



WP(MD)No.922 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.922 of 2021

and

W.M.P.(MD)No.779 of 2021

C.Ganesan

...Petitioner

/Vs./

- 1.The State of Tamilnadu rep. By
Its Principal Secretary,
Health and Family Welfare Dept.,
Secretariat, Fort St.George, Chennai.
- 2.The Director,
Medical and Rural Health Services,
No.258, 2nd Floor, DMS Complex,
Annasalai, Teynampet, Chennai-2.
- 3.The Joint Director,
Medical and Rural Health Services,
Sivagangai District, Sivagangai.
- 4.The Deputy Director,
Medical and Rural Health Services,
Sivagangai District, Sivagangai.
- 5.The Chief Medical Officer,
Govt. Hospital, Devakottai,
Sivagangai District.
- 6.Sujatha, Govt. Hospital,
Devakottai, Sivagangai District.

...Respondents



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PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pay adequate amount of compensation to petitioner's wife in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.S.Malaikani

For Respondents : Mr.A.K.Manikkam (R1 to R5)

Special Government Pleader

ORDER

This writ petition has been filed for issuance of writ of mandamus directing the respondents to pay compensation for the negligence committed while treating the wife of the petitioner.

2. The case of the petitioner is that his wife was admitted in the fifth respondent hospital for delivery of child. Cesarean operation was done and the wife of the petitioner was discharged on 09.12.2017 from the hospital. She was suffering from acute stomach ache and it became unbearable. Hence, once again, the petitioner took his wife on 16.12.2017 to the fifth respondent hospital. A scan was taken and the wife of the petitioner was admitted as an inpatient once again. The wife of the petitioner was once again discharged on 30.12.2017. There was recurrence of pain once again.



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3. The petitioner again admitted his wife at Kauvery hospital and it was diagnosed that there was collection of pus in the stomach, which had resulted in unbearable pain suffered by the wife of the petitioner. The treatment was given in the hospital and the petitioner had spent nearly a sum of Rs.2,50,000/-. It is under these circumstances the present writ petition has been filed seeking for compensation.

4. When the matter was taken up for hearing, the learned Special Government Pleader appearing on behalf of the official respondents submitted that pursuant to the complaint made by the petitioner, an enquiry was conducted by the Deputy Director. The enquiry report dated 22.12.2020 was also placed before this Court.

5. On going through the enquiry report, it is seen that the Deputy Director had arrived at conclusion that there was no negligence on the part of the Doctor and that proper treatment was given to the wife of the petitioner. A copy of the enquiry report was also furnished to the learned counsel for the petitioner.



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6. In the instant case, the negligence on the part of the Doctor cannot be decided in a writ petition, since it involves disputed question of fact and it requires appreciation of evidence. This is more so due to the report that has been placed before this Court. Therefore, if the petitioner wants to get compensation, the petitioner has to necessarily approach the competent civil Court and establish the negligence and seek for compensation. Except giving this liberty, no further orders can be passed in this writ petition.

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

10.10.2023

NCC : Yes/No
Internet :Yes/No
Index :Yes/No
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N.ANAND VENKATESH, J.

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Order made in
W.P.(MD)No.922 of 2021

Dated:
10.10.2023