



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.01.2017
CORAM

THE HONOURABLE MR. JUSTICE K. RAVICHANDRABAABU

W.P(MD) No. 24440 of 2016
and W.M.P. (MD) No. 17635 of 2016

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C. Valarmathi

.. Petitioner

vs.

1. The Union of India, represented by,
The Principal Secretary,
Ministry of Women and Child Development,
Sasthri Bhavan, A-wing,
Dr. Rajendra Prasad Road,
New Delhi - 110001.

2. The State of Tamil Nadu, represented by,
The Principal Secretary,
Department of Social Welfare and Noon Meal Program,
State of Tamil Nadu,
Secretariat, St. George Fort,
Chennai-600 009.

3. The State of Tamil Nadu, represented by,
The Principal Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai.

4. The Commissioner,
Integrated Child Development Schemes (ICDS),
State of Tamil Nadu,
Dr.M.G.R.Road,
Tharamani,
Chennai-600 115.

5. The District Collector,
District Collector office,
Madurai District.

6. The Dean,
Madurai Government Rajaji Hospital,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus to direct the Respondents to pay fair and reasonable amount of compensation for the negligent act of the Vellayampatty anganwadi staff for the service rendered in the commission of the petitioner's son by name Varunesh, aged three years, after consumed acid in Vellayampatty anganwadi center, consequently to direct the Respondents to take appropriate



action against the Vellayampatty anganwadi staff within the time stipulated by this Hon'ble Court.

For Petitioner	: Mr. R. Alagumani
For Respondent No.1	: Mr. N. Shanmugaselvam
For Respondents 2 to 6	: Mr. C. Selvaraj
	Special Government Pleader

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O R D E R

The petitioner seeks for payment of compensation for the negligent act of the Vellayampatti Anganvadi staff.

2. The case of the petitioner in short is as follows:

Her son Varunesh aged about 3 years, joined Anganvadi situated in Vellayampatti Village accompanied by his elder sister Subashree and on 12.11.2016, her son was brought back from the Anganvadi in a serious condition and he was vomiting and his limbs looked paralysed. The petitioner came to know that the Village Anganvadi Staff negligently kept acid in a cool drink bottle and made the same easily accessible to the children and thus, her three year old son mistakenly consumed the acid as if it was a cool drink. The petitioner's son was admitted in the hospital and his condition was very serious and he was kept as in-patient in Intermediate Respiratory Care Unit of Madurai Rajaji Government Hospital for some time and thereafter Discharged. Therefore, the petitioner seeks for compensation for the negligent act of the Anganvadi staff.

3. The fifth respondent filed a counter affidavit, wherein, it is admitted that the petitioner's son inadvertently consumed the acid kept in a cool drink bottle on 12.11.2016 and immediately was rushed to the hospital from where he was discharged on 30.12.2016. It is further stated in the counter affidavit that the staff concerned in the Anganvadi were initially placed under suspension and thereafter, they were dismissed from service after conducting an enquiry. After saying so, the fifth respondent has specifically stated at paragraph Nos. 5 and 7 of the counter as follows:

5. It is respectfully submitted that, the District Collector, Madurai considering the financial condition of the family and to provide further support to the family and the son of the petitioner, has recommended the Government of Tamilnadu to provide Rs.5,00,000/- as compensation vide his letter NO.3657/A1/2016 dated 28.12.2016. The fourth respondent i.e the Commissioner (now Director cum Mission Director) has also recommended the proposal of the District Collector to the Government of Tamilnadu. For the orders are awaited.

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

7. It is submitted that, in addition to providing compensation, by considering the pathetic condition of



the family, the District Collector, Madurai has also recommended to the Government of Tamilnadu vide letter No.3657/A1/2016 dated 10.01.2017 to provide an appointment to the petitioner in Anganwadi. The same is under perusal of the Government.

4. The learned counsel for the petitioner submitted that since the fifth respondent has recommended for payment of Rs.5 lakhs as compensation to the petitioner and also recommended for providing appointment to the petitioner in Anganvadi, the second respondent may be directed to consider the recommendation and pass appropriate orders sanctioning compensation as well as providing job to the petitioner.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the first respondent and the learned Special Government Pleader appearing for the respondents 2 to 6.

6. There is no dispute to the fact that the petitioner's son was subjected to serious illness and made to suffer and struggle for his life because of the negligence act of the Anganvadi staff by keeping the acid in a cool drink bottle and making it easily accessible to the children at Anganvadi. Therefore, such negligence of the staff of Anganvadi resulting in severe life threat to the petitioner's 3 years old son cannot be left simply by punishing those persons responsible, by removing them from service. Necessarily suitable compensation should also be given to the petitioner for the suffering of the small boy and the resultant trauma faced by the entire family.

7. Though it is stated that the son got discharged from the hospital, this Court can visualize as to what amount of mental agony and physical suffering that would have been met by the family more particularly the said child. Very fairly, the District Collector, namely the fifth respondent, apart from taking action against those persons responsible for such guilt, has also made recommendation for payment of compensation of Rs.5 lakhs to the petitioner and also for providing her a job in the Anganvadi. Such recommendation is evident from the counter affidavit filed by the fifth respondent as extracted supra. Therefore, it is for the second respondent to consider the said recommendation and pass appropriate orders sanctioning the compensation to the petitioner and also providing job to her at the Anganvadi as recommended by the fifth respondent. An immediate action will certainly bring solatium to the suffered family namely, the petitioner and her son. This court certainly hopes and believes that the second respondent will not keep the file pending for a long time, taking note of the seriousness of the matter.



8. Accordingly, this writ petition is allowed and the second respondent is directed to pay compensation of Rs. 5 lakhs to the petitioner as recommended by the fifth respondent and also provide an appointment to the petitioner in the Anganvadi. The second respondent shall pass such order within a period of eight weeks from the date of receipt of copy of this order. No costs. Consequently, W.M.P.(MD) No. 17635 of 2016 is closed.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To,

1. The Principal Secretary, Union of India,
The Ministry of Women and Child Development,
Sasthri Bhavan, A-wing, Dr. Rajendra Prasad Road,
New Delhi - 110001.
2. The Principal Secretary, The State of Tamil Nadu,
Department of Social Welfare and Noon Meal Program,
State of TamilNadu, Secretariat,
St. George Fort, Chennai-600 009.
3. The Principal Secretary, The State of Tamil Nadu,
Healthy and Family Welfare Department, Fort St. George, Chennai.
4. The Commissioner, Integrated Child Development Schemes (ICDS),
State of Tamilnadu, Dr.M.G.R.Road, Tharamani, Chennai-600 115.
5. The District Collector, District Collector office,
Madurai District.
6. The Dean, Madurai Government Rajaji Hospital, Madurai.

+1 cc to Mr.R.Alagumani, Advocate in SR.No.4231

+1 cc to Mr.N.Shanmuga Selvam, Advocate in SR.No.4346

+1 cc to Special Government Pleader, Advocate in SR.No.4135

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24.01.2017**

CM

MKV-JS-SAR 3:08.02.2017:4P-10C