



W.P.No.23711 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23711 of 2023

M.Maragathadevi

... Petitioner

Vs.

- 1.Dr.Omprakash Narayan,
Senior Assistant Professor,
Department of Orthopaedics,
Omandurar Government Estate,
169, Wallahjah Road, Police Quarters,
Triplicane, Chennai-600 002.
- 2.Sakthi Hospitals and Research Centre,
No.175, Big Street,
Triplicane, Chennai-600 005.
- 3.The Government Medical College,
Omandurar Government Estate,
No.169, Wallahjah Road, Police Quarters,
Triplicane, Chennai-600 002.
- 4.The Secretary to the Government,
Health Department,
Government of Tamil Nadu,
Fort St.George, Chennai-600 009.



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5. The Tamil Nadu Medical Council,
914, Poonamallee High Road,
Amaravathi Nagar,
Arumbakkam, Chennai-600 106.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents 1 to 4 to pay a sum of Rs.25,00,000/- and a monthly sum of Rs.15,000/- towards compensation to the petitioner for the medical negligence caused to the petitioner resulting in lifetime physical and financial constraints caused to the petitioner in order for her to buy diapers, self catheters and medicines.

For Petitioner : Mr.Aravind Subramanian
Senior Counsel for
Mr.N.Sivaprakash

For Respondents : Mr.R.Thirugnanam for R1
Dr.B.Cheran for R2
Mr.E.Sundaram
Government Advocate for R3 & R4
Mr.U.Baranidharan
Standing Counsel for R5

ORDER



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This Writ Petition has been filed to direct the respondents 1 to 4 to pay a sum of Rs.25,00,000/- and Rs.15,000/- per month towards compensation to the petitioner for the medical negligence caused to her resulting in lifetime physical and financial constraints.

2. The learned counsel appearing for the petitioner submits that the petitioner had undergone Master Checkup in the Government Multi-specialty Hospital and was admitted in the third respondent Hospital, where she was examined by the first respondent. The first respondent has incorrectly diagnosed the petitioner and coerced her to discharge from the third respondent hospital and advised her to admit in the second respondent hospital, where the first respondent conducted surgery using the facilities and the staff of the second respondent hospital and after the surgery, the liquids had started to leak from her back. Thereafter, she was moved to Multi Specialty Government Hospital on 18.02.2023 where a procedure known as wound washing was done and thereafter, there was no leakage from her back, however, the Doctors stated that she was suffering from Post Operative



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CSF Leakage. Since the surgery was not done properly, the petitioner is still unable to pass urine or bowels naturally. In this regard, the petitioner had sent a representation to the respondent Nos.1, 2, 3 and 5 on 03.06.2022, however, there is no response. Hence, the present writ petition has been filed seeking compensation.

3. The learned counsel appearing for the second respondent submits that the first respondent was not working in the second respondent Hospital and he is an independent Doctor and therefore, fixing responsibility on the second respondent Hospital is not sustainable one. The entire allegation is only against the first respondent, who has given improper treatment to the petitioner, for which, the petitioner has also made a representation before the fifth respondent and the fifth respondent also conducted enquiry and the result was not intimated to the petitioner.

4. The learned Government Advocate appearing for the



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respondents 3 and 4 submits that though the petitioner claims that she was admitted in the Government Hospital, she was thereafter shifted to the second respondent Hospital where the first respondent conducted surgery.

5. The learned counsel appearing for the first respondent denied the allegations made by the petitioner, however, submits that if any direction is issued to the fifth respondent, liberty may be given to the first respondent to participate in the enquiry.

6. Heard the learned Senior Counsel appearing for the petitioner, the learned counsel appearing for the first respondent, the learned counsel appearing for the second respondent and the learned Government Advocate appearing for the respondents 3 and 4 and the learned Standing Counsel appearing for the fifth respondent.

7. Considering the facts and circumstances of the case and the fact



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that the petitioner has already made a representation before the fifth respondent for the alleged improper treatment done by the first respondent and the said issue is pending before the fifth respondent, this Court, without expressing any opinion on the merits of the case, directs the fifth respondent to conclude the enquiry in the representation made by the petitioner and if the enquiry is not concluded in favour of the petitioner, liberty is granted to the petitioner to file an application before the District Consumer Forum.

8. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

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