



WP(MD)No.16948 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 12.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.16948 of 2016

and

WMP(MD)Nos.12279 of 2016, 20856 of 2023

A.Khader Batcha
Rep. by Power Agent
J.Khaja Maideen

.. Petitioner

v.

- 1.The State of Tamil Nadu,
Rep. by The Principal Secretary,
Health Service Department,
Secretariat,
Chennai.
- 2.The Director,
Public Health Preventive Medicine,
Government of Tamil Nadu,
Thenampettai,
Chennai.
- 3.The Joint Director,
Health Service Department,
Kumbakonam Taluk,
Thanjavur District.



WP(MD)No.16948 of 2016

4. The Deputy Director of Health Service,
Department of Health Service,
Gandhiji Road,
LIC Office Next Building,
Municipal Office Road,
Thanjavur District – 613 001.
5. The Chief / Dean,
Government Raja Mirasuthar Hospital,
Thanjavur District – 613 001.
6. The Dean,
Government Medical College Hospital,
Medical College Road,
Thanjavur District – 613 004.
7. The District Collector,
Office of the District Collector,
Thanjavur District – 613 004.
8. The Director General of Police,
Office of the Director General of Police,
Chennai – 600 004.
9. The Superintendent of Police,
Office of the Superintendent of Police,
Court Road,
Thanjavur District – 613 001.
10. The Inspector of Police,
Medical College Police Station,
Thanjavur District – 613 004.
11. The Inspector of Police,
South Police Station,
Thanjavur District- 613 001.



WP(MD)No.16948 of 2016

12.The Chairman,
Tamil Nadu Medical Council,
No.914, Ponnthamalle High Court,
Arumpakkam,
Chennai – 600 006.

13.The Chairman,
Tamil Nadu Government Medical Board,
Chennai.

14.The Rohini Hospital Multi Speciality Hospital,
Rep. by Dr.Santhi

15.Dr.A.L.Santhi

16.Dr.Vinoth

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondents 1 to 6 to provide a sum of Rs.2,00,00,000/- (Rupees Two Crore) as compensation for the death of the petitioner's wife, J.Abbas Ammal @ Sakila Banu, aged 27 years, W/o.A.Khader Batcha, who died on 23.06.2014 and to direct the respondents 1 to 6 to initiate appropriate action against the officials worked at the respondents 5 & 6 including the respondents 15 & 16, who are responsible for the death of the petitioner's wife by considering the petitioner's representation dated 07.09.2015.



WEB COPY



WP(MD)No.16948 of 2016

For Petitioner : Mr.R.Suresh Kumar

For Respondents : Mr.M.Ramesh,
Government Advocate
for R.1 to R.4, R.6, R.7 R.13

Mr.S.Venkatesan for R.5

Mr.B.Thanga Aravindh,
Government Advocate (Crl. Side)
for R.8 to R.11

Mr.N.Sathish Babu for R.12

Mr.P.Suresh Kumar
for Mr.A.Karthik for R.14

Mr.N.S.Karthikeyan for R.16

ORDER

This writ petition is filed by the petitioner for a mandamus directing the respondents 1 to 6 to provide a sum of Rs.2 Crore as compensation for the death of his wife, J.Abbas Ammal @ Sakila Banu, aged about 27 years.

2.The case of the petitioner is that his wife was admitted in a Private Hospital / R14, run by one Dr.Santhi [R15]. The said Doctor is also a Government Doctor. R14, without the knowledge of this petitioner, has



WP(MD)No.16948 of 2016

taken the patient admitted in her Hospital to the Government Hospital and admitted the patient in the Government Hospital, where there was no sufficient facilities available at that time. Therefore, the patient was once again shifted from Government Hospital, Thanjavur to the Government Medical College Hospital, Thanjavur [R6]. In the transit, the petitioner's wife suffered chest pain and also died in the Government Medical College Hospital, Thanjavur.

3.Learned Counsel for the petitioner submitted that when the petitioner's wife was taking treatment at R15's Hospital, the Blood Pressure and other readings are normal. It is purely on the negligence on the part of R15 in shifting the patient who was admitted in her Hospital to the Government Hospital without the concurrence of this petitioner, this incident had taken place. The Government Hospital was also not having sufficient instruments to treat the patient effectively and in view of the shifting of the patient from one Hospital to other, the petitioner's wife succumbed to death.



WP(MD)No.16948 of 2016

4.Learned Government Advocate sought for a short accommodation for engaging the learned Additional Advocate General.

5.Learned Counsel appearing for the Tamil Nadu Medical Council / R12 submitted that based on the petitioner's affidavit, they have directed the petitioner to submit the complaint in the prescribed form. However, the petitioner has not submitted the complaint in the prescribed form and therefore, further action has not been taken by the Medical Council. He further submitted that if the petitioner submits the complaint in the proper form, the Medical Council will consider the case of the petitioner.

5.Considering this submission made by the learned Counsel for the Tamil Nadu Medical Council, this writ petition is disposed of with a direction to the petitioner to submit a fresh complaint along with the required documents, in the prescribed format, to the Tamil Nadu Medical Council [R12], within a period of three weeks from the date of receipt of a copy of this order. The Medical Council, on receipt of the complaint, shall conduct an enquiry in a fair and proper manner, find out the truth and take



WP(MD)No.16948 of 2016

appropriate action, if there is any violation on the part of R15 & 16, within a reasonable time, after providing due opportunity of hearing to all the parties concerned. If the petitioner is still having any grievance for compensation, he can work out his remedy by filing a suit before the competent civil Court. If any civil suit is filed, the same shall be entertained by the civil Court by excluding the period for which this writ petition was pending before this Court for the purpose of calculating the limitation period.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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

12.10.2023

To

1. The Principal Secretary,
State of Tamil Nadu,
Health Service Department,
Secretariat,
Chennai.



WP(MD)No.16948 of 2016

2. The Director,
Public Health Preventive Medicine,
Government of Tamil Nadu,
Thenampettai,
Chennai.
3. The Joint Director,
Health Service Department,
Kumbakonam Taluk,
Thanjavur District.
4. The Deputy Director of Health Service,
Department of Health Service,
Gandhiji Road,
LIC Office Next Building,
Municipal Office Road,
Thanjavur District – 613 001.
5. The Chief / Dean,
Government Raja Mirasuthar Hospital,
Thanjavur District – 613 001.
6. The Dean,
Government Medical College Hospital,
Medical College Road,
Thanjavur District – 613 004.
7. The District Collector,
Office of the District Collector,
Thanjavur District – 613 004.
8. The Director General of Police,
Office of the Director General of Police,
Chennai – 600 004.



WP(MD)No.16948 of 2016

9. The Superintendent of Police,
Office of the Superintendent of Police,
Court Road,
Thanjavur District – 613 001.

10. The Inspector of Police,
Medical College Police Station,
Thanjavur District – 613 004.

11. The Inspector of Police,
South Police Station,
Thanjavur District- 613 001.

12. The Chairman,
Tamil Nadu Medical Council,
No.914, Ponnthamalle High Court,
Arumpakkam,
Chennai – 600 006.

13. The Chairman,
Tamil Nadu Government Medical Board,
Chennai.



WEB COPY



WP(MD)No.16948 of 2016

B.PUGALENDHI, J.

gk

WP(MD)No.16948 of 2016

12.10.2023