



W.P.(MD)No.1826 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2025

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.1826 of 2023

J.Gracia Fortune Rathnam Bai

... Petitioner

/Vs./

1. The District Collector,
Thoothukudi District,
Thoothukudi.

2. The Chairman, Medical Board,
Govt. Thoothukudi Medical College Hospital,
Thoothukudi,
Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to appoint the petitioner as the guardian of his brother namely J.Immanuel Rathnasingh, S/o Jeyaraj, who is affected by mild Autism Spectrum Disorder and Chronic Mental Illness, based on the FORM-A submitted by the petitioner under the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (Central Act 44 of 1999) and the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000.



W.P.(MD)No.1826 of 2023

For Petitioner : Mr.N.Pragalathan
For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

This writ petition has been filed to direct the first respondent to appoint the petitioner as the guardian of his brother namely J.Immanuel Rathnasingh, S/o Jeyaraj, who is affected by mild Autism Spectrum Disorder and Chronic Mental Illness, based on the FORM-A submitted by the petitioner under the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (Central Act 44 of 1999) and the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



W.P.(MD)No.1826 of 2023

WEB COPY

3. The petitioner's father died on 15.01.1999 leaving the petitioner, his mother and his brother as his legal heirs. The petitioner's mother died on 21.07.2017 leaving behind the petitioner and his brother. The petitioner's brother, namely J.Immanuel Rathnasingh, S/o Jeyaraj, is affected by mild Autism Spectrum Disorder and Chronic Mental Illness. The second respondent also issued disability certificate for the said illness and the petitioner's brother is under the care and custody of the petitioner.

4. The Central Government enacted the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (Central Act 44 of 1999) and the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000. The first respondent is the competent authority under the aforesaid Act and he has the power to appoint guardian for the affected persons mentioned under the said Act. Therefore, the petitioner approached the first respondent and submitted Form-A under the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple



W.P.(MD)No.1826 of 2023

Disabilities Act, 1999 (Central Act 44 of 1999) and the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000. However, it has not been considered so far.

5. It is relevant to extract the provision under Section 14 (5) of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (Central Act 44 of 1999) and the Rule 16 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Rules, 2000, which reads as follows respectively:-

“14.Appointment of guardianship:-

.....

(5) The local level committee shall send to the Board the particulars of the applications received by its and orders passed thereon at such interval as may be determined by regulations.”

“Rule-16.Application for guardianship-

(1) The application by a parent, relative or registered organisation for appointment of guardian for a person with disability shall be made to the local level committee in Form A.

(2) The confirmation of appointment of guardian on such application shall be made in Form B.



W.P.(MD)No.1826 of 2023

(3) A quarterly report in the prescribed format shall be given by the local level committee to the Board or to the State level agency authorised by the Board giving particulars of the applications received and orders passed thereon.”

6. The petitioner submitted an application before the first respondent to appoint him as a guardian for his brother. However, copy of the application is not available with the first respondent. Hence, the petitioner is directed to submit a fresh application within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the first respondent is directed to consider the Form-A application submitted by the petitioner seeking for appointing him as a guardian for his brother and pass orders after affording an opportunity of hearing to the petitioner, within a period of twelve weeks thereafter.

7. With the above direction, the Writ Petition stands disposed of. There shall be no order as to costs.

29.01.2025

Index : Yes / No
NCC : Yes / No
Sm



WEB COPY



W.P.(MD)No.1826 of 2023

G.K.ILANTHIRAIYAN, J.

Sm

TO:-

1. The District Collector,
Thoothukudi District,
Thoothukudi.
2. The Chairman, Medical Board,
Govt. Thoothukudi Medical College Hospital,
Thoothukudi,
Thoothukudi District.

Order made in
W.P.(MD)No.1826 of 2023

Dated:
29.01.2025