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WA No.404 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR
AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU
WA No.404 of 2022

1.Dr.P.Rammohan
2.Dr.R.Kalavalli : Appellants

versus

1.The Joint Director of Health Services,
Thiruvallur District

2.Mala

3.The Tamil Nadu Medical Council
No.914, Poonamallee High Road,
Arumbakkam, Chennai 106. : Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge in WP No.26985 of 2013 dated 02.12.2021.

For the Appellants : Mr.T.Murugamanickam,
Senior Counsel,
for Ms.Zeenath Begum

For Respondent No.1 : Mr.M.Bindran,
Additional Government Pleader

For Respondent No.2 : No appearance

For Respondent No.3 : Mr.Jayamalavan

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JUDGMENT

(Made by D. KRISHNAKUMAR, J.)

The appellants have filed writ petition in WP No.26985 of 2013 challenging the notice issued by the first respondent herein, dated 04.09.2013, calling upon the appellants to appear for an inquiry in respect of the complaint preferred by the second respondent, alleging medical negligence.

2. It is the case of the appellants that they are private medical practitioners; that on 16.12.2012, the second respondent took treatment in their hospital for back pain and gastritis. While administering injection, the plastic hub of the syringe got separated from the needle and the syringe was embedded in the second respondent's hind portion. Immediately, the second respondent was taken to a surgeon at the Kamakshi Memorial Hospital wherein the surgeon operated upon the second respondent. However, the needle could not be retrieved. The surgeon opined that the needle being made of stainless steel, no infection would occur and if fibrosis occurs, then the patient could be operated upon. It is the case of the appellants that the entire medical expenses were borne by them.



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3. While so, the first respondent issued notice to the appellants summoning them to appear for an inquiry in connection with the complaint given by the second respondent to the Chief Minister's Grievance Cell. Challenging the said notice, the appellants filed writ petition as mentioned above.

4. The appellants contended before the Writ Court that, they being private medical practitioners, are not amenable to the jurisdiction of the first respondent.

5. Accepting the contention of the appellants, learned Single Judge suo motu impleaded the third respondent herein. While disposing of the writ petition, learned Single Judge directed the first respondent to handover copy of records relating to the file Na.Ka.No. 3384/Ni2/2013 along with all relevant records, to the third respondent herein within a period of two weeks from the date of receipt of a copy of the order. On receipt of records, the third respondent was directed to initiate appropriate action against the appellants by following the procedure as contemplated. Challenging the said direction of learned Single Judge, the present appeal has been filed.



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6. Learned Senior Counsel for the appellants would submit that copy of the complaint has not been furnished to the appellants and the second respondent has not agitated before any other forum for the alleged lapses on the part of the appellants. In such circumstances, the direction of the Writ Court to conduct inquiry by the third respondent is unwarranted and therefore, the said order of the Writ Court is liable to be set aside.

7. An affidavit has been filed by the third respondent wherein it is stated that the first respondent has forwarded copies of records relating to file No.3364/E2/2013 dated 26.11.2021, to them. Since the appellants have preferred this intra-court appeal, further steps could not be taken, and the third respondent is awaiting the orders of this Court. It is further stated that the third respondent is the competent authority to look into the irregularities of private medical practitioners and that there is no infirmity in the order passed by the Writ Court.

8. We accept the view taken by the learned Single Judge that the third respondent is the competent authority to initiate enquiry as against the complaint preferred by the second respondent. Therefore,



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we do not wish to interfere with the order of the learned Single Judge. Consequently, the third respondent is directed to proceed with the enquiry. Needless to state that the third respondent shall furnish copy of the complaint preferred by the second respondent, to the appellants.

9. On receipt of copy of the complaint, the appellants shall appear before the third respondent. The third respondent shall conduct enquiry and pass orders in accordance with law. Such exercise shall be completed within a period of twelve weeks. The appellants shall cooperate with the inquiry conducted by the third respondent.

10. The writ appeal stands disposed of. There shall be no order as to costs. Consequently, CMP No.3082 of 2022 is closed.

(D.K.K., J.) (K.B., J.)
25.06.2024

Index : Yes/No
Neutral Citation : Yes/No
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D. KRISHNAKUMAR, J.

AND

K.KUMARESH BABU, J.

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To

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Thiruvallur District

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