2025:MHC:2052

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In the High Court of Judicature at Madras

Reserved on	Delivered on :
20.8.2025	**22.8.2025**

Coram :
The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.21770 of 2024
& WMP.No.35088 of 2024

Mrs.Sri Krishna Priya K.E. ...Petitioner

Vs

1.The Tamil Nadu Medical
Council, rep.by its
Registrar, New No.914,
Old No.569, Poonmallee
High Road, Arumbakkam,
Chennai-106.

2.The Medical Officer, having
registered office at Sri
Ramachandra Medical College
& Research Institute, No.1,
Ramachandra Nagar, Porur,
Chennai-116.

3.Dr.N.Palaniappan,
OB & G Department, having
his registered office at Sri
Ramachandra Medical College
& Research Institute, No.1,
Ramachandra Nagar, Porur,
Chennai-116.

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4.Dr.Uma Sekar, MD, DCP,
Director - Central Laboratory
services having his registered office
at Sri Ramachandra Medical College
& Research Institute, No.1,
Ramachandra Nagar, Porur,
Chennai-116.

5.Dr.Sandhya Sundaram, HOD,
Department of Pathology,
having her registered office at Sri
Ramachandra Medical College
& Research Institute, No.1,
Ramachandra Nagar, Porur,
Chennai-116.

6.Dr.Archana, Department of
Pathology, having her registered
office at Sri Ramachandra Medical
College & Research Institute,
No.1, Ramachandra Nagar, Porur,
Chennai-116.

7.Dr.Chitra, Department of
Pathology, having her registered
office at Sri Ramachandra
Medical College & Research
Institute, No.1, Ramachandra
Nagar, Porur, Chennai-116.

8.Dr.Priyathersini, Department of
Pathology, having her registered
office at Sri Ramachandra
Medical College & Research
Institute, No.1, Ramachandra
Nagar, Porur, Chennai-116.

9.Dr.Subalakshmi Balasubramanian,
Assistant Professor, Department

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of Pathology, having her registered office at Sri Ramachandra Medical College & Research Institute, No.1, Ramachandra Nagar, Porur, Chennai-116.

10.Dr.Susruthan, Department of Pathology, having his registered office at Sri Ramachandra Medical College & Research Institute, No.1, Ramachandra Nagar, Porur, Chennai-116.

11.Dr.Rithika Rajendran, Assistant Professor, Department of Pathology, having her registered office at Sri Ramachandra Medical College & Research Institute, No.1, Ramachandra Nagar, Porur, Chennai-116.

12.Dr.Pavithra, Department of Pathology, having her registered office at Sri Ramachandra Medical College & Research Institute, No.1, Ramachandra Nagar, Porur, Chennai-116.

13.Dr.M.Manickavasagam, Department of Medical Oncology, having his registered office at Sri Ramachandra Medical College & Research Institute, No.1, Ramachandra Nagar, Porur, Chennai-116.

14.The Secretary, National Medical Commission, Pocket-14, Sector-8,

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Dwaraka Phase-1, New Delhi-
110077.

(R14 suo motu impleaded vide
order dated 07.7.2025 by NAVJ) ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the entire records pertaining to the proceedings of the 1st respondent bearing reference No.TNMC/3226/2022 dated 08.1.2024, quash the same and constitute a fresh panel of doctors consisting of a renowned Medical Oncologist, who specializes in GTD/GTN (Gestational Trophoblastic Disease/Neoplasia) and consequently direct the court appointed doctors to conduct a fresh enquiry in the mater by affording enough opportunity to the petitioner to canvas her case and to pass orders on merits.

For Petitioner	:	Mrs.N.Kavitha Rameshwar
For R1	:	Mr.P.S.Raman, AG assisted by Mr.U.Baranidharan, SGP
For R2 to R13	:	Mr.Rahul Balaji
For R14	:	Mrs.V.Sudha, SPC

ORDER

The writ petition has been filed challenging the proceedings of the first respondent dated 08.1.2024 and for a consequential direction to constitute a fresh panel of doctors consisting of renowned medical

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oncologist and to conduct a fresh inquiry by affording an opportunity to the petitioner.

2. Heard both.

3. The case of the petitioner is as follows :

(i) The petitioner is a practising advocate. On 13.2.2022, the petitioner experienced an abnormal vaginal bleeding. Immediately, she rushed to Fortis Hospital at Vadapalani, Chennai where she was advised to take a Beta Human Chorionic Gonadotropin (HCG) test. It was undertaken and some abnormalities were detected. Hence, the petitioner was advised to undergo a Magnetic Resonance Imaging (MRI) pelvic scan and it was also undertaken, which revealed a tumour in the uterus.

(ii) The petitioner was not informed with clarity on the further course of treatment and therefore, the petitioner had to take a second opinion. The petitioner was referred to undergo treatment at Sri Ramachandra Medical College and Research Institute (for short, the SRMC & RI), Porur, Chennai. When the petitioner consulted the third respondent on 19.2.2022, without even conducting a proper physical

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examination, the third respondent informed the petitioner that she was healthy and instead, ruled out the chances of cancer. Further, the petitioner was advised to undergo Dilation and Curettage (D&C). On 21.2.2022, the petitioner was admitted in the SRMC & RI and the D&C was performed by the third respondent on 22.2.2022. The sample was sent to pathology lab for biopsy and to obtain a report.

(iii) The biopsy report shockingly revealed that there were retained products of conception and the same needed to be medically correlated. The third respondent once again assured that it was not a case of cancer and rather advised the petitioner to monitor the Beta HCG values on weekly basis. Pursuant to that, on 04.3.2022, during the weekly blood test, it was found that there was a steep rise in the Beta HCG values again. The third respondent advised the petitioner to undergo the MRI & Computed Tomography (CT) scan - abdomen and pelvis scan. The MRI scan revealed the presence of a tumour in the uterus and the same was in the nature of a Gestational Trophoblastic Disease (GTD).

(iv) As directed by the third respondent, the petitioner returned the biopsy report dated 25.2.2022 to the fifth respondent so as to look into the same for arriving at a conclusive diagnosis. Subsequently, the

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fifth respondent issued a fresh report dated 10.3.2022 as verified by the sixth respondent and reported by respondents 5, 10, 11 and 12, in which, it was clearly mentioned that there was a placental site trophoblastic tumour (PSTT) in the uterus. Thereafter, the third respondent suggested that the petitioner must undergo a hysterectomy surgery, which involves the removal of uterus. The third respondent insisted that it was the only available treatment for the PSTT, as it was resistant to chemotherapy. The petitioner was further informed by the third respondent that a PSTT is a non malignant tumour, that it is not as aggressive as choriocarcinoma and that it would not spread over to any other organ.

(v) Believing the words of the third respondent, the petitioner was admitted in the SRMC & RI on 14.3.2022 and the surgery was performed on 15.3.2022 by the third respondent and his team of doctors. After the surgery, the removed uterus of the petitioner was sent for biopsy test. Pursuant to that, a report was given confirming it as PSTT tumour. The petitioner was further informed that the biopsy specimen of the uterus needed to undergo human placental lactogen (HPL) test for a conclusive diagnosis. Since this facility is not available in the State of Tamil Nadu, the sample was sent to the Tata Memorial

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Centre at Mumbai.

(vi) Ultimately, a report was finally received from Mumbai and it confirmed that the impression/diagnosis favoured choriocarcinoma. On hearing the same, the petitioner and her family members were shocked and disheartened. Thereafter, the petitioner met the third respondent, who assured that choriocarcinoma was a potentially curable cancer and that the petitioner could administer three cycles of chemotherapy. Further, a Positron Emission Tomography (PET) CT whole body scan was done and the report dated 11.4.2022 revealed the presence of cancer nodules, which spread over from the uterus to the lungs. In view of the same, the 13th respondent urged the petitioner to get admitted in the hospital the next day i.e. 12.4.2022.

(vii) Immediately, the petitioner underwent the first cycle of chemotherapy. From 12.4.2022 to 21.6.2022, four cycles of chemotherapy were administered to the petitioner by the 13th respondent. Despite that, the BETA HCG values kept on increasing.

(viii) As the petitioner was not satisfied with the professional services rendered by the 13th respondent, she decided not to continue the treatment with the SRMC & RI. The petitioner went to Apollo Cancer Centre. On going through the medical records, the doctor, with

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whom the petitioner had consultation, anticipated that the petitioner could have brain metastasis. Hence, the petitioner was asked to undergo MRI - brain and PET - CT whole body scans. Shockingly, the scans revealed the presence of two nodules in the brain and the same were found to be bleeding (haemorrhage).

(ix) The health condition of the petitioner was deteriorating due to the inadequate chemotherapies administered to the petitioner. In order to combat the situation, the petitioner was advised to undergo a whole brain radiation. It was given for nearly 12 sessions on daily basis, due to which, the petitioner lost her hair permanently in the crown area and suffered the consequences.

(x) The petitioner came to understand that there was a gross professional negligence on the part of the private respondents. Hence, a complaint was given to the first respondent on 21.12.2022 by narrating all the facts and it was taken on file. Since there was no response thereafter, the petitioner filed W.P.No.11443 of 2023 before this Court seeking a direction to the first respondent to take action against respondents 2 to 13 on the basis of the petitioner's complaint dated 21.12.2022 and to give adequate opportunity to the petitioner as held by a learned Single Judge of this Court in the case of

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P.Basumani Vs. Tamil Nadu Medical Council [W.P.No.12303 of 2021 dated 26.10.2021].

(xi) The said writ petition was disposed of on 13.4.2023 with a direction to the first respondent to conclude the inquiry proceedings within a period of twelve weeks after affording an opportunity of personal hearing to the petitioner as well as the private respondents. As a consequence, the petitioner appeared before the first respondent on 18.5.2023 and she was inquired by a panel of doctors appointed by the first respondent. Thereafter, the doctors were inquired separately by the panel of doctors. This panel did not contain any specialist in oncology. Ultimately, the impugned proceedings came to be issued by the first respondent concluding that there was no evidence of negligence on the part of the doctors. Aggrieved by that, the present writ petition has been filed before this Court.

4. The first respondent filed a counter affidavit, the relevant portions of which are extracted as hereunder :

> *"4.....*
>
> *i. I submit that the 1st respondent Council on receipt of the complaint by the petitioner alleging medical negligence by the respondent 02*

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to 13 herein has conducted an initial review on 30.12.2022 to assess its validity and determine the scope of the issue raised. Upon establishing the complaint's legitimacy, the 1st respondent Council formally notified the respondent 02 vide memorandum bearing Ref No. TNMC/T.No.3226/ 2022 dated 30.12.2022 requesting their responses to the allegations contained in the complaint.

ii. On the receipt of the aforementioned memorandum, the 2nd Respondent submitted his reply dated 06.02.2023 on 09.03.2023 following which the 1st respondent Council embarked on a comprehensive collection of evidences wherein the pertinent medical records, treatment details and other relevant documents were gathered from the petitioner and the respondent 02.

iii. I submit that the Disciplinary Committee consisting of doctors with more than 15 years of expertise by the 1st respondent Council, summoned the petitioner and respondents for a personal hearing on May 18, 2023. During this hearing, both the complainant and the respondents 02 to 13 were given the opportunity to present their testimonies. Earlier, on December 21, 2022, the petitioner had submitted documents, including biopsy and pathology reports along with other medical summaries. The petitioner supplemented her case by presenting additional evidence in this hearing, including medical reports and submitted a

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pen drive containing a video consultation with Dr. Michael Seckl, a specialist based in the UK which was also considered by the Council. The content of the video is that the petitioner and her relative apparently had a video consultation with Dr.Seckl regarding treatment options. From that video, it was understood that this consultation occurred without Dr.Seckl having access to the patient's medical records. Dr.Seckl asked questions about treatment modalities for which the petitioner answered orally. The petitioner's responses were somewhat vague regarding dates, details and procedures. After reviewing the petitioner's input, Dr.Seckl expressed a view that the chemotherapy provided was inadequate and noted a significant gap between treatments at two hospitals. Dr.Seckl advised the patient to seek treatment in the UK, stating that the condition was curable. The following are the key deficiencies found by the 1st respondent Council regarding Dr.Seckl's opinion:

- *Lack of clinical examination: Dr.Seckl did not physically examine the patient, which is a crucial part of medical assessment.*
- *Absence of medical records: The consultation occurred without access to the patient's medical history, test results or treatment records.*
- *Reliance on verbal information: Dr.Seckl's assessment was based solely on the*

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patient's verbal responses, which may be incomplete or inaccurate.

- *Limited context: Without a comprehensive review of the patient's medical history and previous treatments, Dr.Seckl's opinion may not account for all relevant factors.*
- *Potential for misinterpretation: The lack of a thorough clinical examination and medical records review increases the risk of misunderstanding the patient's condition.*
- *Incomplete assessment: An opinion formed without a full clinical picture may not be as reliable or comprehensive as one based on a complete medical evaluation.*
- *Ethical considerations: Providing definitive medical advice without a proper in-person examination and review of medical records may raise ethical concerns.*

Given these deficiencies in the opinion, Dr.Seckl's opinion was considered with caution and has not been given the same weightage as an opinion based on a full clinical examination and comprehensive review of medical records.

iv. I submit that the Disciplinary Committee carefully considered all the evidence, testimonies, and expert opinions submitted by both the parties during the hearing. After thorough deliberation, the Committee reached the following decision based on the merits of the case:

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'In this case, the complainant has made allegations against the treating doctors, claiming misdiagnosis, inadequate chemotherapy and inappropriate surgical procedures. However, the hospital and the doctors have stated that they followed established protocols and provided and appropriate care based on the available information and clinical findings.

To accurately assess the situation, it is crucial to conduct a comprehensive review with the assistance of medical experts. The experts would evaluate the medical records, conduct interviews and analyze the treatment provided in accordance with established medical standards. Various factors would need to be considered, including available information at each stage, the patient's condition, the diagnostic tests performed and the treatment decisions made by the Doctors.

During the disciplinary hearing, an expert in Obstetrics and Gynaecology provided her opinion. However, it is advisable to seek opinions from experts in other relevant fields, such as Pathology and Medical Oncology, to gain a comprehensive understanding and make informed decisions. Case to be resubmitted after getting expert opinions.'

v. I submit that in order to further elevate the inquiry and better understand the medical issues involved, the 1st respondent Council deputed experts in specialties including pathology

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and medical oncology, from the Dean, Madras Medical College, Chennai vide Refence No.TNMC/ 322/2022 dated 16.06.2023. Subsequently, upon discovering that the position of Medical Oncologist was vacant at Madras Medical College, Prof Dr.Kannan, a renowned Medical Oncologist working at Royapettah Government Hospital, Chennai was consulted for expert opinion. After scrutinizing the case records, he raised nine questions for respondent 13, which were then forwarded to him. After receiving and reviewing the answers, the expert provided the following opinion:

'Patient Mrs.Sri Krishna Priya.K.E., 29 years, female diagnosed as a case of gestational trophoblastic disease at Sri Ramachandra medical college hospital, Chennai and received treatment there for the above ailment. After going through the investigations and treatment given at SRMC, the presentation the gestational trophoblastic disease in this patient is atypical. As per the initial biopsy report they have proceeded with surgery, second opinion after surgery from Tata memorial hospital, Mumbai commented that although unusual, favour choriocarcinoma over a placental site trophoblastic tumor. patient received chemotherapy as per the recommendation. The case was discussed by the medical oncologist with pathologist and the primary consultant during the treatment course. The patient responded to

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treatment also, but the beta HCG was not normalized as expected. The patient defaulted for further treatment after 4 cycles of chemotherapy. all the above treatment were administered as per the available investigations and recommendations only.'

vi. Thereafter, the case was referred to the Adhoc Committee constituted by the Government vide Government Order GO(D) No.287 dated 16.03.2023 of Health and Family Welfare (Z1) Department to continue the Administration of the Tamil Nadu Medical Council which consisted of the Principal Secretary to the Government, Health and Family Welfare Department, Secretary to Government, Law Department and four other renowned Doctors with notable years of expertise in this field. The Adhoc Committee carefully evaluated various aspects of this case, including the accuracy of the diagnosis, the appropriateness of the treatment decisions, the informed consent process, the collaboration among specialists, and the adherence to established medical protocols and Expert opinion and evidences supported by both the parties. After thorough deliberation, the Committee concluded that there was no medical negligence in the treatment provided by Dr. Palaniappan and his team i.e., the 2nd to 13th respondent herein. They determined that the care given by the respondent 2 to 13 was in line with

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recognized medical standards and protocols and acknowledged the complexity and atypical nature of the case.

vii. I submit that the 1st respondent Council issued its final order on 08.01.2024, under Reference No:TNMC/3226/2022 and communicated the same to both the parties and conclude the investigation of this case. The order outlined the Council's findings, reasoning and decision, concluding that the respondents 02 to 13 are not guilty of medical negligence as alleged by the petitioner. The final order emphasized the complexity of the case, the adherence to medical protocols and the informed consent procedures. It noted that any adverse outcomes likely stemmed from the challenging nature of the patient's condition rather than any negligence on the part of the medical professionals."

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5. When the matter came up for hearing on 03.7.2025, this Court passed the following order :

> *"Heard the learned counsel for the petitioner, learned Standing Counsel appearing on behalf of the 1st respondent and the learned counsel appearing on behalf of the other private respondents.*
>
> *2. Apart from the merits of this case, one important issue that was raised by the learned counsel for the petitioner pertains to the non-compliance of the directions issued by this Court in P.Basumani vs. Tamil Nadu Medical Council in WP.No.12303 of 2021, dated 26.10.2021. The learned counsel specifically pointed out to paragraph 17 of the order where the guidelines have been issued. It was contended that the enquiry ought to have been conducted in the presence of both parties and whereas in the present case, both the parties were heard independently and the petitioner did not have an opportunity to counter or explain the defense that was taken by the doctors before the Committee.*
>
> *3. The counter affidavit filed by the 1st respondent points out to the procedure that was adopted by the disciplinary committee. It is stated that separate personal hearings were held for each of the parties. This stand taken in the counter affidavit of the 1st respondent runs contrary to the*

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guidelines given by this Court.

4. In view of the above, this Court is inclined to remand the matter back to the file of the 1st respondent to conduct the enquiry strictly in line with guidelines given by this Court. The learned Standing Counsel seeks for sometime to take instructions in this regard.

5. Post this case under the caption 'for orders' on 07.07.2025."

6. The case was again listed for hearing on 07.7.2025, on which date, the following order was passed by this Court :

"Heard learned Advocate General appearing on behalf of the first respondent.

2. On carefully considering the submissions made on either side, it comes to light that two appeal remedies are available under the National Medical Commission Act, 2019, which is referable to Section 30(3) and 30(4) of the Act. However, on carefully reading those provisions, it is seen that such appeal is available only to medical practitioners/professionals and there is no indication that such appeal can be filed even by an aggrieved person viz., patient. Learned Advocate General brought to the notice of this Court that a recent press release where National Medical Commission has indicated that such appeals filed

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by the aggrieved person/patient will be entertained. This Court wants to get a clarity from the learned Senior Panel Counsel appearing for National Medical Commission.

3. In view of the above, The Secretary, National Medical Commission, Pocket-14, Sector-8, Dwarka Phase-1, New Delhi - 110 077, is added as the fourteenth respondent.

4. Mr.A.Kumaraguru, learned Senior Panel Counsel, takes notice on behalf of the impleaded fourteenth respondent. Learned Senior Panel Counsel shall take instructions as to whether the first and second appeal provided under the National Medical Commission Act, 2019 will equally apply to an aggrieved person/patient also. Depending upon the instructions received by the learned Senior Panel Counsel, this Court will pass final orders in this writ petition.

Post this writ petition under the same caption on 21.07.2025."

7. The matter was once again listed for hearing on 21.7.2025 and this Court passed the following order :

" When the matter was taken up for hearing today, the learned Standing Counsel appearing on behalf of the impleaded 14th respondent produced the written instructions from the National Medical

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Commission. On going through the same, it is seen that under Section 30(3) and 30(4) of the NMC Act, 2019, only a registered medical practitioner is permitted to file an appeal and this right is not available to the aggrieved person/patient. In the light of this stand taken by the impleaded 14th respondent, the issue that has been raised in the present writ petition has to be considered by this Court.

2. Post this writ petition under the same caption on 28.07.2025."

8. The case was listed on 28.7.2025, on which date, this Court passed the following order :

"When the matter was taken up for hearing today, the record of hearing and the response given by the concerned doctors have been filed by way of additional typed-set of papers and a copy of the same was served on the learned counsel for petitioner. When this Court issued guidelines in the case of P.Basumani v. The Tamilnadu Medical Council [W.P.No.12303 of 2021], a specific direction was given to the National Medical Commission to follow the guidelines to be included in the new regulations to be formed under the Act and to be made as a standard operating procedure for the purpose of complete understanding of the

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mechanism. Learned Standing Counsel for the impleaded fourteenth respondent shall take instructions on the follow up of the guidelines given by this Court. In the mean time, learned counsel for petitioner shall also go through the typed-set of papers filed today and make her submissions.

Post this writ petition under the same caption on 11.08.2025."

9. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned proceedings of the first respondent.

10. This is an unfortunate case where the petitioner, who is a practising advocate, experienced an abnormal vaginal bleeding on 13.2.2022, went for treatment to the SRMC & RI and had a painful journey for more than two months ended with whole brain radiation for nearly 12 sessions on daily basis.

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11. The grievance of the petitioner is that there was a gross negligence on the part of the doctors in not properly diagnosing cancer, which resulted in further complications and that it had literally caused life threat to the petitioner.

12. The petitioner has questioned the impugned order passed by the first respondent on the ground that it is against the ratio laid down in the order passed by this Court in ***P.Basumani*** since both the parties should be present and they should be inquired in the presence of each other whereas the petitioner was separately inquired and the doctors were separately inquired. The petitioner was not even aware as to what was deposed by the doctors.

13. The further grievance of the petitioner is that the matter involved cancer and in spite of it, not a single member of the Committee was an oncology specialist. It is further alleged that the Enquiry Committee should first conduct the inquiry and submit a report before the Disciplinary Board, which must take a decision. In the case in hand, straight away, the Disciplinary Board heard both sides and had taken a decision. Apart from the merits of the case, the

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main grievance expressed on the side of the petitioner is that there was gross violation of the principles of natural justice.

14. Per contra, the learned Advocate General appearing on behalf of the first respondent made the following submissions :

(a) The directions that were issued by this Court in the decision in ***P.Basumani*** were recommendatory in nature and a direction was given to the 14th respondent namely the National Medical Commission (NMC) to include the same in the new regulations that are to be framed and made as the Standard Operating Procedure for the purpose of effective complaint handling mechanism. Pursuant to the same, it was informed by the newly impleaded 14th respondent that they are yet to be made operational.

(b) The principles of natural justice are not a straight jacket formula and the first respondent could not be expected to conduct the inquiry like proceedings in a court by permitting cross examination by the petitioner. A fair procedure had been followed by the first respondent and it would sufficiently satisfy the requirements regarding compliance of the principles of natural justice.

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15. In the considered view of this Court, the inquiry conducted by the first respondent may not be in the nature of proceedings before a court of law. However, the minimum requirement to be satisfied is that both parties must be present at the same time before the first respondent, so that the stand taken by one party can be heard and understood by the other party and if any objections/clarifications are to be given, it can be done by either party then and there.

16. Admittedly, in this case, the petitioner was called for the inquiry on one day and the doctors were called for inquiry on the other day and both the parties were not present at the same time. Thereafter, the first respondent proceeded to pass orders. Yet another gross violation that is clearly visible in the present case is that the stand taken by the doctors and the copies of record of hearing of the doctors were not even furnished to the petitioner. For the first time, they were given to the petitioner only on 28.7.2025. Thus, the petitioner was completely kept in dark as to the stand that was taken by the doctors before the first respondent. This procedure adopted by the first respondent has caused grave prejudice to the petitioner.

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17. The guidelines/directions that were issued in the case of ***P.Basumani*** may be recommendatory in nature. However, till they are incorporated in the new regulations by the NMC, they should be followed as guidelines and they cannot be completely disregarded. This is in view of the fact that the guidelines sufficiently take care of the interests of both parties and also give clarity as to how the Enquiry Committee must conduct the proceedings and submit a report before the Disciplinary Board and also as to how the Disciplinary Board must proceed further with the matter.

18. Hence, this Court holds that till the new regulations come into force, the first respondent shall follow the guidelines given in the decision of this Court in ***P.Basumani.*** This Court must hasten to add that this order cannot be taken as a precedent to reopen all cases, which have already been closed earlier and which have not been put to challenge. At best, this order will operate as a precedent for future cases till the NMC comes up with the new regulations adopting the guidelines given in the decision in ***P.Basumani.***

19. The inquiry must to be conducted in two stages. The first

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stage is before the Committee of Doctors, which should also contain a specialist depending upon the area of specialization involved in that particular case and this Committee should be called as the Enquiry Committee. When the inquiry is conducted, both parties must be present before the Enquiry Committee in order to ensure that the parties know the stand taken on either side and give their response, if any. On completion of the inquiry, the report must be placed before the Disciplinary Board of the first respondent. The Disciplinary Board shall act on the report of the Enquiry Committee. If the decision taken is adverse to the doctors, who treated the patient and a punishment is proposed to be imposed, an opportunity must be given to the doctors by calling for remarks and thereafter, an order has to be passed.

20. This Court holds that the impugned order passed by the first respondent suffers from violation of the principles of natural justice since the inquiry was not conducted in a fair manner. That apart, the Disciplinary Board straight away conducted the inquiry whereas there must be a separate Enquiry Committee, which should conduct the inquiry and submit a report to the Disciplinary Board, which alone must take a final decision.

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21. In the light of the above findings, this Court does not want to go into the merits of the case since this Court is inclined to set aside the impugned order passed by the first respondent and remit the matter back to the file of the first respondent.

22. For the foregoing reasons, the writ petition is allowed and the impugned proceedings of the first respondent dated 08.1.2024 is hereby quashed. There shall be a direction to the first respondent to follow the procedure enunciated supra and provide sufficient opportunity to the petitioner and also the doctors, who treated her before taking a final decision. The entire process shall be completed within a period of four months from the date of receipt of a copy of this order. Since it was brought to the notice of this Court that due to the treatment undergone by the petitioner, she is weak and feeble and that she needs the assistance of someone, the husband of the petitioner or her close relative can be present at the time of inquiry to assist the petitioner. No costs. Consequently, the connected WMP is closed.

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Index : Yes
Neutral Citation : Yes

To
1.The Tamil Nadu Medical
Council, rep.by its
Registrar, New No.914,
Old No.569, Poonmallee
High Road, Arumbakkam,
Chennai-106.

2.The Secretary, National Medical
Commission, Pocket-14, Sector-8,
Dwaraka Phase-1, New Delhi-
110077.

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