

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.6657 of 2010

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

“to issue writ, order or directions more in the nature of Writ of Mandamus to declare the inaction of the official respondents in not appointing a fact finding committee by the Education department on the death of the petitioner's son who was studying IV class in the V Respondent's School the 4th respondent did not conduct a fair investigation in Crime No.430 of 2008 and therefore, to direct the 3rd respondent and 4th respondents to furnish copies of FIR, Inquest report, post-mortem etc., and to get further investigation done by the CBCID in the above case as the earlier investigation conducted by the police is in violation of Articles 14 and 21 of Constitution of India and also in violation of Cr.P.C.; consequently direct the V Respondent to pay Rs.5 lacs to the petitioner's family towards medical expenses and mental agony.”

Heard, Sri M.A.K. Mukheed, learned counsel for the petitioner, learned Government Pleaders for Education and Home for respondents 1 to 4 and Sri V.B. Subrahmanyam, learned counsel for the 5th respondent.

Counter-affidavit deposed by the Inspector of Police, Narayanaguda Police Station, Hyderabad has been filed and paragraph Nos.4 to 8 of the said counter-affidavit read as under:

“4. It is respectfully submitted that the records revealed that, the petitioner herein had approached the Police of Narayanaguda Police Station on 13.10.2008 and lodged a complaint stating that on 20.09.2008 Hindi Teacher Smt.Srilaxmi of Narayana Concept School, Narayanaguda beat his son Master Kushal who is a student of 4th class with an iron scale on head. Due to which he fell down with bleeding over his nose and he suffered with fever in the school. On 21.9.2008 he was admitted in Lotus Children Hospital, Lakdi-kapool for treatment. On 26.9.2008 Master Kushal was expired while under going treatment and hence requested the police to take necessary action against the said Smt.Laxmi-Hindi Teacher. Basing on the contents of the above complaint, a case in Cr.No.430/2008 U/sec.304 IPC was registered on the file of Narayanaguda Police Station on 13.10.2008 and investigation was taken up.

5. It is respectfully submitted that the records further revealed that during the course of investigation, it was disclosed that the deceased Master Kushal (son of the petitioner herein) was buried on 27.9.2008 and the petitioner lodged the complaint before the Station House Officer, Narayanaguda Police Station on 13.10.2008. The exhumation was conducted on 15.10.2008 in the presence of Tahsildar, Himayathnagar and team of doctors from Osmania Medical College, under the videography. The team of doctors opined that the death of the deceased was due to “VIRAL HAMORAGIC FEVER” natural cause.

6. *It is respectfully submitted that the records further revealed that during the course of investigation, the investigating officer has collected the Case Sheet of the deceased from the hospital who treated the deceased and also got the opinion of the Professor and Chief Neuro Surgeon, Department of Neuro Surgery, Osmania Medical College and he opinion that “there is no head injury and the death is due to complication of Dengue Fever”.*

7. *It is humbly submitted that the records revealed that basing on the opinion of the team of doctors of Osmania Medical College who exhumated the dead body and the Professor and Chief Neuro Surgeon Department of Neuro Surgery Osmania Medical College, the case was referred as “False”. There is no evidence adduced that the alleged Hindi Teacher committed any of the offence in this case.*

8. *It is respectfully submitted that after completion of the investigation, the investigating officer obtained permission from the Deputy Commissioner of Police, Central Zone, Hyderabad on 13.7.2009 referring the complaint of the complainant as “False”. Accordingly, after following the due procedure, final report U/sec.173 Cr.P.C. was also filed before the Hon’ble Court of IX Addl. Chief Metropolitan Magistrate at Hyderabad on 8.4.2010 vide SR.No.2217/2010. The same is pending consideration before the Hon’ble Court.”*

While referring to the above-mentioned paragraphs it is submitted by learned counsel for the petitioner that the petitioner herein may be permitted to avail remedies open for him, as per law.

Recording the said submission, the writ petition is closed, giving liberty to the petitioner to avail the remedies, if any, available to him, as per law. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SESA SAI, J

November 01, 2016

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