



W.P.(MD)No.23273 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.23273 of 2016

and

W.M.P.(MD)No.16717 of 2016

T.Vijayaraghavan

... Petitioner

versus

1. The Chairman/The General Officer
Commanding,
Local Board of Administration (LBA),
ATNK & K Area,
Chennai.
2. The Deputy Secretary (TRG) &
Honorary Secretary,
Sainik School Society,
Ministry of Defence,
Room No.G101-D-1 Wing,
Sema Bhavan, DHQ Post,
New Delhi – 110 011.
3. The Chairman,
Central Board of Secondary Education,
No.2, Community Centre,
Preet Vihar, New Delhi.



W.P.(MD)No.23273 of 2016

4. The Principal,
Sainik School,
Amaravathi Nagar,
Tiruppur District.

5. Southern Navel Command,
Head Quarters of Southern
Navel Command,
Navel Base, Cochin – 682 004.
Kerala State.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the respondents to pay a sum of Rs.50,00,000/- as compensation to the petitioner for the death of his son Minor V.P.Siddaarth, who was in the custody of the 4th respondent School.

For Petitioner : Mr.T.Lenin Kumar

For R1 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

For R2 and R5 : No appearance

For R3 : No appearance

For R4 : Mr.P.Raja

ORDER

The petitioner, a farmer, with a great ambition has admitted his son V.P.Siddaarth in the 4th respondent School at Amaravathi Nagar in



W.P.(MD)No.23273 of 2016

the year 2016. Within few days, the petitioner received a phone call from the School that his son fell sick and was admitted in the Government Hospital, Udumalaipettai, where, he was declared dead on 15.07.2016. Therefore, the petitioner has lodged a complaint before the Revenue Divisional Officer, Udumalaipettai and also before the Inspector of Police, Amaravathi Police Station, Tirupur District, who registered the case in Crime No.94 of 2016 for the offence under Section 174 Cr.P.C.

2. The learned counsel for the petitioner submits that the petitioner's son died, due to a food provided in the school. According to him, apart from the petitioner's son, 18 other students were also infected on that day and they were taken to the Hospital due to unhygienic food provided to the students. The petitioner's son was admitted in the 4th respondent School on 20.06.2016 and as it is an Army school, the students are admitted only after ascertaining their health conditions. The petitioner's son, who was admitted on



W.P.(MD)No.23273 of 2016

20.06.2016, died on 15.07.2016, within one month from the date of his admission. When the condition of the petitioner's son was fit enough to admit in the 4th respondent School, there is no reason available for his death within one month and the cause of death is due to some animal poison. According to the learned counsel, the unhygienic food, which was provided by the School, was the cause for the death of the petitioner's son, for which, the 4th respondent School is liable to pay compensation to the petitioner.

3. The petitioner has made a specific averment in paragraph 6 of the affidavit that along with his son, 18 other students, who studied in the 4th respondent School, were also taken to the Hospital that they were all infected due to unhygienic food which was provided to the students.

4. In response to this averments made specifically in paragraph-6, the respondents, in their counter affidavit, stated that it is a seasonal



W.P.(MD)No.23273 of 2016

weather condition in and around Amaravathi Nagar and few students were affected with viral fever, fell sick on 15.07.2016 and the same happens every year during the season.

5. From the available materials, it appears that along with the petitioner's son, 18 other students were also taken to the Hospital on 15.07.2016 and the petitioner's son was declared dead in the Government Hospital, Udumalaipettai. The cause of the death as per the Postmortem Certificate that the death was due to any unperceivable hemorrhagic infectious disease. The final opinion of the Doctor, who conducted postmortem, is extracted as under:

“OPINION: In view of negative chemical analysis report, no definite autopsy and histopathology findings as to cause of death, no definite opinion could be given regarding cause of death. However taking into consideration of the history of the case correlating them with Postmortem and histopathology findings, death due to any unperceivable hemorrhagic infectious disease if suggested cannot be ruled out.”



W.P.(MD)No.23273 of 2016

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6. The Inspector of Police, who registered the case in Cr.No.94 of 2016 on 15.07.2016, has filed a final report on 13.10.2016, wherein, it is stated that there is no doubt on the death of the petitioner's son and he died due to his illness and it is a natural death and therefore, further actions are dropped.

7. This Court considered the rival submissions.

8. The petitioner's son, who was admitted in the 4th respondent School on 20.06.2016, died within 25 days on 15.07.2016. As rightly pointed out by the learned counsel for the petitioner, the petitioner's son was admitted in the 4th respondent School for 6th standard. The 4th respondent School is run by the Ministry of Defence and Students are admitted in the School only on their physical fitness. The petitioner's son, who found to be fit for admission on 20.06.2016, was found dead on the 25th day of his admission, while he was studying in the 4th respondent School. The Doctor said that no definite opinion could be



W.P.(MD)No.23273 of 2016

given regarding the cause of death from the chemical analysis report and histopathology findings. However, the Doctor has given an opinion that taking into consideration of the history of the case correlating them with Postmortem and histopathology findings, death due to any unperceivable hemorrhagic infectious disease.

9. The petitioner has taken a specific plea in his affidavit that as many as 18 students were taken to the Hospital on 15.07.2016 as they were all infected due to unhygienic food which was provided in the School. This stand has not been suitably defended by the respondents in the counter affidavit. They have given a vague reply that it was a seasonal illness due to the weather condition and some students were affected with viral fever and this happens every year.

10. Considering the available opinion of the Doctor and the stand taken by the respondents, it appears that the cause of death is not due to any viral fever and it is due to some infectious disease. The respondent



W.P.(MD)No.23273 of 2016

Police has also closed the case in a mechanical manner based on the opinion of the Doctor. Considering the facts and circumstances of the case, this writ petition is disposed of with liberty to the petitioner to file a protest petition before the learned Judicial Magistrate, Udumalaipettai as against the final report filed in FIR No.94 of 2016 dated 13.10.2016, within a period of four weeks from the date of receipt of a copy of this order. If any such petition is filed, the concerned Judicial Magistrate shall consider the case independently with the opinion of the Doctor and shall pass an order for further investigation or re-investigation either by the respondent Police or by another Investigating Agency, like, CBCID, as expeditiously as possible.

11. With regard to the relief of compensation, this Court is not inclined to pass an order of compensation with the available materials. The opinion of the Doctor is not sufficient to pass an order of compensation. However, the petitioner has made out a *prima facie* case that the students, who were admitted in the Hospital on the particular



W.P.(MD)No.23273 of 2016

day and the treatment register and cross examination of the Doctors are necessary for giving a finding to the effect that there was a gross negligence on the part of the 4th respondent School. Therefore, the petitioner is at liberty to file a Civil Suit before the concerned Court, within a period of eight weeks from the date of receipt of a copy of this order. In the event of filing any such suit, the concerned Court shall take up the Civil Suit without insisting on the period of limitation, considering the pendency of the writ petition before this Court from the year 2016 and decide the case independently and conclude the same as expeditiously as possible.

12. During the course of hearing, the counsel for the 4th respondent has failed to mute his mike, which caused some disturbance to the court proceedings. In view of the attitude of the learned counsel for the 4th respondent in conducting the court proceedings through Video Conference without any responsibility, this Court is inclined to impose a cost of Rs.2,000/- on the learned counsel for the 4th



W.P.(MD)No.23273 of 2016

respondent payable to MBHAA. No costs. Consequently, connected miscellaneous petition is closed.

12.12.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

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