



WP(MD)No.15884 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 27.06.2023

PRONOUNCED ON : 22.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.15884 of 2014
and
MP(MD)Nos.1 & 2 of 2014

Chinnammal

: Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by Principal Secretary,
Health and Family Welfare Department,
Fort St.George,
Chennai.

2.The Dean,
Government (Annal Mahatma Gandhi) Ki.Aa.Pe
Medical College Hospital,
Trichy.

3.The District Collector,
Trichy District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
seeking issuance of a Writ of Mandamus directing the respondents to



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provide intensive best treatment to the petitioner's son Archunan aged 30 years till his complete recovery, now taking treatment in the second respondent Hospital and directing the respondents to initiate appropriate action against the officials who are responsible for Rabbis affected man escape and attack against the petitioner and her son, namely, Archunan in the second respondent hospital and consequently, directing the respondents to pay Rs.10 Lakh each as compensation to the petitioner and her son, namely, Archunan, within a stipulated time limit.

For Petitioners : Mr.R.Alagumani

For Respondents: Mr.R.Baskaran,
Additional Advocate General
Assisted by
Mr.J.K.Jeyaseelan,
Government Advocate

ORDER

This writ petition is filed by the petitioner with a grievance that a patient, who was affected with Rabies, has attacked the petitioner and her son. Hence, the petitioner seeks intensive best treatment for her son and to direct the respondents to initiate appropriate action against the officials



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who are responsible for the attack along with a consequential direction to pay a compensation of ten lakh each to the petitioner and her son.

2.Learned Counsel for the petitioner submitted that the petitioner's son met with an accident and was admitted in the second respondent Hospital on 09.09.2014. The petitioner's son was scheduled for a surgery. While so, on 17.09.2014, a Rabies patient escaped from the rabies ward and attacked the petitioner's son. The said rabies patient died on 18.09.2014 and in view of the incident, the surgery scheduled for the petitioner's son was postponed. The attack happened due to lack of separate block and security for rabies inpatients and therefore, the petitioner has filed this writ petition.

3.Learned Additional Advocate General appearing for the respondents submitted that the petitioner's son was vaccinated and was given immunoglobulin injection. The Hospital is having a separate ward for rabies and unfortunately, the rabies patient escaped. Rabies will not spread from one man to another man. After confirmation of antirabies



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antibody trite in the petitioner's son, the scheduled surgery was successfully performed and the petitioner's son was discharged from the Hospital on 20.12.2014 after full recovery.

4.This Court considered the rival submissions and perused the materials placed on record.

5.The issue regarding street dog has become a menace to the society. Rabies is a deadly viral infection which is transmitted through animal bite such as dogs. It is a fatal disease in which the person affected has difficulty in swallowing and shows panic, when presented with liquids to drink and cannot quench their thirst. Saliva production is greatly increased and attempts to drink, or even the intention or suggestion of drinking, may cause excruciatingly painful spasms of the muscles in the throat and larynx. Sadly, rabies is endemic in our country which has to be strictly curtailed.



6.The Prevention of Cruelty to Animal Act, 1960, is an Act of Parliament passed on the 26.12.1960 with the main objective of preventing unnecessary pain or suffering on animals. However, Section 11(3)(b) of the Act specifically allows the 'destruction' of stray dogs in lethal chambers by prescribed methods and Section 38(2)(ea) empowers the Central Government to make rules for the destruction of stray dogs. Under this, the Animal Birth Control (Dogs) Rules, 2001 was notified under Sub-Section (1) of Section 38 of the Prevention of Cruelty to Animals Act, 1960. This Rule was enacted to reduce the dog population by sterilization and minimization of stray dogs with the support and assistance of animal welfare organizations, private individuals and local authorities and it also emphasize the controlling and killing of incurably ill, mortally wounded and rabid dogs.

7.In the case of *People for Elimination of Stray Troubles v. State of Goa*, reported in [2008 SCC OnLine Bom 1229], the Bombay High Court, by its majority, held that the Municipal Commissioners have the powers



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under the respective Municipalities Act to order the killing of “nuisance” dogs. This was challenged before the Hon'ble Supreme Court by different agencies and this order was stayed in *Animal Welfare Board of India v. People for Elimination of Stray Troubles*, reported in (2016) 2 SCC 598. In this decision, several directives were issued to the respective State Governments to formulate appropriate measures for the execution of duties of the local authorities under the Prevention of Cruelty to Animals Act and Rules.

8.As a result of the directions of the Hon'ble Supreme Court, a **“Module for Street Dog Population Management, Rabies Eradication, Reducing Man-Dog Conflict”** was framed by the Animal Welfare Board of India to ensure sterilization and immunization of stray and street dogs. The said module recommends a Central Co-ordination Committee, State Monitoring and Implementation Committees and Animal Birth Control Monitoring Committees. Addressing these guidelines, the Central Government has notified the Animal Birth Control Rules, 2023, vide G.S.R



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193(E) dated 10.03.2023 under the Prevention of Cruelty to Animal Act, 1960, superseding the Animal Birth Control (Dog) Rules, 2001.

9.The salient features of the Animal Birth Control Rules, 2023 are as follows:-

- i. As per the new rules, the Animal Birth Control programme for the sterilization and immunization of stray dogs is to be carried out by the respective local authorities or by an Animal Welfare Organization which is duly recognized by the Board for Animal Birth Control. Under Rule 3 of the Rules, the concept of Project Recognition was brought in, by which no organization shall undertake, conduct or organise animal birth control program for street dogs without a Certificate of Project Recognition from the Board for Animal Birth Control. The Board has also been given the power to cancel the registration on account of non-compliance.
- ii. Under the previous rules, the street dogs shall be sterilized and immunized by participation of animal welfare organizations,



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private individuals and the local authority. Whereas under Rule 8(2) of the new Rules, the local authority has been conferred with the responsibility of sterilization and immunization.

- iii. The Rules also provide for Monitoring Committees for the effective implementation of Animal Birth Control Programs to control the population of street animals, for eradication of rabies and for reducing man-animal conflict.
- iv. As per the guidelines of the Hon'ble Supreme Court, under Rule 11, the dogs captured from an area for the purpose of sterilization and immunization will be released in the same area after sterilization and immunization.
- v. The rules also cover domestic and feral cats. As per Rule 19, upon the advice of the State Board, the Sterilization of cats may be conducted by a recognized Animal Welfare Organization with training and expertise in spay or neuter of cats, in a manner provided in the Guidelines for Cat Sterilization and Immunization, published by the Board.



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10. The petitioner's son met with an accident and was admitted in second respondent hospital on 09.09.2014 for surgery. However, during the hospitalization, one of the rabies patients from the second respondent Hospital escaped from the rabies ward and attacked the petitioner and her son. The Hospital has, therefore, postponed the surgery and gave immunoglobulin injection and vaccination to the petitioner and her son. After confirmation of antirabies antibody titre in the petitioner, the scheduled surgery was done to the petitioner's son and he was discharged from hospital on 20.12.2014.

11. Though the petitioner's son was provided with the required antibiotics and also the required treatment, the mental agony faced by them during the interregnum period could not be explained. A person, who was admitted in the Hospital for a illness, was inflicted with another one, not on his fault. It would be like adding fuel to the fire. For the trauma faced by the family, the petitioner and her son needs to be compensated.



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12. In view of the above discussion, this writ petition is allowed of with the following directions:-

- i. the first respondent shall pay a compensation of Rs.5,00,000/- [Rupees Five Lakh only] each to the petitioner and her son, in total Rs.10,00,000/- [Rupees Ten Lakh only], within a period of six months from the date of receipt of a copy of this order.
- ii. the first respondent shall make sure that in all the Government Hospitals, there is enough infrastructure such as separate wards and medicines to treat the rabies patients.
- iii. as contemplated under the Animal Birth Control Rules, 2023, the respective local authorities shall ensure that the dogs in their jurisdiction are sterilized and immunized against rabies.

Consequently, connected miscellaneous petitions are closed. No costs.

Internet : Yes
Index : Yes / No
NCC : Yes / No
gk

22.12.2023



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B.PUGALENDHI, J.

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