

W.P (MD).No.28592 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2025

CORAM

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

W.P (MD).No.28592 of 2024

and

W.M.P(MD)Nos.24250 & 24252 of 2024

M/s.Mathumathi Herbal and Yoga Hospital,
Rep. by its Proprietor,
C.Ramasamy

...Petitioner

Vs.

1.The Chairman,
District Competent Authority,
TNCEA,
Medical and Rural Health Services,
Theni District.

2.The Joint Director,
District Competent Authority,
TNCEA,
Medical and Rural Health Services,
Theni & Periyakulam,
Theni District.

3.The Tahsildar,
Theni Taluk,
Theni District.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent in his proceedings in



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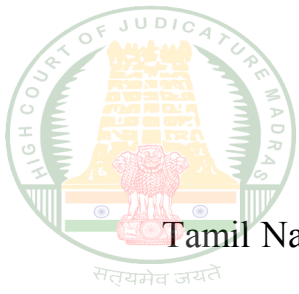
Na.Ka.No.6841/Kamukkam/2024 dated 29.08.2024 and the third respondent in his proceedings Na.Ka.No.4322/2024/A2 dated 30.08.2024 and quash the same as illegal and arbitrary and in violation of provisions of the Tamil Nadu Private Clinical Establishments (Regulations) Act, 1997 and in violation of principles of natural justice.

For Petitioner : Mr.B.Saravanan
Senior Counsel
for M/s.B.Saravanan Associates
For R1 to R3 : Mr.D.Gandhi Raj
Special Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 29.08.2024 thereby lock and sealed the premises of the petitioner and also cancelled the licence and the order dated 30.08.2024, on the file of the third respondent thereby lock and sealed the petitioner's premises.

2. The petitioner made an application dated 18.07.2019 before the first respondent under the provisions of the Tamil Nadu Private Clinical Establishments (Regulations) Act, 1997 to be registered as General Practice Services under the provisions of the Tamil Nadu Private Clinical Establishments (Regulations) Act, 1997 to provide services under Siddha System of Medicine with 20 beds. Similarly, the petitioner was also granted licence to be registered as General Practice Services under the provisions of the

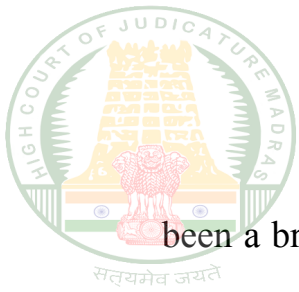


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Tamil Nadu Private Clinical Establishments (Regulations) Act, 1997 to provide

services under Naturopathy system of Medicines with 60 beds. That apart, the petitioner was also issued with certificate of Registration of Clinical Establishment in Form-II dated 03.02.2020 valid upto 02.02.2025 dated 03.02.2020 by the first respondent for Siddha system of Medicine. Further, the petitioner was also issued Form-II dated 02.02.2025 for the period of 5 years to run the clinical establishment. While being so, one Sivakumar lodged a complaint before the second respondent alleging that his wife was admitted into the petitioner's hospital and she treated by the unqualified doctors. On the complaint, all of a sudden, the second respondent inspected the petitioner's premises and locked the premises and kept under seal. That apart, the licence issued to the petitioner was also cancelled.

3. The learned Special Government Pleader appearing for the respondents would submit that after the lock and seal order passed by the third respondent, directed the petitioner to submit all the documents before the authority and on submission, it will be considered to remove the lock and seal. Section 5(2) of the Tamil Nadu Private Clinical Establishment Regulations Act 1997 says that if after giving a reasonable opportunity of being heard to the private clinical establishment, the competent authority is satisfied that there has



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been a breach of any of the provisions of this Act or the rules made thereunder or the conditions of registration, it may, without prejudice to any other action that it may take against such private clinical establishment suspend its registration for such period as it may think fit or cancel its registration.

4. Admittedly, the petitioner was not served with any notice and he was not given reasonable opportunity of hearing. That apart, the complainant's wife got admitted in the Month of January for treatment. On perusal of the complaint lodged by the complainant Sivakumar revealed that his wife suffered with illness and got admitted in the petitioner's hospital. However, due to wrong treatment, she suffered further illness and shifted to another hospital. thereafter, she died. However, the complainant lodged a complaint only in the month of June before the Inspector of Police, Palanichettypatti, Theni District and it was registered in Cr.No.333 of 2024 for the offences under Sections 419, 420, 465 and 468 of IPC as against the proprietor of the petitioner. Subsequently, he was released on bail. Admittedly, the proprietor is nothing to do with the treatment given by the doctors. The doctors, who have engaged in the hospital have treated the complainant's wife. That apart, the complaint was given after 6 months, now, the second respondent all of a sudden, inspected the petitioner's premises and lock and sealed the premises. Further, the licence of



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the petitioner was also cancelled.

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5. As stated supra, the petitioner was not served with any notice and without giving an opportunity of hearing. In view of the order passed by the second respondent, the third respondent herein also passed an order to lock and seal the premises on 30.08.2024. Therefore, it is a clear violation of principles of natural justice. In view of the above, the impugned orders of the respondents 2 & 3 cannot be sustained and it is liable to be quashed.

6. Accordingly, the impugned orders dated 29.08.2024 and 30.08.2024 are quashed and the writ petition is allowed. The matter is remanded back to the second respondent and the second respondent is directed to issue notice for enquiry and after giving an opportunity of hearing to the petitioner pass orders on merits and in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Internet : Yes
Index : Yes/No
Speaking/Non Speaking order
am

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G.K.ILANTHIRAIYAN, J.

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