

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

WP(C).No. 22693 of 2012 (J)

PETITIONER(S) :

V.KESAVAN NAIR,
S/O LATE G VELAYUDHAN NAIR, THIRUVATHIRA,
KAITHOORKONAM, EDAKKODE, NEMAM P.O.

BY ADV. SRI.A.JAYASANKAR.

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. DISTRICT COLLECTOR,
THIRUVANANTHAPURAM - 695 001.
3. TAHSILDAR,
NEYYATTINKARA - 695 121.

BY GOVERNMENT PLEADER SRI.NOUSHAD THATTATHIL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02-02-2015, THE COURT ON 22/05/2015 DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXHIBIT P1: TRUE COPY OF NEWS REPORT APPEARED IN MATHRUBHUMI DAILY ON 04/09/2011.

EXHIBIT P2: TRUE COPY OF THE CERTIFICATE DATED 02/02/2012 ISSUED BY THE THIRD RESPONDENT.

EXHIBIT P3: TRUE COPY OF THE APPLICATION DATED 02/06/2012 MADE BY THE PETITIONER BEFORE THE CHIEF MINISTER.

EXHIBIT P4: TRUE COPY OF THE RECOMMENDATION LETTER DATED 07/05/2012 FROM SRI.N.SAKTHAN, DEPUTY SPEAKER, KATTAKADA CONSTITUENCY.

EXHIBIT P5: TRUE COPY OF THE RESOLUTION ADOPTED BY THE PALLICHAL GRAMA PANCHAYATH ON 13/04/2012.

EXHIBIT P6: TRUE COPY OF THE NEWS REPORT APPEARED IN MALAYALA MANORAMA DAILY ON 10/11/2011.

EXHIBIT P7: TRUE COPY OF THE NEWS REPORT APPEARED IN MALAYALA MANORAMA DAILY ON 17/11/2011.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.22693 of 2012

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Dated this the 22nd day of May, 2015

JUDGMENT

Aggrieved by the non-consideration of Ext.P3 representation by the respondents, the petitioner has come up before this Court.

2. The petitioner's wife was electrocuted on 2.9.2011. The petitioner points out that he, who belongs to the lowest strata of the society, had made an application on 18.11.2011 before the 2nd respondent for financial assistance from the Chief Minister's Distress Relief Fund. The third respondent on 2.2.2012 recommended the application of the petitioner certifying that his annual income is only ₹6,000/- and he was given to understand that the second respondent allowed an amount of ₹30,000/- from the relief fund. The petitioner alleges that the said amount has not been disbursed.

3. The grievance of the petitioner is that large amounts have been sanctioned by the Government in identical cases as evidenced

by Exts.P6 and P7. Therefore, he submitted Ext.P3 representation supported by Exts.P4 and P5 which is still pending before the Government, without any action being taken. It is with this background, the petitioner has approached this Court.

4. In the detailed counter affidavit filed by the first respondent, they have admitted that the petitioner has made an application as alleged in the writ petition on 7.5.2012 and he was sanctioned an amount of ₹70,000/- as per G.O(Rt) No.6072/12/RD. dated 29.10.2012 which was disbursed to the petitioner on 12.12.12. This was in addition to an amount of ₹30,000/- which was granted to the petitioner as per G.O(Rt) No.1284/12/Rev. Dated 5.3.2012, which was disbursed to the petitioner through the Tahsildar, Neyyattinkara on 11.10.2012.

5. They maintained the stand that the petitioner's request for granting higher amount is not maintainable as the Chief Minister's Distress Relief Fund has its own rules and guidelines. According to

the respondent, it is not a scheme for granting compensation and power is vested with the Government for taking appropriate decision using the discretionary power. Therefore, they prayed for a dismissal of the writ petition.

6. Arguments have been heard.

7. Though in the writ petition, it was made to appear that the petitioner has not received a single pie from the Chief Minister's Distress Relief Fund, in the counter affidavit it is asserted by the respondents that a sum of ₹1 lakh has been released to the petitioner in two installments i.e. ₹30,000/- on 11.10.12 and ₹70,000/- on 12.12.12.

8. During the course of argument, the learned senior Government Pleader made available to me the circular issued by the Government in the matter of sanctioning of financial assistance from the Chief Minister's Distress Relief Fund. It is not a scheme for granting compensation. It is a relief provided by the Government to

the poor people for medical assistance and also a relief to the family members of the victims of the accident, if the members were wholly depending upon the victim. It is absolutely within the competence of the Government to consider whether a particular applicant is entitled to get any amount from the relief fund.

9. There occurs delay in disbursing the fund to the applicants because of the increasing number of applications and paucity of funds as pointed out by the learned senior Government Pleader. It cannot be said that there was inordinate delay in disbursing the amount to the petitioner herein. Here, the petitioner's application was considered by the Government and financial assistance has been extended to him.

10. The learned counsel for the petitioner relied on Exts.P6 and P7 to substantiate the claim for higher amount. Ext.P6 is a news report appeared in Malayala Manorama daily dated 10.11.2011, relating to the electrocution of a lady aged 60 and her daughters aged

24 and 25. Ext.P7 is a news item of the same daily dated 17.11.2011 which reveals that the cabinet had taken a decision to grant a sum of ₹6 lakhs to the family members of the deceased made mention of in Ext.P6. The same news item reveals the release of ₹2 lakhs to an Engineering student who was electrocuted. Therefore, the learned counsel for the petitioner submitted that the amount granted to the petitioner was inadequate. It was also submitted that Ext.P3 representation filed by the petitioner is pending before the Government.

11. As it is absolutely within the competence of the Government to decide as to what should be the compensation to be paid in each case, this Court cannot straightaway give a direction to the State Government to grant a particular amount to the petitioner. However, in the light of the fact that Ext.P3 representation is pending, this Court feels that it is only just and proper to direct the Government to consider Ext.P3 and to pass appropriate orders on the same.

In the result, the writ petition is disposed of directing the first respondent to consider Ext.P3 representation and to pass orders on the same in the light of Exts.P4 and P5, after affording the petitioner an opportunity of being heard. This exercise shall be completed within a period of three months from the date of receipt of a copy of this judgment.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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