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W.P.No.34739 of

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2026

CORAM

**THE HONOURABLE DR. JUSTICE ANITA SUMANTH
and**

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.34739 of 2019

R.Thirumeni

... Petitioner(s)

Vs.

1. Tamil Nadu Medical Council,
Rep. by its Registrar,
914, Poonamalle High Road, Arumbakkam,
Chennai, Tamil Nadu – 600 106.

2. Dr.M.Angayarkanni

... Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus, calling for the records of the first respondent in proceedings TNMC/DC-No.25/2019 dated 28.11.2019 and to quash the same as being illegal and unsustainable in law and for a consequential direction to the first respondent to conduct a fresh enquiry in accordance with law and after following principles of natural justice and providing an opportunity to the petitioner to participate in the enquiry.



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For Petitioner(s) : M/s.Kavitha Rameshwar

For R1 : Mr.Jayamalan for Mr.G.Sankaran

For R2 : Mr.Vignesh for M/s.AAV Farmers

ORDER

(Order of the Court was made by **MUMMINENI SUDHEER KUMAR, J.**)

This writ petition has been filed seeking a writ of certiorarified mandamus to call for the records in connection with the proceedings bearing TNMC/DC No.25/2019, dated 28.11.2019, passed by the first respondent and to quash the same, while seeking a consequential direction to the first respondent conduct a fresh enquiry in accordance with law.

2. The brief facts of the case that are relevant for disposal of this writ petition are as under:-

2.1. The pregnant wife of the petitioner was admitted in M/s.Sharmila Hospital, Kattumannarkoil, for her delivery on 30.09.2008, and she was attended by the second respondent. A baby boy was delivered by the wife of the petitioner at 04.02 p.m., on the same day i.e., 30.09.2008, by assisted vaginal delivery after performing epsiotomy.



2.2. According to the petitioner, the baby boy did not cry immediately after birth and the said baby was referred to a Paediatrician for check-up and thereafter, on 01.10.2008, the wife of the petitioner was discharged from the said hospital without giving proper treatment to the baby boy. It is further alleged that the baby boy was suffering from epileptic attacks from the Day 1. It is the further case of the petitioner that from 02.10.2008 onwards, the petitioner has been running from one Doctor and Hospital to another, and it was on 06.11.2008, finally it was discovered that the son of the petitioner was suffering from the condition known as Hypoxic Ischemic Encephalopathy, and the same was confirmed by other Doctors as well.

2.3. It is the further case of the petitioner that the son of the petitioner is in a vegetative state till date since the date of birth and is suffering from frequent epileptic attacks, and under those circumstances, he also filed W.P.No.18736 of 2018 before this court seeking passive euthanasia, and the same was pending before this court. Under those circumstances, the petitioner, claimed to have realized that there was negligence on the part of the second respondent herein, and made a complaint before the first respondent on 03.04.2019, and the same was taken on file by the first



respondent and the second respondent herein was called upon to respond to the complaint. Accordingly, after considering the response of the second respondent an order was passed on 28.11.2019 dropping action against the second respondent herein. It is aggrieved by the said order dated 28.11.2019, the present writ petition has been filed.

3. The respondents 1 and 2 filed separate counter-affidavits.

4. We have heard M/s.Kavitha Rameshwar, learned counsel for the petitioner, and Mr.Jayamalan and Mr.Vignesh, learned counsel appearing for the respondents 1 and 2 respectively.

5. The learned counsel for the petitioner strenuously contended that it is only because of the sheer negligence on the part of the second respondent in providing immediate treatment for the new born son of the petitioner, the health condition of his son deteriorated, resulting in pushing him to a vegetative state. She also further contended that the second respondent failed to furnish the discharge summary etc., immediately after the discharge, and it is because of the same, the petitioner could not make a complaint before the first respondent immediately after the birth of his son and after collecting all



the necessary papers, the complaint was lodged in the year 2019, and the delay in making such a complaint is neither deliberate nor intentional. She also further contended that the first respondent, while conducting the enquiry on the complaint made by the petitioner, failed to afford an opportunity to the petitioner to contest the matter, thereby subjected the impugned order to illegality. Thus, she contended that the impugned order is liable to be set aside on the ground of violation of principles of natural justice and matter be remanded to the first respondent for enquiry afresh.

6. The learned counsel for the petitioner also placed reliance on the decisions of this court in W.P.No.12303 of 2021 dated 26.10.2021 and W.P.No.21770 of 2024 dated 22.08.2025.

7. On the other hand, Mr.Vignesh, learned counsel appearing for the second respondent, contended that there is absolutely no negligence on the part of the second respondent and immediately after the childbirth, the baby boy was referred to a Paediatrician available in the locality. He also further contended that there is an abnormal delay in making the complaint against the second respondent and after a lapse of more than a decade, it is not possible for the second respondent to defend herself effectively. Further, he also



contended that there is an effective alternate remedy of Appeal is available to the petitioner under relevant regulation.

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8. We have carefully considered the submissions made on either side and also perused the entire material on record.

9. We have every sympathy for the baby boy, who was born with the medical condition called 'Hypoxic Ischemic Encephalopathy'. But, at the same time, we cannot decide the matters basing upon sympathy. There is no negligence whatsoever attributed to the second respondent in the process of undertaking the delivery of the baby boy. The complaint is only that the baby boy born was not responding and did not cry immediately after birth. It is an admitted fact that the newborn baby was referred to a Paediatrician on the same day. If the baby boy delivered by the wife of the petitioner is not in good health condition for whatever reason, the same cannot be attributed as negligence on the part of the second respondent herein. If at all there is any negligence of the second respondent herein, the petitioner could have been made a complaint immediately on coming to know that his son was suffering from 'Hypoxic Ischemic Encephalopathy' as early as on 06.11.2008. From the year 2008 to till 2019, the petitioner has not taken any steps against the



second respondent for the alleged negligence on her part. Therefore, in our considered view, the first respondent ought not to have entertained the complaint made by the petitioner on 03.04.2019 i.e., after a lapse of more than a decade against the second respondent herein.

10. Then coming to the contention of the learned counsel for the petitioner on not affording a reasonable opportunity to prosecute the complaint made before the first respondent by placing reliance on two decisions of this court referred to above, we are of the considered view that the same will not in any way impress us either to remand the matter back to the first respondent or to allow the petitioner to avail the remedy of appeal available under the relevant regulations before the Medical Council of India for the simple reason that it is not possible for the second respondent to defend herself at this length of time, nor one can expect the second respondent, who is a medical practitioner, to remember what had happened in the year 2008. In the light of the above, though there appears to be some lacuna in the matter of following the procedure while dealing with the complaint made by the petitioner, the same does not persuade us to grant any relief in favour of the petitioner.



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11. Though it is alleged that there is a delay in obtaining the discharge summary etc., from the second respondent, absolutely no material is placed before this court to attribute any lapse or delay on the part of the second respondent in furnishing the copy of the discharge summary or any other material. Therefore, we are not inclined to accept the only reason assigned by the petitioner for the abnormal delay of more than a decade.

12. In the light of the above, we are of the considered view that this is not a fit case either for remanding the matter back to the first respondent or to relegate the petitioner to avail the remedy of appeal available under the relevant regulations.

13. Accordingly, the writ petition is dismissed. No costs.

(Dr.A.S.M.,J.) (M.S.K.,J.)
07.01.2026

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No



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