

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated : 04.10.2016****CORAM :**

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THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN**W.P. (MD) .No.3849 of 2011**

V.Thirumalai

.. Petitioner

.Vs.

1. The State of Tamilnadu,
Rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai.
2. The Director of School Education,
D.P.I. Campus,
College Road, Nungambakkam,
Chennai.
3. The District Collector,
Dindigul District,
Dindigul.
4. The Chief Educational Officer,
Dindigul District, Dindigul.
5. The District Educational Officer,
Dindigul District, Dindigul.
6. The Headmaster,
Government High School,
Samuthirapatty Village and Post,
Natham Taluk, Dindigul District.

7.Sundar

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents herein to pay compensation to the petitioner for the death of his son named Gopalakrishnan who died by committing suicide due to tortious acts committed by the 7th respondent herein in the course of his employment as a state officer working under the control of the other respondents.



For Petitioner :Mr.S.Sethuraman

For Respondents :Mr.K.Guru, (for R1 to R6)
Additional Government Pleader

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Mr.N.Ananthapadmanaban (for R7)

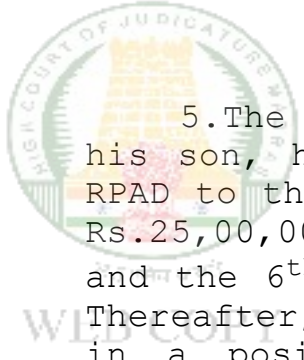
O R D E R

The Petitioner has filed the instant Writ Petition for Mandamus by directing the respondents herein to pay monetary compensation to the petitioner for the death of his son named Gopalakrishnan who died by committing suicide due to tortious acts committed by the 7th respondent herein in the course of his employment as a state officer working under the control of the order respondents.

2.The case of the petitioner is that he had 3 sons. The elder son by name Gopalakrishnan was studying X std 'B' section in the 6th respondent school, which is a government school in the academic year 2008-2009. While so, on 04.07.2008 when the petitioner's son attended the science class, the 7th respondent herein who is a concerned science teacher, during the course of conducting classes had scolded the petitioner's son in front of the other class students and beaten him on the hands, check, and neck and also uttered a word that if you not study well you need not attend the classes and go and die. The 7th respondent has also beaten 7 other students. The petitioner's son having ashamed of the said ill treatment made by the 7th respondent, had committed suicide by hanging in his house during lunch break.

3.The petitioner had left the house prior to the date of occurrence for his employment as Mason to Paramakudi Town. The wife of the petitioner also left the house for coolie work in the morning on 04.07.2008. The occurrence was informed to the petitioner's wife by the co-employees at about 02.00 p.m. on 04.07.2008. Thereafter, on enquiry, the petitioner's wife came to know that his son committed suicide because of the ill treatment and harassment by the 7th respondent. The petitioner's wife viz., Thottichi gave a complaint before the Natham Police Station against the 7th respondent herein and the same was registered in Crime.No.219 of 2008 for an offence under Section 323 and 306 IPC.

4.According to the petitioner, his deceased son Gopalakrishnan is a very brilliant student and he used to get second rank. The wound certificate issued for the other fellow student's of the petitioner's son and the postmortem certificate of the petitioner's son, consequent to the criminal case would prove that the 6th respondent failed to maintain the functions of a school in a proper manner and failed to discharge their duties vested under them.

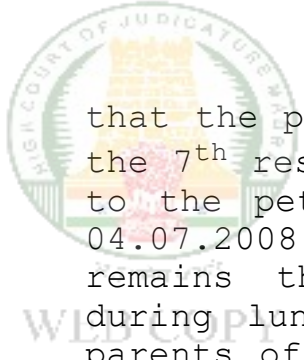


5.The further case of the petitioner is that for the death of his son, he sent a notice through his Advocate on 18.10.2008 by RPAD to the respondents 2 to 7 herein and claimed compensation of Rs.25,00,000/-. All the respondents received the Advocate notice and the 6th respondent alone sent reply notice to the petitioner. Thereafter, the petitioner filed pauper suit, since they are not in a position to pay court fee. The pauper application was numbered as P.O.P.No.14 of 2009 and the same was dismissed. Further, the 7th respondent, who is an accused in the above criminal case, filed discharge petition in CrI.M.P.No.219 of 2008 in S.C.No.112 of 2010 in the said criminal case and the same was dismissed. Against which the 7th respondent herein filed CrI.R.C.No.813 of 2010 before this Court. This Court by order dated 20.12.2010 quashed the charge under section 306 IPC alone and directed the trial court to proceed with the case for the offence under section 323 IPC. The said finding will not disentitle the petitioner from seeking compensation for the death of his son. Hence, the petitioner has come up with the present writ petition seeking compensation for the death of his son as per the judgments of the Hon'ble Apex Court and High Courts.

6.The 4th respondent filed counter affidavit contented that since Criminal case was registered against the 7th respondent in Cr.No.219 of 2008 and he was remanded to judicial custody, hence the 7th respondent was placed under suspension with effect from 05.07.2008. Further departmental proceedings were initiated and the 7th respondent was issued with charge memo under Rule 17(e) of Tamil Nadu Civil Services (Discipline and Appeal) Rules. However, the charges framed against 7th respondent were held not proved after conducting enquiry. That apart the criminal case registered against the 7th respondent herein in S.C.No.112 of 2010 was ended in favour of the 7th respondent. The 4th respondent further contented that the allegation against the 7th respondent herein that the petitioner's son committed suicide only due to scolding and humiliation are totally false and the same are with malafide intention. The word uttered by the teacher is only intended on the welfare of the student and it is not motivated. The claim of compensation is not maintainable either in law or facts. There is no negligence or violation of the Fundamental rights as alleged by the petitioner. Hence, the respondents pray to dismiss this writ petition.

7.I have heard the arguments of Mr.S.Sethuraman, learned counsel appearing for the petitioner and Mr.K.Guru, learned Government Advocate appearing for the respondents 1 to 6 and Mr.N.Ananthapadmanaban, learned counsel appearing for the 7th respondent and considered the materials available on record.

8.It is a pathetic case where the petitioner has lost his eldest son Gopalakrishnan at the age of 15. The admitted facts are



that the petitioner's son studied X standard in the year 2008 and the 7th respondent was his science teacher at that time. According to the petitioner, due to the torture meted out by his son on 04.07.2008 in science class, he committed suicide. The fact remains the petitioner's son committed suicide on 04.07.2008 during lunch break at his house. The reason attributed by the parents of the deceased Gopalakrishnan is that because of the ill treatment and humiliation by the 7th respondent, the science teacher his son died. Regarding the maintainability of the writ petition, this Court while admitting the writ petition on 31.10.2011 held that this writ petition is maintainable and therefore this Court need not go into that issue once again.

9.As per as the present case on hand is concerned, though the criminal case per section 306 IPC is quashed as against the 7th respondent by this court as mentioned above, the criminal case under section 323 IPC for injury has to be tried. Though the 4th respondent has stated that the session's case before the Additional Sessions Court in S.C.No.112 of 2010 was dismissed on 12.07.2010, there is no document produced by the 4th respondent to show that the above said case was dismissed. Further this court has noticed that when the 7th respondent filed CrI.R.C.No.813 of 2010 against the order of dismissal of discharge petition, this Court by order dated 20.12.2010 was pleased to quash the offence under section 306 IPC, the question of dismissal of S.C.No.112 of 2010 on 12.07.2010 is not at all possible as mentioned in the counter affidavit of the 4th respondent.

10.Further from the typed set of papers filed by the petitioner herein, it revealed from the wound certificates of co-students of the petitioner's son that the medical officer of the Government Hospital, Natham has mentioned two injuries for other co-students. The Learned Counsel for the petitioner has relied on several judgments relating to awarding compensation in the case of death due to torture custodial death and etc. There is no doubt with regard to above said proposition of law in awarding compensation to the family of the victim in writ petition. In fact I have already rendered a judgment and awarded compensation for custodial death which is reported in **2017 (1) TNLJ (criminal) 19** in the case of **Bhanumathi v. State.**

11.However, in the present case on hand certain factual aspects have not been clarified by the petitioner as well as respondents. According to the petitioner criminal case registered against 7th respondent as per as section 323 is concerned it has not reached finality. Whereas the 4th respondent contented that the criminal case registered against the 7th respondent was dismissed. Further the departmental proceedings initiated against the 7th respondent ended in his favor. This court has considered all the above said aspects and this court is of the view that mere



dismissal of criminal case or the departmental proceedings initiated against 7th respondent ended in favour of the 7th respondent cannot be a ground to reject compensation. Even assuming without admitting the fact that the 7th respondent is not held liable to pay compensation, the state is liable to pay compensation to the petitioner, since the state is having vicarious liability to pay compensation. The Fundamental Rights guaranteed to the every citizen of India under Article 21 of the Constitution of India when the same was infringed, the state is bound to compensate the damages caused to the victims or to their family.

12. Therefore, from the above discussion, though the amount of compensation would not compensate the death of the petitioner's son, it would be helpful to the petitioner to give better education to other children. This Court feels how much sufferings have been meted out by the family of the deceased Gopalakrishnan and the same cannot be consoled by words.

13. In the light of the discussion made above, I am of the considered view that the petitioner is entitled for compensation of a sum of Rs.25 lakhs for the death of his son Gopalakrishnan, who studied X Standard in the 6th respondent/School at the time of death and the same has to be paid by the Government of Tamilnadu namely the respondents 1 to 5, since the State Government is liable for payment of compensation.

14. Before parting with this case, this court wants to say the following message to the students, teachers and parents. The teaching profession is a noble profession as that of the Advocate profession. The teachers shall teach the students with subjects and also with moral education. The students should learn at the young age more and more, not only in subject, but also other general subjects, so that they can compete with the present technology world. Now it is useful to mention the proverb "An young twig is easier twisted than an old tree". If the students failed to learn/study well at their tender age, then they can't enjoy their future. Therefore this Court request the state government to introduce the earlier system of teaching moral subject at least in two classes per week which would help the students to come up moral tribute.

15. In ancient days the students were giving respect to the teachers and they (students) thought that the teachers are their god. Now, because of the technology improvement, the students are not having that much affection as in the olden days. The students are the energy of our nation and they can change the nation with their power and energy for better upliftment of our society and nation.

16. In the result:

<https://hcservices.ecourts.gov.in/hcservices/>

(a) this writ petition is allowed by directing the respondents 1 to 5 to pay a sum of Rs.25 lakhs to



the petitioner, as a monetary compensation for the death of his son namely Gopalakrishnan, who died by committing suicide due to tortious acts committed by the 7th respondent in the course of his employment as a State Officer working under the control of the respondents 1 to 5;

b) the said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
School Education Department,
Secretariat, Chennai.
2. The Director of School Education,
D.P.I. Campus,
College Road, Nungambakkam,
Chennai.
3. The District Collector,
Dindigul District,
Dindigul.
4. The Chief Educational Officer,
Dindigul District, Dindigul.
5. The District Educational Officer,
Dindigul District, Dindigul.
6. The Headmaster,
Government High School,
Samuthirapatty Village and Post,
Natham Taluk, Dindigul District.

+1cc to Mr.S.Sethuraman, Advocate Sr.No.59287
+1cc to Spl.Government Pleader Sr.No.59360

VS/SKN

VB/MR/SAR2/03.07.2017/6P/9C