



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2017

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THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

W.P. (MD) No.1391 of 2017

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R.Shanthi

: Petitioner

-vs-

1.The Secretary to the
Government of India,
Ministry of Social Justice,
Room No.740, A-Wing,
Dr.Rajendra Prasad Road,
New Delhi-110 001.

2.The Secretary to the Government of Tamil Nadu
Municipal Administration & Water Supply Department,
Secretariat,
Chennai-600 009.

3.The Chairman & Managing Director,
Tamil Nadu Water Supply & Drainage Board,
31, Kamaraj Salai,
Chepauk,
Chennai-600 005.

4.The District Collector,
District Collector Office,
Dindigul District.

: Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, to direct the respondents to pay a sum of Rs.10,00,000/- [Ten Lakhs only] to the petitioner by way of compensation in the light of the direction issued by the Hon'ble Supreme Court of India in Safai Karamchari Andolen & Others -vs-- Union of India & others reported in 2014(3) CTC 177, within a stipulated time that may be fixed by this court.

For Petitioner

: Miss.G.Kavitha

For 1st Respondent

: Mr.S.Pillaimonicantan
Senior Panel counsel for
Government of India

For R2 and R4

: Mr.C.Selvaraj
Special Government Pleader

For 3rd Respondent

: Mrs.Porkodi Karnan

**ORDER**

The prayer sought for in this writ petition is to direct the respondents to pay a sum of Rs.10,00,000/- [Ten Lakhs only] to the petitioner by way of compensation in the light of the direction issued by the Hon'ble Supreme Court of India in Safai Karamchari Andolan & Others -vs-- Union of India & others, reported in 2014(3) CTC 177, within a time frame.

2.The petitioner would state that her husband Raj was working as labourer in VMI Tanneries belonging to one Mr.V.M.Ibrahim at Begampur, Dindigul District and on 10.07.2011, one Sathik, who is the son of V.M.Ibrahim came to the house and asked her husband to go to the Tannery to remove the blockage in the sewerage and when he engaged the work along with one Thangamani, both of them died due to asphyxiation, for which, a criminal case was registered in Crime No.582 of 2011 on the file of the Sipcot Police station, on 10.07.2011.

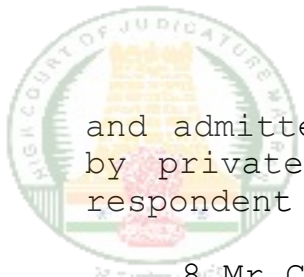
3.The petitioner would further state that her husband died leaving behind the petitioner and his children and his aged mother. The petitioner would fairly admit that after the unfortunate accident, she was given Rs.3,00,000/- by the VMI Tanneries as relief and compensation and now, she finds it difficult to run the family. So, she sent a representation to the respondents, on 31.10.2016 seeking compensation of Rs.10,00,000/- as per the decision of the Supreme Court. Since, no amount was paid, the present writ petition has been filed.

4.Heard Miss.G.Kavitha, learned counsel for the petitioner and Mr.S.Pillaimonicantan, learned counsel for the 1st respondent, Mr.C.Selvaraj, learned Special Government Pleader for the respondent 2 and 4 and Mrs.Porkodi Karnan, learned counsel for the 3rd respondent and perused the materials available on record.

5.Learned counsel for the petitioner, while reiterating the averments made in the affidavit filed in support of this writ petition, would submit that though the petitioner is entitled for Rs.10,00,000/- as per the decision of the Supreme court, but prays for a direction to pay the balance amount compensation of Rs.7,00,000/- by the respondents.

6.Learned counsel for the first respondent would submit that as per the provisions of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013, and the decision reported in 2014(3) CTC 177 (Safai Karamchari Andolan & others vs. Union of India & others), any compensation, that has to be paid by the State Government and therefore, no claim can be made against the Union of India, the first respondent herein.

7.Learned counsel for the 3rd respondent would submit that they did not engage the petitioner's husband for cleaning the sewerage



and admittedly, he died, when he was engaged to clean the sewerage by private parties and therefore, the claim made against the 3rd respondent is liable to be dismissed.

8. Mr. C. Selvaraj, learned Special Government Pleader for the respondents 2 and 4 would submit that in respect of the cases, decided by the Supreme Court and this court, on earlier occasions, the victims were not paid compensation, but in the case on hand, the petitioner had received Rs.3,00,000/- from the owner of the VMI Tanneries as relief and compensation, and after waiving her right, the present claim cannot be entertained. It is also contended that admittedly, the deceased died, while cleaning sewerage in a private industry, hence, the Government cannot be mulcted with liability to pay compensation.

9. At this juncture, it would be useful to refer the decision of the Hon'ble Supreme Court reported in 2014(3) SCC 177 (Safai Karamachari Andolan Vs. Union of India), wherein the Hon'ble Apex Court has issued the following directions:-

(i) The persons included in the final list of manual scavengers under Sections 11 and 12 of the 2013 Act, shall be rehabilitated as per the provisions of Part IV of the 2013 Act, in the following manner, namely:-

(a) such initial, one time, cash assistance, as may be prescribed;

(b) their children shall be entitled to scholarship as per the relevant scheme of the Central Government or the State Government or the local authorities, as the case may be;

(c) they shall be allotted a residential plot and financial assistance for house construction, or a ready-built house with financial assistance, subject to eligibility and willingness of the manual scavenger as per the provisions of the relevant scheme;

(d) at least one member of their family, shall be given, subject to eligibility and willingness, training in livelihood skill and shall be paid a monthly stipend during such period;

(e) at least one adult member of their family, shall be given, subject to eligibility and willingness, subsidy and concessional loan for taking up an alternative occupation on sustainable basis, as per the provisions of the relevant scheme;



(f) shall be provided such other legal and programmatic assistance, as the Central Government or State Government may notify in this behalf.

(ii) If the practice of manual scavenging has to be brought to a close and also to prevent future generations from the inhuman practice of manual scavenging, rehabilitation of manual scavengers will need to include:-

(a) Sewer deaths - entering sewer lines without safety gears should be made a crime even in emergency situations. For each such death, compensation of Rs. 10 lakhs should be given to the family of the deceased.

(b) Railways - should take time bound strategy to end manual scavenging on the tracks.

(c) Persons released from manual scavenging should not have to cross hurdles to receive what is their legitimate due under the law.

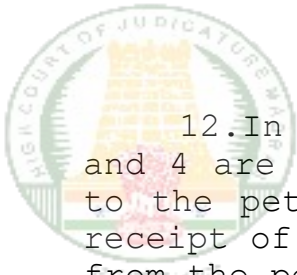
(d) Provide support for dignified livelihood to safai karamchari women in accordance with their choice of livelihood schemes.

(iii) **Identify the families of all persons who have died in sewerage work (manholes, septic tanks) since 1993 and award compensation of Rs.10 lakhs for each such death to the family members depending on them.**

(iv) Rehabilitation must be based on the principles of justice and transformation."

10. Further, the Division Bench of this court (Indiankannan.org/doc/19656865/) in the case of the Secretary to the Government vs. Valaiyakka and two others, while considering the similar issue as to whether when the death occurred at the premises of the private owner, the State Government is liable to pay compensation under the Act, by following the orders passed by the Hon'ble First Bench of this court in W.P.No.2988 of 2015, dated 18.01.2016 held that the liability of the State Government is not absolved and after making payment, the amount can be recovered from the persons so liable.

11. In the light of the judgments referred to supra and the submissions made on either side, this court is of the considered opinion that the respondents 1 and 3 are not liable to pay any compensation and the amount is to be paid by the respondents 2 and 4.



12. In fine, the writ petition is **allowed** and the respondents 2 and 4 are directed to pay the balance compensation of Rs.7,00,000/- to the petitioner, within a period of four weeks from the date of receipt of a copy of this order, who in-turn, shall recover the same from the persons so liable. No costs.

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Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To,

1. The Secretary to the
Government of India,
Ministry of Social Justice,
Room No.740, A-Wing,
Dr.Rajendra Prasad Road,
New Delhi-110 001.
2. The Secretary to the Government of Tamil Nadu
Municipal Administration & Water Supply Department,
Secretariat,
Chennai-600 009.
3. The Chairman & Managing Director,
Tamil Nadu Water Supply & Drainage Board,
31, Kamaraj Salai,
Chepauk,
Chennai-600 005.
4. The District Collector,
District Collector Office,
Dindigul District.

+1cc to Miss.G.KAVITHA Advocate in SR. No.65473

ER

JS/MR.KKR/SAR.3/27.7.2017/5P-6C

W.P. (MD) No.1391 of 2017
14.07.2017