and consequently, direct the first respondent to consider the petitioners appeal on merit.

2. It is the case of the petitioner that she has suffered from the problem of obesity for more than 10 years. Petitioner much attracted by the advertisements issued by the 6th respondent and hospital run by the 4th and



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5th respondents, has approached the 3rd respondent and the 3rd respondent prescribed slim drink for petitioner's consumption which was sold by the 6th respondent Hospital. Upon consumption of the said slim drink, the petitioner got allergic reaction in her body and had suffered various health issues. The petitioner has sent sample of the said slim drink to King Institute established under Director of Medical Education and Department. The report confirmed that slim drink prescribed by the 3rd respondent is unsafe for human consumption. Based on the report, the Food Safety Officer lodged a private complaint before the learned Judicial Magistrate-VI, Coimbatore against the 3rd and 4th respondents and charge sheet was also filed against the respondents 3 & 4. To quash the said charge sheet, the respondents 3 to 5 filed a petition before this Court. Under the said circumstances, the petitioner made a complaint against the respondents 3 to 5 before the second respondent on 10.10.2013. On 04.09.2014, the petitioner received a letter from the second respondent stating that they are awaiting the result of the criminal proceedings initiated against the respondents 3 to 5. Aggrieved by the same, the petitioner preferred an appeal before the first respondent to set aside the order of the second



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respondent dated 04.09.2014 and to conduct enquiry against the respondents herein and pass appropriate orders. The first respondent by an order dated 01.02.2016 directing the second respondent to proceed with the enquiry without being hindered by the pending criminal case. Pursuant to which, the second respondent, vide his order dated 11.05.2016, recommended to remove the name of Dr.Tamilselvi for a period of six months for violation of regulations of Code of Medical Ethics. Challenging the said order, the petitioner preferred appeal before the first respondent and the same was dismissed vide order dated 27.03.2018 . Challenging the said order, the petitioner has filed W.P.No.20395 of 2018.

3.The learned counsel appearing for the petitioner submitted that for the medical negligence committed by the third respondent, punishment for six months is not sufficient. This Court may allow the writ petition and to enhance the punishment to the respondents 3 to 5.

4.The learned Standing Counsel appearing for the respondents submitted that since Medical Counsel of India conducted enquiry and



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rightly imposed punishment for suspension for six months which cannot be interfered with.

5. The learned counsel for the respondent 3 to 5 submitted that challenging the charge sheet filed by the Food Safety Officer, the third respondent filed a quash petition before this Court and the same is quashed in CrI.OP.Nos.16989 & 16900 of 2020 vide order dated 27.02.2020. Therefore, no merit in the writ petition and this Court may dismiss the same.

6. Heard the arguments advanced on either side and perused the materials available on record.

7. The facts of the case are not in dispute. Admittedly the petitioner made a complaint before the second respondent for medical negligence committed by the third respondent. After conducting enquiry, the second respondent has rightly passed an order against the third respondent for suspension of six months for her medical practice, which was also



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confirmed by the first respondent. Further, the quash petition filed before this Court by the third respondent has also allowed in her favour. Therefore, this Court cannot interfere with the order passed by the first respondent and there is no merit in the writ petition.

8. In the result, the writ petition is dismissed. No costs.

20.03.2023

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Index: yes / no

Internet : yes / no

Speaking / Non speaking order

To

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