



W.P.No.1739 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2025

C O R A M

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

W.P.No.1739 of 2023  
and W.M.P.Nos.1853 & 1854 of 2023

K.Manju

... Petitioner

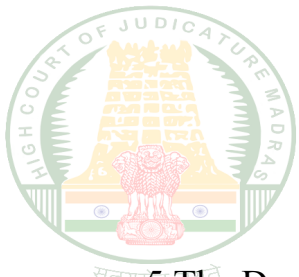
Vs

1.The District Collector,  
Salem District  
Salem.

2.The Director of Medical and Rural Health Services,  
No.359, DMS Complex,  
361, Annasalai,  
Chenna-600 006.

3.The Special Officer,  
Chief Minister's Special Cell,  
St.George Fort,  
Secretariat,  
Chennai-600 009.

4.The Deputy Director,  
Public Health and Family Welfare,  
Attur Main Road,  
Kothampadi-636 109  
Salem District.



W.P.No.1739 of 2023

5.The Deputy Director,  
Health Department,  
Attur-636 108

6.The Superintendent,  
Primary Health Centre,  
Thammampatty,  
Gengavalli Taluk,  
Salem District.

7.The Inspector of Police,  
Thammampatty Police Station,  
Salem District.

8.Tamil Nadu Medical Council,  
No.959 & 960 Poonamallee High Road Purasaiwakkam,  
Chennai-600 084.

*(R-8 suo-moto impleaded by this Court  
vide order dated 24.09.2025)*

... Respondents

**PRAYER**: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus call for the records relting to the order dated 02.12.2022 in ந.க.எண்.6858.இ4/2022-1 passed by the 5<sup>th</sup> respondent and quash the same and consequently direct the 5<sup>th</sup> respondent pay suitable compensation to the petitioners.

For Petitioner : Mr.G.Pavendhan

For Respondents : Mr.E.Sundaram,  
Government Advocate  
for RR-1 & 3



WEB COPY



W.P.No.1739 of 2023

: Ms.M.Sneha,  
Special Government Pleader  
For R-2 to R-6

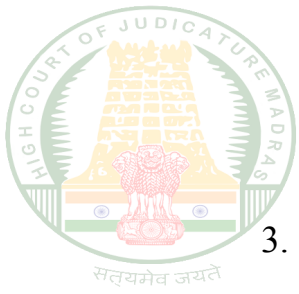
: Mr.S.Balaji,  
Government Advocate (Crl.Side)  
for R-7

: Mr.U.Baranidharan,  
Additional Government Pleader  
for R-8

### **ORDER**

Challenging the impugned communication issued by the 5<sup>th</sup> respondent,  
the present Writ Petition has been filed.

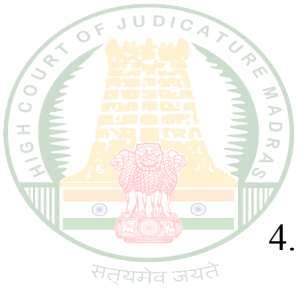
2. Mr.E.Sundaram, learned Additional Government Pleader takes notice on behalf of respondents 1 & 3, Ms.M.Sneha, learned Special Government Pleader takes notice on behalf of respondents 2 to 5 & 6, Mr.S.Balaji, learned Government Advocate (Crl.Side) takes notice on behalf of the 7<sup>th</sup> respondent and Mr.U.Baranidharan, learned Additional Government Pleader takes notice on behalf the impleaded respondent/8<sup>th</sup> respondent.



W.P.No.1739 of 2023

WEB LOG

3. It is the case of the petitioner that, due to sudden labour pain, on 18.09.2022, at about 11 a.m, the petitioner was taken to the Primary Health Centre, Thammampatty. At about 8 p.m, she was taken to the labour ward by the staff who were available therein. However, due to the wrong treatment given by the duty doctor and the staff who were present inside the labour ward, the petitioner gave birth to a dead female child and further erred medical procedures resulted in removal of the petitioner's uterus and thereafter, the petitioner was referred to the Government Hospital, Salem for further treatment. Being aggrieved by the loss incurred by the petitioner, in view of the medical negligence of the duty Doctor, on 03.10.2022, the petitioner gave a complaint to the Inspector of Police, Thammampatti seeking to take necessary action against the duty Doctor and other ward staff pursuant to which, CSR No.406/2022 was issued. Pending investigation, on 13.10.2022, the petitioner had submitted a representation before the 2<sup>nd</sup> respondent requesting to take action against the staff of the 7<sup>th</sup> respondent health centre and the same was forwarded to the 4<sup>th</sup> respondent herein. However, the 4<sup>th</sup> respondent did not conduct any enquiry nor has issued any summon. That being the case, the present impugned communication dated 02.12.2022 came to be issued by the 5<sup>th</sup> respondent rejecting the claim of the petitioner, aggrieved by which, the petitioner has come up with the present Writ Petition.



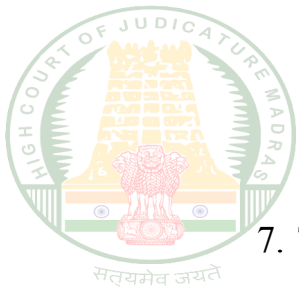
W.P.No.1739 of 2023

WEB

4. Learned counsel for the petitioner submits that the impugned communication of the 5<sup>th</sup> respondent is wholly arbitrary and illegal as the same has come to be issued without conducting any enquiry thereby denying the opportunity of hearing to the petitioner before rejecting her claim which is in violation of principles of natural justice. Therefore, it is prayed that this Court may issue a direction to the respondent authorities to conduct an enquiry as to the negligence committed by the duty doctor due to which, the petitioner had lost her child and also her uterus.

5. Learned Special Government Pleader appearing for respondents 2, 4 & 6 while defending the impugned communication, submitted that already two expert bodies have opined that there is no medical negligence involved in the treatment given by the duty doctor to the petitioner at the time of her delivery and therefore, the communication impugned herein does not require any interference at the hands of this Court.

6. This Court heard the learned counsel appearing on either side and perused the materials available on record.



W.P.No.1739 of 2023

7. The petitioner has challenged the impugned communication of the 5<sup>th</sup>

respondent on the ground that the same has come to be issued exonerating the the duty doctor who had given treatment to the petitioner from alleged negligence during the time of delivery to the petitioner due to which the petitioner had lost her child. Though action is sought for claiming medical negligence, this Court finds that, as against the impugned communication, there is no statutory appellate remedy available for the petitioner. Further, this Court is not an expert body to determine as to whether there is medical negligence involved, which is attributable to the duty doctor and it is only the appropriate authority who is the expert in the medical field who can determine the same. In such of the matter, this Court is inclined to *suo-moto* implead the Tamil Nadu Medical Council as Respondent No.8 in this Writ Petition, who would be appropriate to decide the issue of medical negligence alleged to have been happened in this case, the Medical Council of India is *suo-moto* impleaded as Respondent No.8 is directed to constitute an expert committee to enquire as to whether any lapses have occurred during the delivery of the petitioner which is attributable to the Doctor and staff of Primary Health Centre, Thamaampatty while giving treatment to the petitioner. The expert body shall be constituted within a period of two weeks from the date of receipt of a copy of this order. The said expert body is directed to find out whether there was any medical



W.P.No.1739 of 2023

negligence on the part of the Doctor and staff of the 6<sup>th</sup> respondent Health Centre

by conducting appropriate enquiry and submit a report before the 8<sup>th</sup> respondent within a period of eight (8) weeks thereafter by granting an opportunity to all persons, including the petitioner and upon receipt of the said report, the 8<sup>th</sup> respondent shall pass appropriate orders in accordance with law within a period of four (4) weeks thereafter.

8. This Writ Petition stands disposed of with the aforesaid direction. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

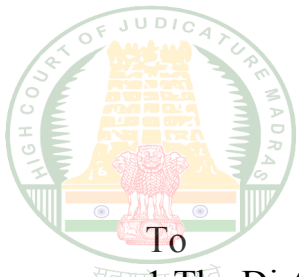
24.09.2025

Index : Yes / No

Speaking Order / Non-speaking order

Neutral Citation Case : Yes / No

Nhs



W.P.No.1739 of 2023

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WEB COPY



W.P.No.1739 of 2023



WEB COPY



W.P.No.1739 of 2023

**M.DHANDAPANI, J**

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