

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

WEB COPY

DATED: 23.06.2023**CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****W.P.(MD)No.6181 of 2023 AND**
W.M.P.(MD)No.5891 of 2023

A.Ayisha Kalina

... Petitioner

Vs.

1. The Secretary to Government,
Finance Department,
Secretariat, Chennai – 9.
2. The Commissioner of Treasuries and Accounts,
3rd Floor, Integrated Office Complex for Finance Department,
No.571, Anna Salai, Nandanam, Chennai – 35.
3. The Director of Medical and Rural Development,
Chennai -6.
4. The Joint Director of Health Services,
Pudukkottai,
Pudukkottai District.
5. The Treasury Officer,
District Treasury,
Pudukkottai, Pudukkottai District.
6. The District Collector,
Pudukkottai, Pudukkottai District.
7. MD India Health Insurance TPA Private Ltd.,
Rep. By its Regional Manager,
Guna Complex, D.No.443 and 445, Anna Salai,
Teynampet, Chennai -18.



WEB COPY

8. United India Insurance Company Ltd.,
Rep. by its Divisional Manager,
Division VI, B L A, Rathina Towers, 2nd Floor,
212, Anna Salai, Chennai – 6.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to impugned order in O.Mu.No.9322/2019/Ma5 dated 17.02.2020 of the 6th respondent herein and impugned order in Na.Ka.No.2265/Ma.Ku/2022 dated 15.12.2022 of the 4th respondent herein quash the same and consequently direct the respondents herein to reimburse the medical expenses of Rs.1,89,377/- to the petitioner with adequate interest as deems fit by this Court.

For Petitioner : Mr.T.Pon Ramkumar
For R-1 to R-6 : Mr.K.Balasubramani,
Special Government Pleader.
For R-8 : Mr.A.Shajahan
For R-7 : No appearance.

* * *

ORDER

Heard the learned counsel on either side.



2. The petitioner served as B.T.Assistant in a Government High School. She had taken treatment in a non-network hospital at Trivandrum. She made a claim for reimbursement of the medical expenses incurred by her. The District Empowered Committee sanctioned her claim. Unfortunately, it was not implemented. It was informed to the petitioner that since the insurance company rejected her claim, they are not in a position to sanction her claim. The petitioner could have straightaway come before this Court by filing a writ petition. In fact a learned Judge of this Court vide order dated **13.04.2022** made in ***W.P. (MD)No.4303 of 2021 (A.Kalaiarasi Vs. The Secretary to Government Finance Department, Secretariat, Chennai and Others)*** had held that since the insurance company is also a part of the District Empowered Committee, if the decision was adverse to them, they should file an appeal before the State Level Committee. If the Insurance Company fails to prefer such an appeal, it is open to the insured to file a writ petition immediately. In this case, the petitioner went before the State Level Empowered Committee. The State Level Empowered Committee had directed that the petitioner's claim should be placed once again before the District Empowered Committee. The State Level Empowered Committee vide communication dated 11.06.2020 called upon the petitioner to move



the Director of Medical and Rural Development Department, Chennai.

The petitioner was thereafter asked to go before the Head of the Department. The Government relegated the petitioner to go before the District Empowered Committee once again. Instead of placing the petitioner's case before the District Empowered Committee, by the impugned order, the petitioner has been once again informed that the insurer has negated her claim.

3. The learned counsel appearing for the insurance company submitted that since the petitioner's case will not fall within the category of emergency care and since she had undertaken treatment in a non-network hospital, her claim cannot be considered.

4. In my view, when the Government had categorically stated that the case will have to be examined by the District Empowered Committee, such a scrutiny should be undertaken. This Court cannot prematurely assess the validity of the petitioner's claim. The order impugned in this writ petition is set aside. The fourth respondent is directed to place the petitioner's claim before the District Empowered Committee which shall take a decision on merits and in accordance with law. The entire exercise



will be concluded within a period of eight weeks from the date of receipt of a copy of this order. This writ petition stands allowed on these terms.

No costs. Consequently, connected miscellaneous petition is closed.

23.06.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

1. The Secretary to Government,
Finance Department,
Secretariat, Chennai – 9.
2. The Commissioner of Treasuries and Accounts,
3rd Floor, Integrated Office Complex for Finance Department,
No.571, Anna Salai, Nandanam, Chennai – 35.
3. The Director of Medical and Rural Development,
Chennai -6.
4. The Joint Director of Health Services,
Pudukkottai,
Pudukkottai District.
5. The Treasury Officer,
District Treasury,
Pudukkottai, Pudukkottai District.
6. The District Collector,
Pudukkottai, Pudukkottai District.



WEB COPY



6

W.P.(MD)NO.6181 OF 2023

G.R.SWAMINATHAN,J.

PMU

W.P.(MD)No.6181 of 2023

23.06.2023