

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

WP(C).No. 26174 of 2014 (V)

PETITIONER(S):

**ELAMMA, AGED 65 YEARS,
W/O. XAVIER, PALAKKAL HOUSE, NJARAKKAL P.O.,
PERUMBILLY, KOCHI, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.MANOJ RAMASWAMY
SMT.V.SREEJA**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
HOME DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.**
- 2. THE DISTRICT POLICE CHIEF,
KOCHI CITY, ERNAKULAM-682011.**
- 3. THE SUB INSPECTOR OF POLICE,
PALARIVATTOM POLICE STATION, PALARIVATTOM,
ERNAKULAM-682024.**

BY GOVERNMENT PLEADER SRI.GITHESH

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1:** TRUE COPY OF THE COMPLAINT DATED 5.1.2013 SUBMITTED BEFORE THE 3RD RESPONDENT.
- EXHIBIT P2:** TRUE COPY OF THE ACKNOWLEDGMENT RECEIPT OF PETITION DATED 5.1.2013.
- EXHIBIT P3:** TRUE COPY OF THE COMPLAINT DATED 9.1.2013 SUBMITTED BEFORE THE 2ND RESPONDENT.
- EXHIBIT P4:** TRUE COPY OF THE COMPLAINT DATED 13.3.2013.
- EXHIBIT P5:** TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE INFORMATION OFFICER, GENERAL HOSPITAL, ERNAKULAM DATED 4.12.2013.
- EXHIBIT P6:** TRUE COPY OF THE MESSAGE SENT TO THE PETITIONER DATED 10.2.2014.
- EXHIBIT P7:** TRUE COPY OF THE APPLICATION DATED 1.7.2014 SENT TO THE PUBLIC INFORMATION OFFICER OF THE 2ND RESPONDENT.

RESPONDENT(S)' ANNEXURES

- ANNEXURE R3(A):** TRUE COPY OF THE MEDICAL RECORDS SEIZED ON 26/6/15 FROM HOLLY CORSS HOSPICE, PERUMBADAPPU, PALLURUTHY AND FROM THE LAKESHORE HOSPITAL MARADU ERNAKULAM, SEIZED IN 27/6/15.
- ANNEXURE R3(B):** TRUE COPY OF THE TREATMENT SUMMARY DATED 27/6/15 ISSUED FROM THE LAKSHORE HOSPITAL

/ TRUE COPY /

P.S. TO JUDGE

PJ

ALEXANDER THOMAS, J.

=====

W.P.(C).No.26174 of 2014

=====

Dated this the 21st day of July, 2015

JUDGMENT

The prayers in this W.P.(C) are as follows:

- a) A writ of mandamus or other appropriate writ, order or direction directing the 2nd respondent to conduct a proper enquiry into the suspicious death of petitioner's son and complete the investigation in the matter within a time frame as fixed by this Hon'ble Court.
- b) A writ of mandamus or other appropriate writ, order or direction directing the 2nd respondent to consider and pass orders on Exhibit.P3 and Exhibit.P4 complaints submitted by the petitioner.
- c) Any other further relief or order as this Hon'ble Court may deem fit and proper to meet the ends of justice.
- d) Award the cost of these proceedings."

2. The 3rd respondent has filed statement dated 17/10/2014

paragraphs 2 to 4 thereof reads as follows:

"2. It is respectfully submitted that the petitioner had sent Ext.P1 and P3 to respondents 2 & 3 to conduct an enquiry into the suspicious death of petitioner's son one Mr.Martin Xavier, aged 36 years died on 8.09.2012. In this regard the petitioner had submitted a complaint before the Sub Inspector of Police, Palarivattom on 5.1.2013 and the same was entered as Petition No.5/13 in the petition register. The petitioner again submitted a petition before the 2nd respondent and the same was endorsed as Endt.No.D1(a)1252/13 Ec. Dated 11.01.2013 and the same was forwarded to the Palarivattom Police Station, wherein it was entered as SO petition No.17/13 in the SO petition register maintained

in the Police Station.

3. It is respectfully submitted that pursuant to the above Ext.P1 and Ext.P3 petitions a detailed enquiry has been conducted by the then S.I. of police, Palarivattom and it is revealed that petitioner's son Martin Xavier was a cancer patient and had been undergoing treatment at Holy Cross Hospital, Perumbadappu, Palluruthy. While so, his illness aggravated and ultimately he died on 8.09.2012. The details of the treatment were obtained from the above hospital and copies were handed over to the petitioner by the then S.I. of police, Palarivattom.

4. Since the earlier enquiry revealed that the petitioner's son died due to cancer and there was no suspicious circumstances in his death, no further enquiry was conducted in this regard. Besides, there was any suspicious circumstances in the death of the petitioner's son as alleged in the complaint. Accordingly Ext.P1, P3 petitions were closed. However, this respondent shall conduct further detailed enquiry and shall file a report within a period of two weeks."

3. Further as again directed by this Court the 3rd respondent has filed a further statement dated 29/06/2015 which reads as follows:

" 1. It is respectfully submitted in compliance with the above order dated 12.06.2015 I have seized the medical records from Holly Cross Hospice Perumbadappu, Palluruthy on 26.06.2015 and from the Lakeshore Hospital, Maradu, Ernakulam on 27.06.2015 respectively. True copy of the medical records seized is produced herewith and marked as Annexure R3(a).

2. It is respectfully submitted that from the records so seized and also from other evidence it is revealed that the deceased Martin Xavier had been undergoing treatment for "carcinoma pancreas with liver metastasis" in Lakeshore Hospital, Maradu under Dr.V.P.Gangadharan, an eminent Oncologist. While so, the patient was advised to continue palliative care at some local hospital. Accordingly he was shifted to Holly Cross Hospice, Palluruthy on 04.09.2014 and was admitted in the said hospital on 04.09.2012 itself at 3.15 pm and continued treatment therein till 08.09.2012. While undergoing treatment he died on 08.09.2012 at 11pm. And his body

was handed over to the relatives. It is further submitted that the patient was also aware of his sickness and the conditions of the patient was explained to the relatives also by the Doctors. From the above records it can be seen that son of the petitioner, aged 36 years died on 08.09.2012 due to Cancer and there is absolutely no suspicious circumstances in his death.

3. It is submitted that he was admitted in the Lakeshore Hospital, on 4 occasions for treatment after undergone treatment for carcinoma pancreas in 2009 i.e.on 26.03.12 to 31.03.12, 29.05.2012 to 02.06.12, 09.07.12 to 13.07.12 and 23.08.12 to 04.09.12 and had undergoing chemotherapy during the said period. True copy of the treatment summary dated 27.06.2015 issued from the Lakeshore hospital is produced herewith and marked as Annexure R3(b)."

4. Heard both sides.

In the light of the materials made available on record as well as the averments in the statement filed by the Investigating Officer, this writ petition is closed with liberty to the petitioner to work out her remedies in accordance with law.

Sd/- ALEXANDER THOMAS, JUDGE

