



WEB COPY



W.P.No. 14423 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.14423 of 2023

and

W.M.P.No.13930 of 2023

M. Sankar

.. Petitioner

Versus

1. The Director,
Rural Health Services (ESI)
D.M.S. Compound, Teynampet,
Chennai 600 006.

2. Deputy Director
Sub Regional Officer(Salem)
Employees State Insurance Corporation,
Ministry of Labour & Employment, Government of India,
39/ 57 Theerthamalai Vaniga Valagam,
Three Road, Salem 636 009.

3. Medical Commissioner,
Officer of the State Medical Commissioner,
Employees State Insurance Corporation,
Ministry of Labour & Employment Government of India,
143, Sterling Road, Nungambakkam,
Chennai 600 034.

.....Respondents

Prayer: This Writ petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the first respondent to



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take appropriate immediate action to provide medical equipments to ESI Hospital, Salem for conducting left knee surgery to the petitioner within a specific time frame and pass orders

For Petitioner : Mr.K.M. Ramesh for
Mr.V. Subramani
For Respondent-1 : Mr.R.Neelakandan Assisted by
Mrs. Akila Rajendran (GA)
For Respondents 2 and 3 : Mr.K. Prabhakar

ORDER

This writ petition is filed seeking a writ of Mandamus directing the first respondent to take appropriate immediate action to provide medical equipments to ESI Hospital, Salem for conducting left knee surgery to the petitioner within a specific time frame and pass orders.

2. The case of the petitioner is that the petitioner is a worker in Golden Spinning Mills, Limited, Attur Main Road, Mettupadi, Seasanchavadi and a member of the Employees State Insurance scheme and making contribution towards the said scheme. While so he was suffering from severe arthritis due to which he has undergone right knee surgery in ESI Hospital, Salem. After completion of the surgery he was advised to undergo surgery in the left knee also. Due to some technical reasons such as want of medical equipments, the left knee surgery was not done to the petitioner by the ESI Hospital, Salem. Hence this petition.



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3. The learned counsel appearing the petitioner submitted that the petitioner has filed this petition seeking for an immediate action to provide medical equipments to ESI Hospital, Salem for conducting left knee surgery to the petitioner. Since medical equipments are not available due to the reason that the hospital authorities had not paid outstanding dues amounting to Rs.28,00,000/-. They are not able to do the surgery at the earliest. He further submitted that , now the surgery was completed at Salem.

4. The learned Government Advocate appearing for the first respondent submitted that they have performed the left knee surgery to the petitioner and also produced the relevant records.

5. At this juncture the learned counsel appearing for the petitioner vehemently argued that this Court on 02.06.2023 suggested the petitioner to perform left knee surgery in ESI Hospital, Coimbatore. In response to the same, the learned counsel appearing for the petitioner replied that they are willing to take treatment only in ESI Hospital,



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Salem, due to the reason as the said hospital is near to the residence of the petitioner. However, they have approached the ESI Hospital, Coimbatore, to perform the knee surgery, but the Hospital authorities has not acceded to the request of the petitioner.

6. Heard both sides and perused the materials available on record.

7. This Court is entirely dissatisfied with the arguments advanced by the learned counsel for the petitioner that the surgery should be performed in the ESI Hospital, Salem, due to the reason as the said hospital is near to the residence of the petitioner. Generally if the required medical equipments are not available in an hospital, the patients will be referred to some other hospital where the medical equipments are available so as to avoid any further complications to the patient. Only on the said ground, the petitioner was advised to take treatment in ESI Hospital, Coimbatore. But on perusal of the records it is seen that even in ESI hospital, Coimbatore there were no Medical equipments to perform the surgery for the petitioner.



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8. However, it is submitted that the left knee surgery for the petitioner was performed on 08.06.2023 at Kamala Hospital Salem. Since there were no sufficient funds with the ESI hospital Salem and Coimbatore the authorities were not able to buy the Implant required to perform the surgery. Merely because the petitioner is contributing towards the Employees State Insurance scheme he cannot dictate terms to the Medical Officers. The petitioner does not deserve any right to give suggestion with regard to the administration of the Hospital, i.e to settle the outstanding dues of the ESI Hospital etc.,

9. In view of the forgoing reasons this writ petition is dismissed. No order as to costs. Consequently the connected miscellaneous petition is closed.

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Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
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V.BHAVANI SUBBAROYAN, J.

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