



WP(MD)No.774 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **10.10.2023**

CORAM

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.774 of 2021

and

W.M.P.(MD)Nos.632 & 636 of 2021

P.Anbarasu

...Petitioner

/Vs./

- 1.The Secretary,
Health and Family Welfare Department,
Govt. of Tamilnadu Secretariate,
Chennai-600 009.
- 2.The President,
Indian Medical Council Pocket-14 Sector-8,
Dharaka New Delhi-110002.
- 3.The President,
Tamilnadu Medical Council,
914 Poonamallee High Road,
Arumbakkam, Chennai-600 106.
- 4.The Chief Executive Officer and Managing Director,
Appollo Speciality Hospital and Appollo First Bed Hospital,
K.K.Nagar Madurai-625020.
- 5.Dr.T.R.Murali,
Director of Urology Appollo Speciality Hospital
and Appollo First Bed Hospital,
K.K.Nagar Madurai-625020.



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6.Dr.Arunkumar,

Consultant Urology Appollo Speciality Hospital
and Appollo First Bed Hospital,
K.K.Nagar Madurai-625020.

7.Dr.Usha Rani,

Senior Consultant Pathologist,
Appollo Speciality Hospital and Appollo First Bed Hospital,
K.K.Nagar Madurai-625020.

...Respondents

PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus for directing the Respondents 1, 2 and 3 to take appropriate action against the Respondents 4,5,6 and 7 for their act of medical negligence and violative of medical ethics resulted in loss of petitioner's sexual life and normal discharge of urine and hence those delinquent Respondents 4 to 7 may be restrained from performing the procedure and practice and also be directed to pay him a compensation of Rs.1 Crore by considering his representation dated 29.08.2020.

For Petitioner : Mr.M.Rajendran

For Respondents : Mr.B.Saravanan (R1)

Additional Government Pleader

Mr.C.Karthick (R3)

ORDER

This writ petition has been filed for issuance of writ of mandamus directing the respondents 1 to 3 to initiate action against the respondents 4 to 7 on account of their medical negligence and also for payment of compensation to



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the petitioner by considering the representation made by the petitioner on 29.08.2020.

2. The case of the petitioner is that he was diagnosed with enlargement of prostate gland and accordingly, he was admitted in the fourth respondent hospital to undergo the operation. According to the petitioner, there was gross negligence in performance of the operation and as a result, the petitioner had a major set back in his sexual relationship with his wife. In view of the same, the petitioner filed this writ petition seeking for taking action against the doctors and for payment of compensation.

3. The learned counsel appearing on behalf of the Tamil Nadu Medical Council, namely the third respondent submitted that the complaint given by the petitioner was acted upon and an enquiry was conducted and it was found that there was no negligence on the part of the doctors. The same was also informed to the petitioner and the complaint was closed on 23.08.2012.

4. In view of the above development, the first portion of the relief sought for by the petitioner has already been complied with. Insofar as the compensation sought for by the petitioner, this matter involves medical



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negligence and disputed question of fact and the same cannot be decided in a writ petition. The matter requires appreciation of evidence and such exercise can be done only before the competent civil Court. In view of the same, if the petitioner is of the view that there was negligence on the part of the doctors, it is left open to the petitioner to file a suit before the competent civil Court and establish the negligence of the doctors and seek for compensation. Except giving this liberty, no further orders can be passed in this writ petition.

5. This writ petition is disposed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

10.10.2023

NCC : Yes/No
Internet :Yes/No
Index :Yes/No
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TO:-

WEB COPY

- 1.The Secretary,
Health and Family Welfare Department,
Govt. of Tamilnadu Secretariate,
Chennai-600 009.



WEB COPY



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N.ANAND VENKATESH, J.

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Order made in
W.P.(MD)No.774 of 2021

Dated:
10.10.2023