

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). 7856-7857 of 2021
(Arising out of SLP(C)No(s).10189-10190 of 2019)

M/S. APOLLO HOSPITALS ENTERPRISES LIMITED Appellant(s)

VERSUS

STATE OF TAMIL NADU & ORS. Respondent(s)

O R D E R

Leave granted.

(2) The appellant filed a writ petition, W.P. No.3947 of 2019 before the High Court of Judicature at Madras challenging the proceedings, finding and recording of evidence before the second respondent, namely, Justice Thiru. A. Arumughaswamy Commission of Inquiry, (for short, 'the Commission') pursuant to G.O. Ms. No.817 dated 25.09.2017 and G.O.Ms. No.829 dated 27.09.2017, insofar as it relates to the Commission causing an inquiry into the correctness, adequacy and inadequacy of medical treatment extended to the late Chief Minister of Tamil Nadu in contravention of the provisions of the Commission of Inquiry Act, 1952 (for short, 'the Act') and Rules made thereunder.

(3) The appellant also filed another writ petition i.e. W.P.No.3953 of 2019 for a writ of mandamus to forbear the Commission from causing an inquiry into the correctness, adequacy/inadequacy of medical treatment of the late Chief

Minister of Tamil Nadu. A consequential prayer has also been made to the effect that if the Court does not grant the first relief, for constitution of an independent Board with specialist doctors unassociated with the first respondent-State of Tamil Nadu and any of the parties to the writ petition, as prayed for in Application No.213 of 2018 dated 28.12.2018 filed before the Commission.

(4) After considering the materials on record and the submissions of learned counsel for the parties, the High Court held that the Commission can consider the appropriateness, adequacy or inadequacy of the treatment given by the appellant-Hospital based on the available medical records. The High Court further held that it cannot interfere with the appointment of the Commission of Inquiry and direct the Government to include professionals or experts on the Board to assist the one-man Commission of Inquiry. The High Court also held that the Commission can have the assistance of professionals and experts in a particular field if it is desirable so as to more effectively and purposely complete the task assigned to it. It was observed that Section 5B of the Act gives widest power to the Commission to take assistance of any person having special knowledge in any given field. Finally, the High Court disposed of the writ petitions by observing as under:

“Thus it is evident from the above Full Bench decision of this Court that the second respondent,

as a fact finding body, cannot determine the rights or liabilities or decide any questions of guilt or innocence on any one, who is part of the inquiry before it since the second respondent is not dealing with a lis between two wrangling parties. The Commission can only offer it's opinion to the Government for it's mind, with respect to the nature of treatment given by the petitioner on the basis of oral and documentary evidence - whether such treatment was adequate or not. Since the second respondent had cast certain aspersions against the petitioner hospital, mentioned above, in our opinion, that by itself will not vitiate the inquiry proceedings hitherto conducted by the second respondent. We hope and trust that the second respondent/Commission will confine his inquiry strictly within the scope and ambit of terms of reference made by the government. Further, it cannot also be said that the remarks made by the second respondent, mentioned above, will form part of the final report to be submitted to the Government. We are also fully aware of the fact that even if a final report is submitted by the second respondent to the Government, either way, yet, it is for the government to act upon the same and if the report that is to be submitted by the commission is acted upon, in such event, the petitioner hospital will be provided all due opportunity in adherence to principles of natural justice."

(5) Having heard learned Senior Counsel for the parties, we do not find any infirmity in the order of the High Court, impugned herein.

(6) However, having regard to the facts and circumstances of the case, we are of the view that it is just and proper for the Commission to furnish the documents, the depositions and the records as available in the records of the Commission on an application to be made by the appellant-Hospital and respondent no.3. Appellant-Hospital is also permitted to make an appropriate application seeking permission to cross-examine/recall of any witness or individual including those witnesses whose evidence has since been closed and also lead its own evidence. If such an application is filed, we request the Commission to consider the same and pass appropriate orders thereon.

(7) We are also of the view that it is just and proper to constitute a medical board to assist the Commission in disposal of the case. For this purpose, we request the Director, All India Institute of Medical Sciences (AIIMS), New Delhi, to nominate a panel of doctors, specialist in the fields of treatment of the ailments as suffered by late Chief Minister of the Tamil Nadu. Needless to say that the Commission has to furnish the said Medical Board, so constituted, with complete records of the proceedings. The Medical Board, so appointed, is permitted to participate in all further proceedings of the Commission and furnish a copy of the report to the Commission. A copy of such report shall also be furnished to the appellant-Hospital and respondent no.3.

(8) Learned counsel for respondent no.3 submits that respondent no.3 has not led its evidence so far. In view of

above, we request the Commission to permit respondent no.3 to lead her evidence at an appropriate stage of the inquiry.

(9) The appeals are disposed of accordingly. There shall be no order as to costs.

(10) Pending application, if any, shall also stand disposed of.

.....J.
[S.ABDUL NAZEER]

.....J.
[KRISHNA MURARI]

NEW DELHI;
November 30, 2021.

ITEM NO.1

COURT NO.7

SECTION XII

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).10189-10190/2019

(Arising out of impugned final judgment and order dated 04-04-2019 in WP Nos. 3947/2019 and 3953/2019 passed by the High Court of Judicature at Madras)

M/S APOLLO HOSPITALS ENTERPRISES LTD.

Petitioner(s)

VERSUS

THE STATE OF TAMIL NADU & ORS.

Respondent(s)

([TO BE TAKEN UP AT TOP OF THE BOARD AS ITEM NO.1])

IA No. 75517/2020 - EARLY HEARING APPLICATION

IA No. 75514/2020 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 75519/2020 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 66028/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 75510/2020 - EXEMPTION FROM FILING O.T.

IA No. 66032/2019 - EXEMPTION FROM FILING O.T.

IA No. 75509/2020 - INTERVENTION APPLICATION

IA No. 66033/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 44313/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 103273/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES

IA No. 190109/2019 - VACATING STAY)

Date : 30-11-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. ABDUL NAZEER

HON'BLE MR. JUSTICE KRISHNA MURARI

For Petitioner(s) Mr. C.A. Sundaram, Sr. Adv.
Ms. Rohini Musa, AOR
Mr. Abhishek Gupta, Adv.
Mr. Zaffar Inayat, Adv.
Ms. Maimoona Badsha, Adv.

For Respondent(s) Mr. Dushyant Dave, Sr. Adv.
Dr. Joseph Aristotle S., AOR
Ms. Preeti Singh, Adv.
Ms. Ripul Swati Kumari, Adv.
Mr. Sanjeev Kumar Mahara, Adv.

Mr. Ranjit Kumar, Sr. Adv.

Mr. S.Manuraj, Adv.
Mr. Somanatha Padhan, AOR
Mr. Ashok Anand, Adv.
Mr. Rakesh Kumar Singh, Adv.
Mr. Aakash Kakade, Adv.
Mr. Aabhas Parimal, Adv.
Mr. Bipin Bihari Singh, Adv.
Ms. Sujata Kumari Muni, Adv.

Mr. Vivek Singh, AOR
Mr. N.Raja Senthoo Pandian, Adv.
Mr. M.Srinivasan, Adv.
Mr. C.S.Subramaniam, Adv.

Mr. Anoop Prakash Awasthi, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are disposed of in terms of the Signed Order.

Pending application, if any, shall also stand disposed of.

(NEELAM GULATI)
ASTT. REGISTRAR-cum-PS

(KAMLESH RAWAT)
COURT MASTER (NSH)

(Signed Order is placed on the file)