

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SATHYANARAYANAN

W.P. No.5228 of 2015

Jayaram Venkatesan

.. Petitioner

-vs-

- 1.The State, Rep. By
its Secretary, Dept. of Health,
Secretariat, Fort St. George,
Chennai.
 - 2.The Dean,
Stanley Medical College and Hospital,
Chennai.
 - 3.The Director of Medical Education,
Kilpauk, Chennai.
 - 4.Assistant Commissioner of Police,
Washermanpet, Chennai.
- .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct respondents 1 to 3 to list out all the patients who underwent dialysis from 01.03.2014 till date for treatment for kidney failure and Hepatitis C virus from the 2nd respondent and consequentially direct thorough examination and specialized treatment on priority, free of cost to all affected victims and award adequate compensation; and to constitute an Expert Committee with a team of doctors and a retired High Court judge to find the genesis of the spread of Hepatitis C virus, in the 2nd respondent hospital and the reasons and deficiencies leading to such calamity and suggest remedial measures; and direct the respondents 1 to 4 to initiate domestic / criminal proceedings against all those officers found guilty in the report of the Court appointed committee.

For Petitioner : Mr.R.S.Akila
for M/s.Sudha Ramalingam

For Respondents: Mr.A.L.Somayaji,
Advocate General,
assisted by Mr.S.T.S.Murthi, G.P.
& Mr.V.Shanmugasundar, G.A.

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

Dr.J.Radhakrishnan, IAS, Principal Secretary to Government, Health and Family Welfare Dept. and Dr.M.Edwin Fernando, Head of the Department of Nephrology, Govt. Stanley Hospital, are present.

2.Learned Advocate General states that he has personally scrutinised the records and it is not as if the Government is going back on the assurances as held out on 21.09.2015, but that there was a mistake in communicating the decision inasmuch as the additional sum of Rs.2 lakhs per head was meant only for the two persons, who had died.

3.On the other hand, on behalf of the affected persons, it is contended that assuming the aforesaid to be the correct position, there has been expectation in the minds of the affected persons that they would get Rs.5 lakhs, Rs.3 lakhs already disbursed and of Rs.2 lakhs as additional amount.

4.We put to the learned Advocate General that even for the people who have survived, life is very difficult including the social aspects of large sections of society not accepting the logical consequences of the disease, but assuming it to be infectious. Thus, life is so difficult that even if the patients have survived, they should also be equally beneficiaries of the additional amount of Rs.2 lakhs.

5.Learned Advocate General states that necessary action in this behalf will be taken, despite what has been set out in paras 12 to 15 of the additional affidavit filed on behalf of the first respondent.

6.It is also pointed out by the learned counsel appearing for the affected persons that some of them have seen aggravation in their condition and were requiring continuing medical treatment. Needless to say and in fact, as assured by the learned Advocate General, there would be continuing treatment provided for all the affected parties.

7.The aforesaid action be taken within a period of two (2) months.

8.The aforesaid leaves only the aspect of the final compensation to be determined and it is suggested on behalf of the affected persons that instead of relegating the parties to a common law remedy, keeping in mind their economic status, it may be appropriate to appoint an One Judge Committee, which may determine the final compensation in each of the cases, as it may vary. This course of action cannot be seriously disputed by the learned Advocate General.

9.It is pointed out by the learned counsel for the affected parties that there are two other persons in whose cases the respondents have not admitted that they were infected, i.e. Rajani (deceased) and Satish. If they prefer a claim and establish that they were affected, their compensation can also be determined by the Committee.

10.We, thus, appoint Mr.Justice R.S.Ramanathan, a retired Judge of this Court, as the One Man Committee to determine the compensation to be paid to each of the 16 cases affected by the tragedy. The Government to extend all facilities for the working of the Committee and the fee terms may be agreed upon with the Presiding Judge. We would expect the Committee to complete its task within a maximum period of six (6) months.

11.Writ Petition, accordingly, stands disposed of. No costs.

12.On the report of the Committee being filed, the matter be listed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary
Dept. of Health, Secretariat,
Fort St. George, Chennai.
 - 2.The Dean,
Stanley Medical College and Hospital,
Chennai.
 - 3.The Director of Medical Education,
Kilpauk, Chennai.
 - 4.Assistant Commissioner of Police,
Washermanpet, Chennai.
 - 5.Hon'ble Mr.Justice R.S.Ramanathan,
'Parijatham', Old No.482, New No.15,
Rajagopalan Street, Valmiki Nagar,
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Ph:94450 22422
- +1cc to the Government Pleader sr.26657
+1cc to M/S.Sudha Ramalingam, Advocate Sr.26499

W.P.No.5228 of 2015

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srg 19/05/2016

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