



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.26264 of 2023 AND
W.M.P.(MD)No.22611 of 2023

S.Veera Mahesh

... Petitioner

Vs.

1. The Principal Secretary to Government,
Health & Family Welfare Department,
Secretariat, Chennai – 600 009.
2. The Tamil Nadu Medical Council,
No.914, Ponnammallie High Road,
Arumbakkam, Chennai.
3. The Director,
The Directorate of Medical Education,
No.162, Periyar EVT High Road,
Kilpauk Chennai – 600 010.
4. The Director,
Directorate of Medical & Rural Health Services,
No.359, DMS Complex, 361, Anna Salai,
Teynampet, Chennai – 600 006.
5. The District Collector,
Theni District, Theni.
6. The Dean,
Theni Government Medical College and Hospital,
Kana Vizhakku, Aundipatti, Theni District.
7. The Joint Director of Medical,
Government Hospital,
Usilampatti – 625 532, Theni District.



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8. The Chief Medical Officer,
Bodinayakanur Government Hospital,
Bodinayakanur – 625 513,
Theni District.

9. Dr. Anbu Cheliyan,
Arun Hospital,
Uthamapalayam Road,
Bodinayakanur – 625 513,
Theni District.

10. Dr. Senthil Prabhu,
Anastasia Specialist,
Bodi Government Hospital,
Amaravathi Nagar, Bodinayakanur,
Theni District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 8 to safeguard the life of the petitioner's wife, namely, Rekha (aged 30 years) by providing appropriate medical treatment to her, who is now admitting in 6th respondent's hospital and consequently, to direct the respondents 1 to 8 to take appropriate action as against the respondents 9 and 10 for their wrong medical treatment made as against the petitioner's wife by considering the petitioner's representation dated 20.10.2023 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.S.Jeyakarthik

For R-1, R-3 to R-8 : Mr.M.Prakash,
Additional Government Pleader.

For R-2 : Mr.V.Ramesh,
Standing counsel.

* * *

**ORDER**

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Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the official respondents and the learned Standing counsel appearing for the second respondent.

2. The writ petitioner is a small time businessman. He and one Rekha got married on 25.11.2012. They have two young children aged 10 and 5 years. Since the petitioner's wife conceived for the third time, it was decided by the couple to terminate the pregnancy. They came to know that the District Administration proposed to hold a Family Planning camp at Bodinayakanur Government Hospital on 14.06.2023. The petitioner's wife was admitted as an inpatient on 13.06.2023. After terminating the pregnancy by giving tablets, Laparoscopic surgery was done on 14.06.2023 at around 12 noon by the ninth respondent. The petitioner states that the entire procedure was completed within a few minutes. He further states that on the same day, Family Planning operations were performed for as many as 18 persons. After the petitioner's wife was wheeled out of the operation theatre,



she went unconscious. Since ventilator facilities were not available in Bodi Government Hospital, the petitioner's wife was rushed to the sixth respondent's hospital. She is remaining there as an inpatient ever since. She is yet to recover.

3. The petitioner wants proper treatment for his wife. He also wants action to be taken against the respondents 9 and 10 for medical negligence.

4. Since notice has not been issued to the respondents 9 and 10, it would not be proper on the part of this Court to render any finding regarding medical negligence. This issue is left open for the present. Liberty is given to the petitioner to move this Court again on the same cause of action.

5. The situation demands immediate treatment for the petitioner's wife. I had a telephonic conversation with the concerned doctor. He stated that rehabilitatory measures will have to be done and that requisite facilities are not available in the sixth respondent hospital.



6. I therefore direct the sixth respondent to immediately shift the patient(Mrs.Rekha) to Tamil Nadu Government Multi Super Speciality Hospital, Omandurar, Government Estate, opposite to The Hindu Office, Anna Salai, Triplicane, Chennai 600 002 for higher treatment. The Government of Tamil Nadu has been shown as the first respondent in the writ petition. Therefore, appropriate instructions shall be given to the Dean of TNGMSSH to ensure that adequate and proper treatment is accorded to the petitioner's wife. To facilitate her recovery, no stone shall be left unturned. The Government has definite and special responsibility in this case. The occurrence did not take place in a private hospital. The Government had invited eligible persons to undergo Family Planning operation. This offer put forth by the District Administration was availed by the petitioner's wife. The unfortunate turn of events took place, when operation was done on the petitioner's wife by the doctors in Bodinayakanur Government Hospital. Therefore, it is the duty of the Government to ensure that till the patient recovers, she is taken care of by the Government.

7. I also direct the fourth respondent to conduct an



enquiry. An expert committee shall be constituted and the terms of reference will be to find out if there was any medical negligence while conducting operation on the petitioner's wife. Report shall be submitted within a period of six weeks. Liberty is given to the petitioner to move this Court again. The petitioner will be entitled to payment of compensation even if there was no negligence. Different considerations will apply if negligence is established. Whether action should be taken against the private respondents or not would depend upon the outcome of the enquiry. This writ petition stands allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

02.11.2023

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

Note : Issue order copy on 02.11.2023.



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