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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.03.2023

Pronounced on : 21.06.2023

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.29051 of 2022
and
WMP(MD)No.23028 of 2022

Humanitarian Trust

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep.by its Secretary,
Department of Differently Abled Welfare
Officer, Secretariat, Chennai.
- 2.The Director, State Commissionerate of Differently
Abled Person,
State Rehabilitation Department,
No.5, Kamarajar Salai,
Lady Wellington College Campus,
Chennai – 5.
- 3.The State Coordinator,
State Rehabilitation Department,
No.5, Kamarajar Salai,
Lady Wellington College Campus,
Chennai – 5.
- 4.The District Collector,
Ramanathapuram District.



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5.The District Differently Abled Welfare
Officer,
District Collectorate Campus,
Ramanathapuram.

6.The Treasury Officer,
Collectorate Complex,
Ramanathapuram District.

7.The Dean,
Government Rajaji Hospital,
Madurai.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to forbear the respondents 1 to 5 from shifting the forty mentally ill person from the petitioner's home namely, “Humanitarian Trust” to any other home by considering his representation dated 31.10.2022 within the time stipulated by this Court.

For Petitioner : Mr.T.Thirumurugan

For Respondents : Mr.M.Lingadurai,
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner is a registered Trust. It is running a home for the mentally disabled. As on date, it is housing a number of mentally ill



persons. The petitioner earlier filed WP(MD)No.20201 of 2022 for directing the authorities to dispose of the application submitted by them for disbursement of funds for the rehabilitation home run by them. The said writ petition was disposed of by me on 29.08.2022 by directing the authorities to take a call in the matter within 12 weeks. The allegation of the petitioner is that since the petitioner issued notice to the District Differently Abled Welfare Officer, Ramanathapuram to comply with the direction of this Court to take a decision on the proposal, as a counter blast, an inspection was done and a false report was generated as if out of 51 inmates, 40 are fit for rehabilitation. That led to the filing of this writ petition for forbearing the respondents from shifting any of the inmates.

3. When the matter was taken up for hearing, I directed the respondents to make available the assessment report based on which it was concluded that forty inmates are fit to be shifted to the Government home. Pursuant to the said direction, the medical report submitted by the doctors attached to the Department of Psychiatry, Government Medical College and Hospital, Ramanathapuram was made available.



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4.I carefully went through its contents. What has been produced before me is a spreadsheet containing 21 columns. The inmates fall under different categories of mental illness including schizophrenia and psychosis. 3 inmates are diagnosed with 70% of disability, 18 with 60% disability, 8 fall under 50%, 1 under 45% and 3 under 40%. A tall claim has been made that it is proposed to reintegrate them into society by giving them government aided vocational training. The categorical assertion of the petitioner is that the persons identified as fit are really not in a position to be left to their own devices. While perusing the spreadsheet, I noticed that a schizophrenic inmate who is diagnosed with 80% disability has been declared to be fit for shifting whereas another inmate who is also a schizophrenic with 40% disability has been considered unfit. Photograph of an inmate who has been certified as fit has been produced before me and I am more than satisfied that the certifying doctors could not have come to such a conclusion. On the whole, the assessments appear to be arbitrary. It is not known as to what kind of tests were conducted on the patients and what led the doctors to conclude that forty inmates are fit. It is well settled that reasons are the soul of any order. This would apply to any administrative decision. The



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doctors' assessment regarding the fitness of the inmates cannot be taken as gospel truth. It is for this reason that I am constrained to interfere.

5.The allegation of the petitioner Trust is that because they had requested disbursement of funds, filed writ petitions and also issued contempt notice against the officials, the respondents have resorted to Operation Shifting. The funds allottable to the petitioner would depend on the number of inmates. It is for this reason, a substantial number of inmates are sought to be shifted. This allegation of the petitioner appears to be probable. It is not as if the immediate relatives or caregivers have come forward to take the inmates back. They are going to be shifted only to a Government home. The inmates can very well remain in their existing set up itself. They are not chattel to be shifted as per the whims and fancies of officials. Some of the inmates who have been identified for shifting have spent nearly a decade in the petitioner Trust. They would have been accustomed to their present surroundings. Having lived there for quite sometime, they would have definitely formed relationships with their fellow inmates. They should not be removed from their familiar surroundings. If displaced, there is a real danger of the inmates spiralling into regression. The approach of the respondents cannot be



appreciated. The respondents are restrained from shifting the inmates.

Of course, the issue can be revisited if the petitioner breaches the norms and regulations and is not properly running the home.

6.This writ petition is allowed. No costs. Connected miscellaneous petition is closed.

21.06.2023

Index : Yes / No

Internet : Yes/ No

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To:

- 1.The Secretary, Department of Differently Abled Welfare Officer, Secretariat, Chennai.
- 2.The Director, State Commissionerate of Differently Abled Person, State Rehabilitation Department, No.5, Kamarajar Salai, Lady Wellington College Campus, Chennai – 5.
- 3.The State Coordinator, State Rehabilitation Department, No.5, Kamarajar Salai, Lady Wellington College Campus, Chennai – 5.
- 4.The District Collector, Ramanathapuram District.
- 5.The District Differently Abled Welfare Officer, District Collectorate Campus, Ramanathapuram.
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G.R.SWAMINATHAN, J.

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