



W.P.(MD)No.22207 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.22207 of 2021

R.R.Saravana Balagurusamy

... Petitioner

VS.

1.Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai 600 009.

2.The Director of Medical and Rural Health Services,
359, Anna Salai, Chokkalingam Nagar,
Thenampet, Chennai 600 006.

3.The District Collector,
Collectorate Campus, Dindigul, Dindigul District.

4.The Joint Director, Health Services, Dindigul.

5.The District Health Officer,
Health Department, Dindigul District.

6.R.Muralitharan,
Managing Director,
City Hospital, Pavalam Trauma Care Centre,
No.4/361, Trichy Road, Gandhiji Nagar,
Dindigul-5.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, direction to the Respondents 1 to 5 to take appropriate action against the 6th respondent and direct the 6th respondent to pay the Rs.75 lakhs as compensation to the petitioner for his father's death based upon petitioner's representation dated 15.12.2020.

For Petitioner :Mr.C.S.Ravichandran
For R1 to R5 :Mr.P.Thambidurai
Government Advocate

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the respondents 1 to 5 to take action against the sixth respondent hospital based on the representation made by the petitioner on 15.12.2020 and for a further direction to the sixth respondent to pay compensation to the petitioner for his father's death caused due to negligence on the part of the sixth respondent hospital.

2.The case of the petitioner is that his father was working as a Block Development Officer in the Rural Development Department and he attained superannuation. On 30.08.2020, the petitioner's father was admitted in the sixth respondent hospital and the petitioner was also



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asked to pay a sum of Rs.40,000/- as advance amount. This amount was also paid and thereafter, the petitioner and his family members were kept in dark without being informed as to the status of the health of the petitioner's father.

3.The further case of the petitioner is that after nearly four days after the petitioner's father was admitted, they were informed that the father was affected with COVID-19 virus. The sixth respondent had also demanded a further sum of Rs.1,00,000/- for treatment. This amount was also paid by the petitioner. Thereafter, on 08.09.2020, the sixth respondent asked the petitioner to pay a further sum of Rs.2,00,000/- and this amount was also paid by the petitioner. The petitioner and his family members requested the sixth respondent to permit them to see the father of the petitioner and they were never allowed to see him and they were kept in dark right through. Ultimately, the sixth respondent informed the petitioner that the father is kept under ventilator and on this account, additional amount was claimed from the petitioner. The father of the petitioner was discharged on 09.09.2020. Unfortunately, the petitioner's father expired on 18.09.2020. The case of the petitioner is that the



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demise of the petitioner's father was caused due to the negligence on the part of the sixth respondent and for this callous treatment, nearly a sum of Rs.5,00,000/- was taken from the petitioner.

4.The petitioner made an enquiry by filing an application under the Right to Information Act, 2005, in order to verify as to whether the petitioner's father was really affected with COVID-19 virus and it was ascertained that wrong treatment had been given to him, which resulted in his demise and also caused financial loss to the petitioner. It is under these circumstances, the petitioner made a representation to the official respondents to take action against the sixth respondent. Since the same did not evoke any response, the present Writ Petition has been filed before this Court.

5.Even when the matter came up for hearing on 15.12.2021 for admission, this Court questioned the very maintainability of the Writ Petition on the ground that the dispute is between the petitioner and the private hospital and the same cannot be resolved in a Writ jurisdiction. Therefore, the petitioner was directed to satisfy the Court on the ground



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of maintainability.

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6. When the matter was taken up for hearing today, the learned Government Advocate appearing on behalf of the respondents 1 to 5 submitted that the complaint given by the petitioner was enquired and it was found that the petitioner's father was infected with COVID-19 virus and the sixth respondent hospital had given proper treatment and there was no negligence on the part of the sixth respondent. The learned Government Advocate also produced the communication, dated 19.04.2021, made by the fourth respondent to the District Collector, Dingidul, wherein, it was informed that the petitioner's father was a retired Block Development Officer and he had undergone treatment for COVID-19 in the sixth respondent hospital, which is an authorised hospital to give treatment for COVID-19 patients and that whatever amounts have been spent towards the treatment, can be reimbursed, if an application is filed and the same will be dealt with in line with G.O. (Ms)No.240, dated 05.06.2020.

7. It is clear from the material facts that were placed before this



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Court that the sixth respondent had given treatment to the petitioner's father, since he was affected by COVID-19 virus. This fact was vehemently denied by the learned Counsel for the petitioner based on the information received by the petitioner under the Right to Information Act, 2005. It was further contended that if the petitioner's father was really affected with COVID-19 virus, as per the prevailing protocol, the family members must also have been subjected to COVID-19 test and they should have kept in quarantine and this was not done in this case. Therefore, it was contended that the officials did not conduct proper enquiry and hence, the report given by the official respondents is not sustainable.

8. In the considered view of this Court, the dispute in the instant case is between the petitioner and the sixth respondent hospital. Strictly speaking, this dispute cannot be agitated in a Writ Petition, since the sixth respondent is a private hospital. However, the only ground on which the Writ Petition was entertained was to see if there is any negligence on the part of the sixth respondent and now the materials placed before this Court shows that an enquiry was conducted and it was



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found that there was no negligence on part of the sixth respondent. In the light of this material placed before this Court, there is no further scope for this Court to go into the issue raised by the learned Counsel for the petitioner as against the sixth respondent. The fourth respondent in categorical terms has informed the District Collector through communication dated 19.04.2021 that the petitioner's father was affected with COVID-19 and he has taken treatment in the sixth respondent hospital, which was an authorised hospital and therefore, whatever amount was spent towards treatment can be reimbursed, since the petitioner's father was a retired Government employee and he will be entitled for the relief granted in G.O.(Ms).No.240, dated 05.06.2020. Therefore, if the petitioner is interested in getting the amount reimbursed, the petitioner can always apply for the reimbursement under G.O. (Ms).No.240, dated 05.06.2020. If, on the other hand, the petitioner is not satisfied with the findings of the authorities, it is left open to the petitioner to independently work out his remedy against the sixth respondent before the appropriate forum. Except giving this clarification, no further orders can be passed in this Writ Petition.



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9.This Writ Petition is disposed of in the above terms. No costs.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No

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To

1.The Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai 600 009.

2.The Director of Medical and Rural Health Services,
359, Anna Salai, Chokkalingam Nagar,
Thenampet, Chennai 600 006.

3.The District Collector,
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N.ANAND VENKATESH, J.

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