



W.P.No.7940 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2025

CORAM

THE HON'BLE MR. JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

Writ Petition No.7940 of 2024

and

Writ Miscellaneous Petition No.8919 of 2024

Dr.S.Divya

... Petitioner

Vs.

1. The Registrar,
State Human Rights Commission,
Thiruvarangam, 143,
P.S.Kumarasamy Raja Salai,
(Greenways Road),
Chennai 600 028.
2. The Director,
Medical Services,
Medical and Rural Health Services,
DMS Campus, Anna Salai,
Teynampet,
Chennai 600 006.
3. The Joint Director,
Health Services,
Medical Department of Rural Joint Director Office,
Nagapattinam District.
4. Mr.A.Varatharajan



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5. Mr.Karthikeyan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Declaration to declare the summon of the 3rd respondent in Na.Ka.No.458/CKA/2024 dated 13.03.2024 is null and void, based on the Appeal No.627 of 2023 pending before the State Consumer Dispute Redressal Forum, Chennai.

For Petitioner : Mr.K.Jayaraman
For R1 : M/s.K.R.B.Dhaaranee, Standing Counsel
For R2 & R3 : Mrs.M.Shena, Special Counsel
For R4 : Mr.S.Sathia Chandran
For R5 : No appearance

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM,J.)

The writ of declaration has been instituted to declare the summon issued by the Joint Director, Health Services asking the petitioner to participate in the enquiry scheduled on 19.03.2024 at 10.30 a.m.

2. The learned counsel for the petitioner would submit that the fourth respondent filed a complaint before the State Human Rights Commission and therefore, the third respondent, Joint Director, Health Services has no jurisdiction to conduct an enquiry and consequently, the enquiry call letter issued by the third respondent is to be set aside.



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3. No writ against enquiry call letter is entertainable unless such letter has been issued by an incompetent authority. In the present case, the complaint is relating to medical negligence. The Joint Director, Health Services has to submit a report before the Human Rights Commission. Under the statutes and rules, the Joint Director, Health Services is empowered to conduct enquiry to ascertain the facts and submit proper report before the Human Rights Commission, enabling the Commission to adjudicate the issues on merits and take decision.

4. Such a power to conduct an enquiry need not be interfered with by the High Court in exercise of the powers of judicial review under Article 226 of the Constitution of India. Since the present writ petition was entertained and an interim stay was granted, the Joint Director, Health Services submitted a report without conducting an enquiry, in view of the fact that the Human Rights Commission fixed time line for submitting such a report.

5. This Court is of the considered opinion that the power to conduct an enquiry by the Joint Director, Health Services are conferred under various enactments in the cases of medical negligence. In the absence of report from an expert body consisting Doctors, the Human Rights Commission may not



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be in a position to take a decision regarding the allegations of medical negligence. Thus, the report of the Joint Director, Health Services on merits is of paramount importance for the Human Rights Commission to adjudicate the issues.

6. In view of the facts and circumstances, the writ petition is not entertainable and stands dismissed. However, the Joint Director, Health Services may issue a fresh enquiry call letter to the petitioner, if necessary, and conduct an enquiry to ascertain the facts and thereafter, file further reports, if any, called for by the Human Rights Commission. There shall be no order as to costs. Consequently, the connected miscellaneous petition stands closed.

(S.M.S., J.) (K.R.S., J.)
12.02.2025

ssi
Index: Yes
Speaking Order: Yes/No
Neutral Citation Case : Yes/No

To

1. The Registrar,
State Human Rights Commission,
Thiruvaramangam, 143,
P.S.Kumarasamy Raja Salai,
(Greenways Road),



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Chennai 600 028.

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2. The Director,
Medical Services,
Medical and Rural Health Services,
DMS Campus, Anna Salai,
Teynampet,
Chennai 600 006.
3. The Joint Director,
Health Services,
Medical Department of Rural Joint Director Office,
Nagapattinam District.

S.M.SUBRAMANIAM., J.

AND

K. RAJASEKAR., J.

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