



W.P.(MD)No.20603 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.20603 of 2021

S.Chinnan

... Petitioner

Vs

1.The District Collector,
Tenkasi District.

2.The Additional Divisional Engineer,
PWD Department,
Courtallam,
Tenkasi Taluk, Tenkasi District.

3.Kalasalingam Academy of Research
and Education,
Represented by its Vice Chancellor,
Anand Nagar, Krishnankovil,
Virudhunagar District

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent herein to consider the petitioner's representation dated 21.10.2021 requesting the 1st respondent to pay compensation to a tune of Rs.25 Lakhs for the death of the petitioner's son caused due to negligence on the part of the 2nd respondent who failed to take necessary precautionary steps in falls, lakes and pools in Tenkasi within a time limit fixed by this Court.



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For Petitioner : Ms.M.D.Devi Saravana Priya

For R-1 & R-2 : Ms.D.Farjana Ghoushia,
Special Government Pleader

For R-3 : Mr.A.Sivaji

ORDER

This Writ Petition has been filed for the issue of writ of mandamus directing the first respondent to consider the representation made by the petitioner on 21.10.2021, wherein, the petitioner is seeking for payment of compensation for the death of his son which according to the petitioner was caused due to the negligence on the part of the second respondent.

2. The case of the petitioner is that his son along with the other students had gone to old Courtallam. When they were bathing in a pool, the petitioner's son drowned. A complaint was given in this regard and it was registered as Crime No.42 of 2021 as a “Man Missing Case”. Subsequently, the body was identified. On completion of postmortem, it was ascertained that the petitioner's son died due to drowning.



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3. The grievance of the petitioner is that there was absolutely no precaution taken by the second respondent by putting up necessary boards and cautioning the general public and as a result, the petitioner's son had drowned in the pool without knowing the consequences of getting into the pool. Therefore, the petitioner has sought for payment of compensation from the respondents.

4. The second respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

“3. It is submitted that the Kulasekaraperikulam is only an Irrigation tank being used for Agricultural purpose. The earthen bund, irrigation sluice and supply channel are in good condition in Kulasekaraperikulam. The Irrigation farmers are getting various Irrigation related benefits as well as their livelihoods are improving through the Kulasekaraperikulam. Therefore Kulasekaraperikulam is purely an Irrigation Kulam used for Agricultural Activities.

4. It is submitted that the coming to Courtallam do not involve in any activities in any



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of the Irrigation Kulam situated near Farmers do not take Bath in and no permission has been given for the falls Surroundings. Kulasekaraperikulam Bathing in Kulasekaraperikulam Kulasekaraperikulam. Therefore is not a Tourist destination for Bathing the student. In Ayiraperi village Research are the under the maintenance of Purpose to the Tourist and there are more than 10 Water Resource Department (WRD) and all of this kulam are purely an Irrigationkulam. Kulam

5. It is submitted that the People from Ayiraperi Village keep the Kulasekaraperikulam in a Clean manner and no other Wastage are deposits in the Kulasekaraperikulam. Kulasekaraperikulam is used for their primary, Irrigation purpose. In every year students from all around the Tamilnadu visit the courtallam for survey camp and other education related activities. But they own intulge in any Bathing activities in any of the kulams Surrounding the Courtallam

6. It is submitted that the For Tourisam purposes the Mainfalls, Five Falls, Chitraruvi Falls, Tiger falls and old falls are their in and



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around courtallam, From Kulasekaraperikulam to the above mentioned Tourist Destination, there is a distance of approximately 10 km. Therefore Tourist won't visit the Kulasekaraperikulam for any Tourisam and Research Purpose. There is no relation between the Kulasekaraperikulam and petitioner's Son's Research Activities and there is no need for into visit the Kulaseraperikulam.”

5. Heard the learned counsel on either side.

6. In the considered view of this Court, the petitioner's son had taken bath at Kulasekaraperikulam which was an irrigation tank used by the villagers for agricultural purposes. This tank has nothing to do with the main Coutrallam. It seems that the petitioner's son had gone along with his friend to this place and had got into the tank without realizing the danger and has unfortunately drowned.

7. This Court while deciding the issue with regard to the payment of compensation, cannot go into disputed questions of fact. On carefully going through the counter filed by the second respondent, it is seen that there is no *prima facie* material to establish that there is



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negligence on the part of the second respondent. The case also involves disputed questions of fact which cannot be gone into this Writ Petition.

8. In view of the above, the relief sought for by the petitioner cannot be granted by this Court. If the petitioner is convinced that the death had taken place due to the negligence on the part of the second respondent, the petitioner has to work out his remedy only before the competent Civil Court and seek for compensation after establishing the negligence.

9. This Writ Petition is disposed of accordingly. No costs.

16.11.2023

NCC:yes/no

Index:yes/no

Internet:yes/no

tsg

To

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2.The Additional Divisional Engineer,
PWD Department,
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N.ANAND VENKATESH, J.

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