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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.21015 of 2021

A.Mony

... Petitioner

vs.

- 1.The State of Tamil Nadu,
Rep by its Principal Secretary
to Government,
Health and Family Welfare
Department, Secretariat,
Chennai-9.
- 2.The District Collector,
O/o. The District Collector office,
Collector office campus,
Kanyakumari, Kanyakumari District.
- 3.The Joint Director of Medical
and Rural Services,
Kanyakumari District, Kanyakumari.
- 4.The District Treasury officer,
O/o. The District Treasury office,
Collector office campus,
Kanyakumari, Kanyakumari District.



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5. The Senior Divisional Manager,
United India Insurance Company Ltd.,
O/o. The Divisional Office V1, 5th Floor,
P.L.A Rathna Towers, 212, Anna Salai,
Chennai-6.

6. The State Level Empowered Committee,
Delhi Sachivalaya,
I.P. Estate,
New Delhi.

... Respondents

[6th respondent is added as Suo Motu by Order of this Court, dated 22.08.2023]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 5th respondent in his proceedings R.C.No. 21977/2015-2019(42)/L2, dated 05.11.2020 and quash the same as illegal and consequently direct the respondents to disburse and reimburse the medical expenses incurred by the petitioner for undergoing the surgery at the Sree Utharadom Thirunal Super-Specialty hospital within the period that may be stipulated by this Court.

For Petitioner	: Mr.P.Mohammed Suhail
For R-1 to R-4	: Mr.B.Saravanan, Additional Government Pleader
For R-5	: Mr.A.Shajahan



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ORDER

This writ petition has been filed for Writ of Certiorarified Mandamus to quash the impugned order, dated 05.11.2020 with a consequential direction to the respondents to disburse and reimburse the medical expenses incurred by the petitioner for the surgery.

2. Heard Mr.P.Mohammed Suhail, the Learned counsel appearing for the Petitioner, Mr.B.Saravanan, the Learned Additional Government Pleader appearing for R-1 to R-4 , Mr.A.Shajahan, the Learned counsel appearing for the 5th respondent and perused the material documents placed on record.

3. The 5th respondent has rejected the claim of the petitioner, since it is a Non-network Hospital. The petitioner was admitted on an emergency on 26.10.2019 for the complaint of Chest pain, which is recurrent episodes since one month and increased in severity since 3 days of admission which was diagnosed



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as Cad Moderate to severe LV dysfunction. Thereafter, he underwent surgery on 28.10.2019 and discharged on 31.10.2019.

4. The contention of the 5th respondent is that it is not an emergency situation, since the petitioner was undergoing chest pain for the past one month and the test was taken after lapse of one month. During the period of said one month the petitioner had ample time to locate the network hospital, but he had chosen to admit in Non-network Hospital. Hence, the respondents are not liable to pay the amount. Moreover, the claim of the petitioner was also considered by the District Empowered Committee and the 5th respondent was directed to pay the amount. After the receipt of the recommendation of the District Empowered Committee, the 5th respondent has rejected the claim of the petitioner. Hence the 5th respondent submitted that the petitioner ought to approach the State Empowered Committee.



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5. According to the 5th respondent, once the 5th respondent has rejected the claim of the petitioner, then the petitioner should approach the State Empowered Committee. This Court is of the considered opinion that the 5th respondent's plea cannot be sustained, since the District Empowered Committee has directed the 5th respondent to pay the amount, then the 5th respondent ought to pay the amount. If the 5th respondent is aggrieved over the decision of the District Empowered Committee, then the 5th respondent ought to approach the State Empowered Committee. The 5th respondent has no power to reject the claim of the petitioner, after the District Empowered Committee had directed to pay the amount. Since the State Level Empowered Committee is not a party in this writ petition, this Court *Suo Motu* impleaded as 6th respondent.

6. For the reasons stated supra, the 5th respondent is directed to approach the State Empowered Committee. The State Empower Committee shall consider and pass orders, within a period of six weeks, from the date of receipt of a copy of the order. In the meanwhile, the petitioner is at liberty to approach the Government under Medical Attendant Rules as well.



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7. With these observations and directions, this Writ Petition is allowed. No Costs.

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