



W.P.(MD)No.847 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 15.02.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P.(MD)No.847 of 2023**  
**and**  
**W.M.P(MD)No.827 of 2023**

S.M

... Petitioner

Vs

- 1.The Principal Secretary to Government,  
Health and Family Welfare Department,  
State of Tamil Nadu,  
Secretariat, Fort St.George,  
Chennai – 600 009.
- 2.The Principal Secretary / State Commissioner  
for Differently Abled,  
State Commissionerate for Welfare of  
Differently Abled,  
Lady Wellington College Campus,  
No.5, Kamarajar Salai,  
Chennai – 600 005.
- 3.The Principal Accountant General (A&E),  
Office of the Accountant General (A&E), Tamil Nadu,  
361, Anna Salai,  
Teynampet, Chennai – 600 018.
- 4.The District Collector,  
Tirunelveli District,  
Tirunelveli – 627 009.



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5. The District Differently Abled Welfare Officer,  
District Differently Abled Welfare Officer,  
Tirunelveli District,  
Tirunelveli – 627 009.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents herein to constitute the Mental Health Review Board for Tirunelveli District and to issue Guardianship Certificate in respect of the Petitioner S.M recognizing his brother and caregiver Anand @ Arumugam as Petitioner's Guardian.

For Petitioner : Mr.S.Loganathan

For Respondents : Mr.M.Siddharthan  
Additional Government Pleader  
for R.1, R.2, R.4 & R.5

Mr.P.Gunasekaran  
Standing Counsel for R.3

### **ORDER**

Heard both sides.

2.Thiru.S.M has been diagnosed as suffering from Chronic Schizophrenia. He cannot perform his daily activities without assistance. The said condition has been categorised as mental illness under Mental Health Act, 2017. His father was working as Road Inspector in Highways Department. He retired on 30.06.1996 and passed away on 19.01.2013. His mother also subsequently passed away on 02.08.2013. Pension Rules enable providing



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pension to the mentally challenged legal heir of a retired Government Servant.

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3.The learned Standing Counsel appearing for the Principal Accountant General (A&E) Teynampet, Chennai clarifies that they had issued the requisite pension payment order in favour of the mentally ill son of the retired Government servant. But then, the said amount has to be remitted in the account of Thiru.S.M. The question that calls for consideration is who can withdraw the said pension amount remitted in the account of Thiru.S.M by the employer. Only that person who has been appointed as guardian of the mentally ill person can withdraw. This writ petition has been filed by Thiru.Anand @ Arumugam, brother and caregiver of Thiru.S.M. The said Thiru.Anand @ Arumugam contended that since the Mental Health Review Board has not been constituted, he has not been issued with the guardianship certificate. That led to the filing of the writ petition.

4.When the matter was taken up for hearing, the learned Additional Government Pleader clarified that the District Collector has been appointed as a designated authority under Section 14 of the Rights of Persons with Disabilities Act, 2016. It is seen therefrom that Thiru.Anand @ Arumugam was issued with limited guardianship certificate for the period up to 18.11.2023. The learned counsel appearing for the petitioner however submits that the said certificate has not been renewed.



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5.The fourth respondent is directed to reissue the limited guardianship certificate in favour of Thiru.Anand @ Arumugam immediately. Such certificate will be renewed from time to time till the life-time of the beneficiary. It shall also be ascertained if SM. has attained normalcy when the next renewal is due.

6.This writ petition is allowed on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**15.02.2024**

Index : Yes / No  
Internet : Yes / No  
NCC : Yes / No  
MGA

**Note: Registry is directed to suppress the name of the petitioner.**



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**G.R.SWAMINATHAN, J.**

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Pre-delivery Order made in  
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