

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.11665 of 2021
and W.M.P.Nos.12413, 12414 of 2021

A.Anand

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Petitioner

Vs

- 1 Government of Puducherry
Rep. by its Chief Secretary
Puducherry.
- 2 The Director of Health and Family Welfare
Puducherry.
- 3 The District Collector - Cum-District Magistrate
Puducherry.
- 4 Sri Venkateshwara Medical College
Hospital and Research Center
Rep. by its Director
Puducherry.

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Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 to 3 herein to ensure free treatment to the Covid patients in the Union Territory of Puducherry.

For Petitioner : Ms.M.N.Sumathy

For Respondents : Mr.N.Mala,
Additional Government Pleader,
for respondents 1 to 3

Mr.L.Swaminathan,
for 4th respondent

ORDER

(Made by the Hon'ble Chief Justice)

The petitioner has brought an issue to light which needs to be addressed by the Union Territory of Puducherry.

2. Counter-affidavits have been filed by both the State and the fourth respondent private medical college. A rejoinder has also been filed by the petitioner.

3. It appears that at the initial stage of the pandemic and even at the initial stage of the second surge, the fourth respondent's institution was earmarked by the Government in the Union Territory to keep patients in quarantine or provide basic treatment upon such patients being referred when tested positive for Covid-19. As the

second surge intensified, the fourth respondent's medical facility was declared to be an exclusive Covid Care Centre and serious and complex cases were also referred to such facility. At the initial stage, the Government promised to pay the daily diet charges for the fourth respondent admitting patients upon being referred by the Government, but as the situation worsened in course of the second wave of the pandemic, the fourth respondent was required to provide treatment to even the serious and complex cases referred to it.

4. According to the fourth respondent, pathological and other tests had to be conducted, medicine, particularly expensive antibiotics and even steroids, had to be administered, oxygen supplied and critical care provided in several cases. The fourth respondent contends that merely because there was no previous Government mandate or agreement between the Government and the fourth respondent as to how payments would be made, it did not imply that the fourth respondent would receive patients and not care for them or provide no treatment to them. It is the further assertion of the fourth respondent that the Government could scarcely expect a private party to continuously fund the treatment without being reimbursed therefor on

a periodic basis.

5. This submission of the fourth respondent gives more credence to the issue raised by the petitioner that patients were required to make some payments whether for tests or for medicines or for treatment when such patients ought not to have been charged anything at all since the fourth respondent's medical facility was deemed to be a Government hospital upon being requisitioned for the purpose.

6. The latest affidavit filed on behalf of the Union Territory reveals that some payments have been made to the fourth respondent, but it is submitted on behalf of the Union Territory that subsequent bills have been raised in tranches by the fourth respondent that need to be looked into.

7. It is understandable that there will be a time lag between the money spent and the bills raised and a further time lag between the bills received and payments made therefor upon ascertaining the veracity thereof. However, to the extent that some charges may have

been obtained by the fourth respondent from the patients directly, fullest particulars thereof should be disclosed to the Union Territory for the relevant patients to be entitled to obtain reimbursement therefor from the Government of the Union Territory.

8. All expenses incurred by the fourth respondent on account of its medical facility being requisitioned as an exclusive Covid Care Centre should be accounted for by way of bills, with cogent evidence and placed before the Government in final form within the next four weeks. The Government of the Union Territory will ascertain the veracity of the bills and take appropriate measures as expeditiously as possible in accordance with law, both to reimburse the fourth respondent to the extent that it is entitled to and to have appropriate records to reimburse payments made by patients to the fourth respondent. It is hoped that the entire exercise is completed within the next eight weeks.

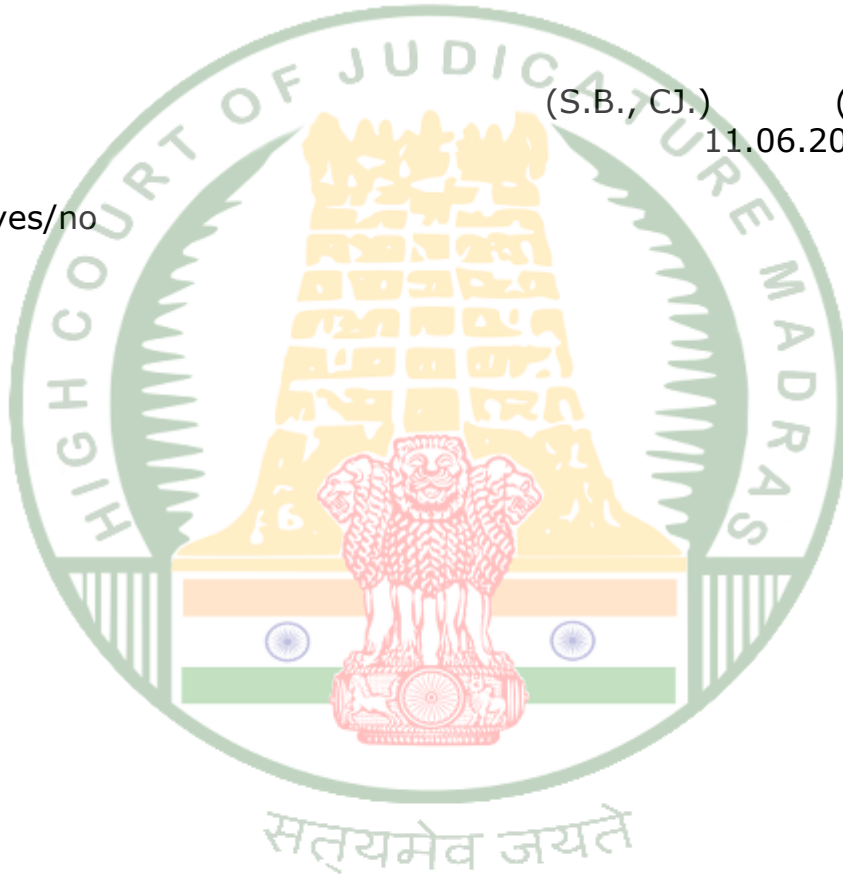
9. The matter will appear five weeks hence to ascertain the position. The petitioner and the local Government should make all patients who have made payments to the fourth respondent for Covid

treatment aware that they are entitled to reimbursement of the payments made.

10. List on 16.07.2021.

(S.B., CJ.) (S.K.R., J.)
11.06.2021

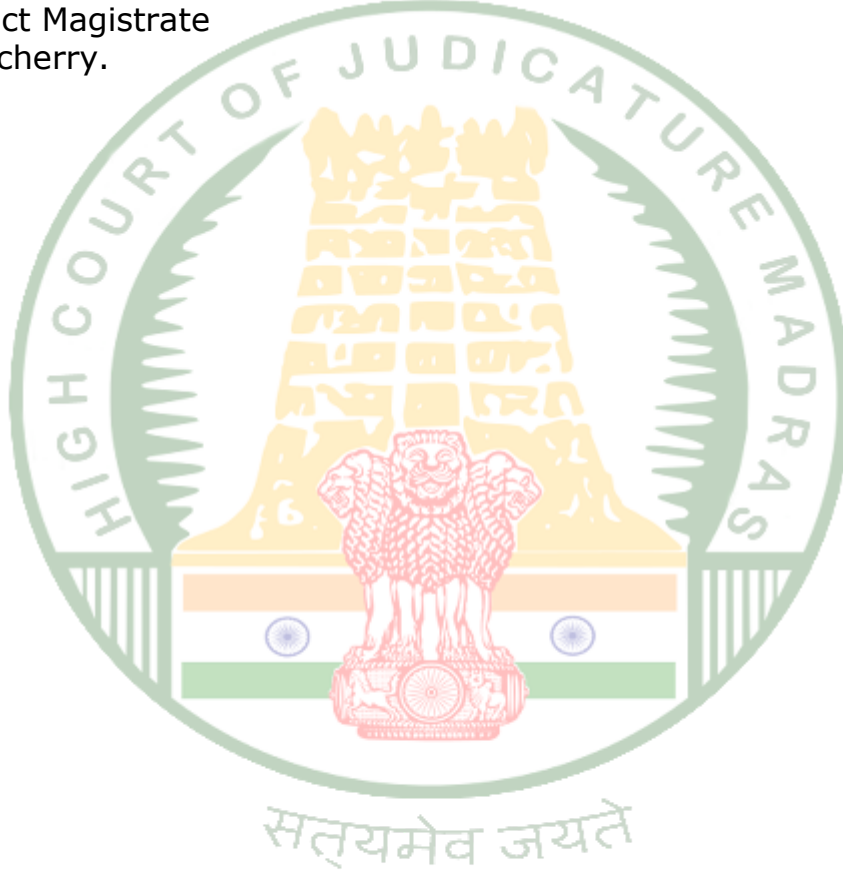
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To:

- 1 The Chief Secretary
Puducherry.
- 2 The Director of Health and Family Welfare
Puducherry.
- 3 The District Collector - Cum-
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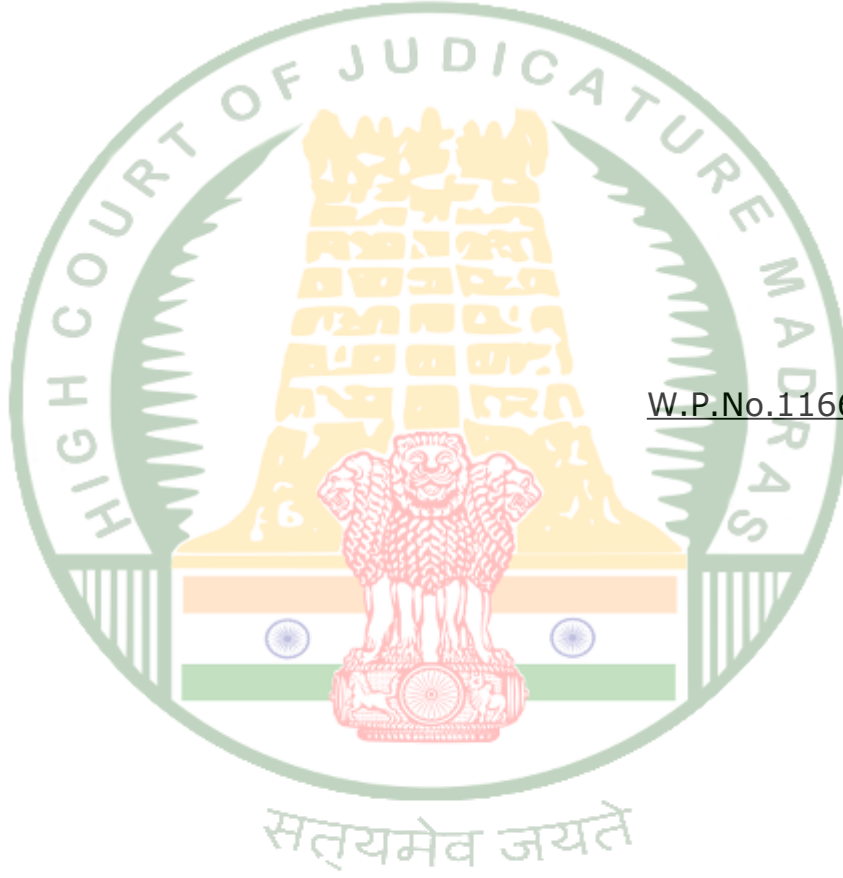


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THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY, J.

(tar)



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