

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-10-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.32140 of 2015

R.Nivetha

.. Petitioner

vs

1. The District Elementary Educational
Officer

District Library Campus
Salem 636 007

2. The Additional Assistant Elementary
Educational Officer

O/o. Additional Assistant Elementary
Educational Office

Idapaddi Taluk, Salem District

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to disburse the petitioner's share in the death benefit of petitioner's deceased mother M.Sumathi by considering the petitioner's representation dated 13.3.2015.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : Mr.R.Vijayakumar

Additional Government Pleader

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner would state that her mother viz. M.Sumathi, was working as a Headmistress in the services of Education Department and died in harness on 23.5.2014, leaving behind the petitioner and her brother viz. Vignesh. The petitioner would further state that there was a matrimonial discord between her father and mother and hence, her father viz. Subramaniam @ Raja, filed HMOP No.73 of 2012, on the file of the Sub Court at Sankari under Section 13(1)(i)(i-a) of the Hindu Marriage Act, 1955, to grant a decree for divorce by dissolving the marriage solemnized between him and the petitioner's mother

on 28.10.1993, and an ex-parte decree of divorce came to be passed on 18.12.2013, and her mother did not file any application to set aside the same and therefore, the divorce granted to her father, became final and her brother Vignesh is living with her father.

3.The grievance expressed by the petitioner, is that in spite of the fact that she has produced the death certificate as well as the legal heir certificate, she has not been conferred with the terminal or other benefits due and payable to her mother and in this regard, she has also submitted a representation dated 13.3.2015, to the second respondent with a copy marked to the first respondent, and since no orders have been passed, came forward to file this writ petition.

4.The learned Counsel appearing for the petitioner, would submit that there cannot be any impediment on the part of the respondents to disburse 50% of the terminal/retiral benefits, which were due and payable to the petitioner's mother, to the petitioner and however, the respondents did not choose to pass any orders so far and consequently, the petitioner, who is pursuing her college studies, is unable to meet the expenses towards education and so also to maintain herself and hence, prays for appropriate orders.

5.The Court heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader, who accepted notice on behalf of the respondents, also.

6.Though the petitioner prayed for a larger relief, this Court, in the light of the above facts and circumstances, directs the respondents 1 and 2 to consider the petitioner's representation dated 13.3.2015, on merits and in accordance with law, and pass orders thereon within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

To:

1. The District Elementary Educational
Officer
District Library Campus
Salem 636 007

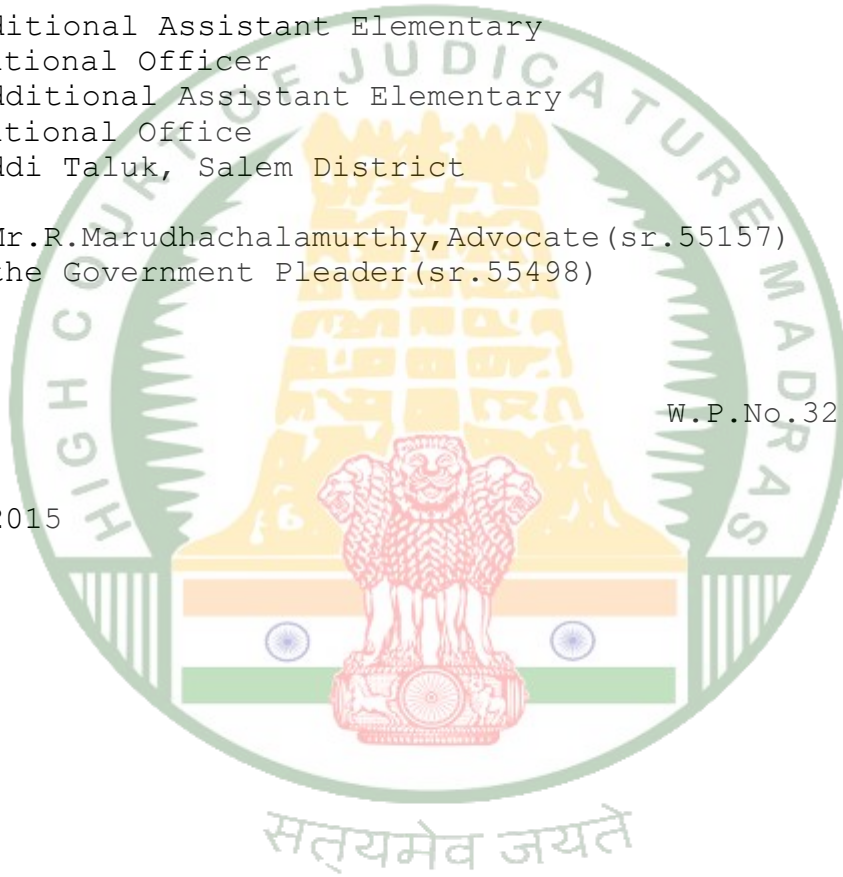
2. The Additional Assistant Elementary
Educational Officer
O/o. Additional Assistant Elementary
Educational Office
Idapaddi Taluk, Salem District

+1 cc to Mr.R.Marudhachalamurthy, Advocate (sr.55157)

+1 cc to the Government Pleader (sr.55498)

W.P.No.32140 of 2015

BVR (co)
cp 16/10/2015



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