

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

WP(C).No. 33116 of 2015 (L)

PETITIONER(S) :

**LAKSHMANAN, AGED 63 YEARS,
S/O.RAMUNNI, VARADHA HOUSE, EKKAL,
P.O.MAMBA, KANNUR DISTRICT.**

BY ADV. SRI.SHERRY J. THOMAS

RESPONDENT(S) :

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY, DEPARTMENT OF HEALTH,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM- 695 001.**
- 2. DIRECTOR OF HEALTH SERVICES,
DIRECTORATE OF HEALTH SERVICES,
GENERAL HOSPITAL JUNCTION, THIRUVANANTHAPURAM- 695 035.**
- 3. DISTRICT COLLECTOR,
KANNUR, CIVIL STATION, KANNUR- 670 002.**
- 4. DISTRICT MEDICAL OFFICER,
KANNUR -3.**
- 5. DY. SUPERINTENDENT OF POLICE,
NARCOTIC CELL, KANNUR- 670 002.**
- 6. DISTRICT POLICE SUPERINTENDENT,
KANNUR- 670 002.**

BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

P1: THE TRUE COPY OF THE JUDGMENT IN RFA 346/2008 DATED 09/09/2013.

P2: THE TRUE COPY OF THE FORWARDING LETTER DATED ON 21/03/2012.

**P3: THE TRUE COPY OF THE REPORT SUBMITTED BY
THE 5TH RESPONDENT DATED ON 20/10/2011.**

**P4: THE TRUE COPY OF REQUEST DATED 05/08/2014 SUBMITTED TO
THE 1ST RESPONDENT.**

**P4(A): THE TRUE COPY OF THE REPRESENTATION DATED 01/09/2015
SUBMITTED TO THE 1ST RESPONDENT.**

**P5: THE TRUE COPY OF THE REPORT DATED 09/10/2015 IS PUBLISHED IN
FLASH NEWS PAPERS.**

**P5(A): THE REPORT DATED 14/07/2007 PUBLISHED IN MALAYALA
MANORAMA.**

**P5(B): THE TRUE COPY OF THE NEWS PAPER REPORT DATED 07/02/2008 IN
MATHRUBHUMI NEWS PAPER.**

**P5(C): THE TRUE COPY OF THE NEWS PAPER REPORT DATED 12/10/2010 IN
SIRAJ DAILY.**

**P5(D): THE TRUE COPY OF THE NEWS PAPER REPORT DATED 23/05/2013
PUBLISHED IN MATHRUBHUMI.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.33116/2015**

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Dated this the 8th Day of December, 2015

J U D G M E N T

The petitioner belongs to a poor family. He was bitten by a dog on 14/10/1983. He was administered anti-rabies injection at a local Primary Health Centre, Kannur. The petitioner claims that consequent upon anti-rabies vaccination, both of his legs became paralysed. The petitioner sued the State as a pauper. That was dismissed. The court finding that there is no negligence on the part of the doctor, dismissed the suit. The agony of the petitioner continues. He is unable to eke out his livelihood as the functional ability of his legs are lost. He has approached this Court invoking public law remedy under Article 226 of the Constitution for payment of compensation besides seeking claim for free medical aid.

2. Since the civil suit resulted in dismissal, this Court is of the view that the question of compensation cannot be considered. However, the petitioner's entitlement for free medical aid and medicines from the State cannot be ignored.

3. The right to health is a part of right to life. The petitioner, as of now has been deprived of livelihood on account of administration of anti-rabies injection, though, negligence cannot be attributed on the doctor in view of the civil court judgment, that does not mean that the State is absolved from the responsibility to provide free medical aid to the petitioner. The State has every duty to provide all medical assistance to the petitioner. Absence of negligence on the part of doctor could not absolve the State from

providing measures on medical aid to the petitioner. The petitioner as a citizen, has every right to claim such medical aid from the Government when the health is deprived not for any reason attributable to him. It is to be noted that the stray dog menace is on account of the lack of measures on the part of the State to regulate the stray dogs. Certainly, in such circumstances, the State has to bear the consequences of such action.

4. Therefore, this Court is of the view that the District General Hospital, Kannur and if necessary, on reference from the District General Hospital, the Government Medical College at Calicut or any other Government Medical Colleges and Government Ayurveda Hospitals in Kerala shall provide all medical care to the

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petitioner, free of cost, in relation to the treatment consequent upon the dog bite It is made clear that all allied treatments in relation to the dog bite shall also be provided to the petitioner free of cost.

The writ petition is disposed of as above. No costs.

**Sd/-
A.MUHAMED MUSTAQUE, JUDGE**

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