



W.P.(MD).No.13084 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.13084 of 2016

and

W.M.P.(MD).Nos.9864 and 9865 of 2016

I.Lathifa

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Health and Family Welfare Department,
St.George Fort,
Chennai.

2.The Director,
Medical and Rural Health Services,
DMS Complex,
No.361, Anna Salai,
Chennai – 600 006.

3.The District Collector,
Tirunelveli District,
Tirunelveli.

4.Dr.S.Fathimuthu Zahara

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in G.O.(D).No.694 Health and Family Welfare (K2) Department dated 04.07.2014 and quash the same as devoid of merits and



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consequently direct the respondents to pay the compensation to the petitioner for the death of her daughter due to Medical Negligence caused by the fourth respondent based on the petitioner's representations dated 02.12.2014 and 19.12.2014 within the period stipulated by this Court.

For Petitioner : No Appearance

For R-1 to R-3 : Mr.R.Suresh Kumar,
Additional Government Pleader.

For R-4 : Mr.T.Antony Arulraj

ORDER

This Writ Petition is filed challenging the G.O.(D).No.694 dated 04.07.2014 and consequently direct the respondents to pay the compensation to the petitioner for the death of her daughter due to Medical Negligence caused by the fourth respondent by considering the petitioner's representation.

2. The petitioner is having 3 daughters. On 22.09.2009, her first daughter namely, Najeela Rahmath, who was aged about 7 years was bitten by Snake and she was admitted to Kadayannallur Government Hospital. The fourth respondent who was working as Civil Surgeon in the said hospital had given treatment. The contention of the petitioner is that her daughter was not given necessary medicine and due to negligence of the fourth respondent, her



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daughter died on the same day. Hence, the petitioner along with her family members protested against the negligent act of the fourth respondent. Thereafter, the official respondents issued two charge memos against the fourth respondent. An enquiry officer was appointed and enquiry was conducted and based on the enquiry report, the charges framed against the fourth respondent were held not proved and the Government had issued G.O.(D).No.694 Health and Family Welfare (K2) Department dated 04.07.2014, dropping further action in the disciplinary proceedings initiated against the fourth respondent. Aggrieved over such order, the petitioner is before this Court.

3. The learned counsel appearing for the fourth respondent filed a counter affidavit and also submitted that it is a settled proposition that the third party cannot interfere with the disciplinary proceedings initiated by the Department. The judgment of the Hon'ble Apex Court in the case of Rajnit Prasad Vs Union of India and others reported in (2000) 9 SCC 313 has held that the third party cannot stand in the way in between the employee and the employer in matters of service disputes, especially in the context of disciplinary proceedings. The said judgment was relied by another learned Single Judge in W.P.(MD).No. 17262 of 2022 dated 03.08.2022. Hence, the fourth respondent prays to dismiss this Writ Petition.



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4. In view of the law laid down by the Hon'ble Apex Court, the third party cannot interfere with the disciplinary proceedings. Hence, the Writ Petition is totally misconceived and is not maintainable.

5. Hence, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

10.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr
To

1.The Secretary,
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Chennai.

2.The Director,
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S.SRIMATHY, J.

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