



W.P.No.10588 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 26.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.10588 of 2025

Ms.Shema Mariya Abraham

... Petitioner

Vs.

1.The Principal Secretary to Government
Government of Tamil Nadu Health and Family Welfare (L1)
Department
Secretariat, Chennai 600 009.

2.Director of Medical and Rural Health Services
DMS Complex
361, Anna Salai, Chennai 600 006.

3.The Director
Directorate of Health Services
No.268, Race Course Scheme Road
Race Course, Gopalapuram, Coimbatore
Tamil Nadu 641018.

....Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first and second respondents to consider the representation dated 04.12.2024 and further direct the respondents to do all things necessary within a reasonable time which may be fixed by this Court and pass such further or other orders that this Court may deem fit and necessary in the facts and circumstances of this case.

For Petitioner : M/s.Ajay Francis Inigo Loyola

For Respondents : Mr.E.Sundaram for R1 to R3
Government Advocate

ORDER

This Writ Petition is filed to consider the representation of the petitioner dated 04.12.2024.

2. Upon hearing the learned counsel for the petitioner and perusing the affidavit filed in support of the Writ Petition and the other material records as well as the learned Government Advocate appearing on behalf of the respondents, the grievance of the petitioner is that when the



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petitioner suffered with an accident she was admitted into Vijaya Hospital, Vadapalani, Chennai and there, no proper treatment was given to her and thereafter she was shifted to another hospital and treatment was given. Therefore, the petitioner made an application relating to professional misconduct to the Tamil Nadu Medical Council which is the appropriate authority. By a detailed order dated 04.09.2024 the complaint was dismissed. As against the same, the petitioner wrongly preferred an appeal to the National Medical Council.

3. It is seen that if only there is a punishment for professional misconduct, appeal is provided to the National Medical Council by the concerned doctors/hospital. Under the said circumstances, while rejecting the appeal, the National Medical Council submits that with reference to action against the hospital, they are not the authorities and petitioner can approach the appropriate authorities of the State Government. Pursuant thereto the petitioner has made the representation and come up with this Writ Petition. If the petitioner is aggrieved by the order of the Tamil Nadu Medical Council the petitioner has to challenge the said order in the manner known to law.



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4. When the appropriate professional body has found that the complaint of medical negligence against Vijaya Hospital is not made out and dismissed the complaint and absolved of any charges of negligence or malpractice and no punitive action can be taken against the said hospital, then there is absolutely no jurisdiction for the respondents 1 to 3 herein to take action against the said hospital under any premise whatsoever.

5. Therefore, preserving the liberty of the petitioner to challenge the said order of the Tamil Nadu Medical Council in the manner known to law, this Writ Petition is disposed of. No costs.

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Neutral Citation : No
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