



W.P.No.25742 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

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A.Rajesh

... Petitioner

Vs.

1.The Secretary to Government,
Health Department,
Government of Tamil Nadu,
Fort St.George,
Chennai – 600 009.

2.The Joint Director of Health Services,
DMC Office Complex,
Teynampet, Chennai – 600 018.

3.The Director of Medical Services,
DMC Office Complex,
Teynampet, Chennai – 600 018.

4.The District Collector,
Chennai District,
Singaravelar Maligai,
Chennai.

5.The Dean,
Rajiv Gandhi Government Hospital,
Chennai.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to pay Rs.25,00,000/- (Rupees twenty five lakhs only) towards compensation to the petitioner for the medical negligence caused by the 5th respondent to the petitioner's father Arumugam resulting in life time financial constrains cause to the petitioner's father.

For Petitioner : Mr.T.Gnana Babu

For Respondents : Mr.E.Sundaram
Government Advocate

ORDER

This Writ Petition has been filed seeking for a Writ of Mandamus, to direct the respondents to pay Rs.25,00,000/- (Rupees twenty five lakhs only) towards compensation to the petitioner for the medical negligence caused by the 5th respondent to the petitioner's father Arumugam resulting in life time financial constrains cause to the petitioner's father.

2. The case of the petitioner is that, his father, namely Arumugam has been suffering from abdominal pain for more than 6 years and he has been taking treatment in their native. As ailment become worse, his father was advised to admit in the Rajiv Gandhi Government General



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Hospital at Chennai. Accordingly, he was admitted on 10.10.2016 and he was diagnosed by the doctor and his previous case history was considered and as his health was deteriorated, considering gravity or seriousness of the pain, his father was advised to undergo for surgery and accordingly, all other precautionary test were taken and he was declared as fit for surgery and he was adviced to undergo surgery on 12.01.2017 and accordingly, he underwent surgery. On 03.05.2023, as the pain was to much, the petitioner's father undergone Upper GI endoscopy at Panimalar, Poonamallee, Chennai Medical College, wherein it was deducted that a foreign body was found in the stomach. On 04.05.2023, petitioner's father was admitted in Akash Hospital, Poonamallee, Chennai for the complaining upper abdominal pain and vomiting and he was diagnosed as foreign body in the stomach, lower esophageal perforation, right pnueemothorax, right pleural effusion and right fungal empyema. Thereafter, it was found that the doctors who performed the surgery for petitioner's father was negligent enough to leave FB-RYLES TUBE in the stomach itself, without removing the said tube, the 5th respondent hospital doctor have completed the surgery and he was discharged, thereby, he made a representation dated 30.05.2023. Since the same was not considered, the present writ petition has been filed.



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3. Though very many grounds have been raised in this writ petition, learned counsel for the petitioner submits that, it would suffice, if this court, permits the petitioner to make appropriate complaint before the Tamil Nadu Medical Council under the Tamil Nadu Establishment Act for the negligence of the doctors of the 5th respondent hospital and also to approach the State Consumer Forum for the loss sustained by the petitioner's father, within a time frame that may be stipulated by this court.

4. Considering the limited request made by the learned counsel for the petitioner, this court, without going into the merits of the case, grants liberty to the petitioner to file appropriate complaint before the Tamil Nadu Medical Council (TNMC) under the Tamil Nadu Establishment Act for the negligence of the doctors of the 5th respondent hospital, within a period of two (2) weeks from the date of receipt of a copy of this order. If such a complaint is filed, TNMC is directed to pass appropriate orders within a period of four (4) weeks thereafter. Further, the petitioner is also at liberty to approach the State Consumer Forum for appropriate compensation.



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5. Accordingly, this Writ Petition is disposed of. No costs.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

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M.DHANDAPANI, J.

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