



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

Reserved on : 21.12.2016

Pronounced on : 28.03.2017

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THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P. (MD) No.7906 of 2013

K.Renjees Mary

.. Petitioner

Vs

1. The Government of Tamilnadu
rep. By its Secretary
Education Department
Secretariat, Chennai.
2. The Chief Educational Officer
Kanyakumari District
at Nagercoil.
3. The District Educational Officer
Thuckalai Educational District
Thuckalai, Kanyakumari District.
4. The Correspondent
St.Maria Goretty Higher Secondary School
Manalikarai, Kanyakumari District.
5. The Headmaster
St.Maria Goretty Higher Secondary School
Manalikarai, Kanyakumari District.
6. Jeya Frank (minor)
rep. By his father Mr.Jeyasekar
Pudukkaduvetti Vilai
Swamiyarmadam, Kattathurai Post
Kanyakumari District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Mandamus to direct the respondents to grant compensation of Rs.50 lakhs to the petitioner's son named R.Remish Fedlin for the injuries resulting the loss of right eye sight sustained by him on 05.05.2010 at the 4th and 5th respondent school.



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For Petitioner

: Mr.S.C.Herold Singh

For Respondents

: Mr.K.Guru
Addl. Government Pleader
for respondents 1 to 3

Mr.T.Cibi Chakraborty
for respondents 4 and 5

Mr.D.Saravanan
for 6th respondent

ORDER

The petitioner has filed this writ petition seeking issuance of a writ of Mandamus to direct the respondents to grant compensation of Rs.50 lakhs to the petitioner's son - R.Remish Fedlin for the injuries resulting the loss of right eye sight sustained by him on 05.05.2010 at the 4th and 5th respondents school.

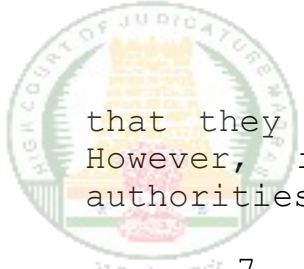
2. Succinctly put, the facts of the case are as under: The petitioner claims that she hails from a poor family. It is stated that the petitioner's son - Remish Fedlin was studying at the fourth respondent school in IX Standard during the academic year 2009-2010.

3. It is stated that on completion of the academic year 2009-2010, as per the instructions of the 4th and 5th respondent school, the petitioner's son attended special coaching classes to attend the X Standard examination. It is averred that while the petitioner's son was attending the classes, during interval, one of the students named Jeya Frank attacked her son with a stone inside the school premises and when petitioner's son tried to escape from the attack, the said stone was pelted on her son's right eye.

4. It is the plea of the petitioner that she had spent substantial amount for treatment of her son's eye by consulting the best doctors in various hospitals and despite putting in all efforts, her son lost his right eye sight.

5. It is alleged that even though several reminders were sent to the school authorities, they have not lent a helping hand. The petitioner's representations to the State authorities also did not evoke any response. It is stated that the petitioner's request to the police to register a complaint also did not evoke any response. However, ultimately, the school appointed a Committee, which concluded that the petitioner's son was attacked in the school premises while attending special classes.

6. It is alleged that the school authorities threatened the petitioner not to complaint against the boy who attacked her son and



that they will meet out the expenses incurred by the petitioner. However, it is the case of the petitioner that the school authorities reneged on the said promise.

7. Under such facts and circumstances, the present writ petition is filed for the relief stated supra.

8. It is the contention of the learned counsel for the petitioner that the fourth and fifth respondent school, being the custodian of the children, ought to have extended special care on the children and inasmuch as the school authorities failed in their responsibility to maintain safety and security of the students, resulting the loss of eye sight of her son, they should compensate the loss suffered by the petitioner's son.

9. Per contra, the learned Additional Government Pleader Mr.K.Guru, appearing on behalf of the State authorities submitted that despite specific instructions to the school authorities not to conduct any extra classes or other special classes during vacation period, the school authorities conducted some classes and the petitioner's son and the sixth respondent joined the special classes on their own interest. In any event, it is submitted that respondents 1 to 3 are not in any way responsible for the loss suffered by the petitioner's son.

10. The learned counsel appearing on behalf of respondents 4 and 5 submits that when the incident took place on 5.5.2010, FIR was filed after lapse of 18 months and this delay exposes the motive of the petitioner to grab money from the respondents. It is submitted that, the petitioner's son attended the classes on his own volition and the alleged attack with a stone, admittedly, took place during the interval.

11. The learned counsel further submitted that Committee appointed by the school administration gave a finding that the quarrel and antagonism between Remish Fedlin and Jeya Frank resulted in the tragedy and that the incident took place during interval and, therefore, the incident and the resultant catastrophe are beyond the control of the school administration and no responsibility could be thrust on the school administration in this regard.

12. The learned counsel further submitted that the school authorities as well as the sixth respondent contributed certain amount for the treatment of the petitioner's son and the claim now made by the petitioner of Rs.50 lakhs is explicitly exorbitant and unreasonable.

13. I heard Mr.S.C.Herold Singh, learned counsel for the petitioner, Mr.K.Guru, learned Additional Government Pleader for the respondents 1 to 3, Mr.T.Cibi Chakraborty, learned counsel for the respondents 4 and 5 and Mr.D.Saravanan, learned counsel for the 6th respondent and perused the documents available on record.



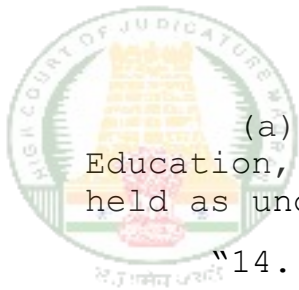
14. In the case on hand, it is beyond any cavil that the petitioner's son was studying during the relevant time in the fourth and fifth respondent school and that the injury was on account of pelting of stone by the sixth respondent. It is also not in dispute that the petitioner's son, who was in IX Standard at the relevant point of time, lost the vision of his right eye. All these facts have been established by the Committee appointed by the school authorities.

15. The school authorities alleged that the petitioner in order to extort money from them had wantonly lodged the complaint belatedly and FIR was registered after 18 months of the incident. However, there is another angle to this aspect. The petitioner had sent series of reminders to the school authorities and also to the State authorities and as the same did not evoke any response, left with no option FIR was registered. That part, it is specifically averred in the affidavit that the school authorities assured to compensate the petitioner suitably, but no such compensation as promised was paid. Therefore, in my considered opinion, no ulterior motive can be attributed to the petitioner on this score.

16. When parents leave their children in school, the children are in the custody of the school authorities. The school authorities are required to take such care of the children, as would be taken by a careful and prudent parent. The school authorities owe a duty to provide adequate security to the children to prevent chances of injury to them. In the instant case, that duty has not been performed by the authorities. But for their negligence in discharge of the duty, the child would not have lost his right eye. The State failed to take any action against the Management even after the incident in question. Being the recognizing authority, the State ought to have taken action against the concerned.

17. In such view of the matter, respondents 4 and 5, who run the school are liable to pay compensation to the petitioner. We are conscious of the fact that money is not an adequate compensation for loss suffered by the petitioner's son, who was studying IX Standard during the relevant period of time. However, in my considered opinion, compensation can help provide a sense of justice and security, especially so when dealing with medical bills, consultation costs, and other financial burdens. When a child has to miss school for medical treatment or emotional distress, the trauma the parents are put through cannot be quantified in terms of money. Compensation will provide comfort of being able to care during the child's recovery. Pain and suffering is also another category for which a settlement could be awarded.

18. This Court in series of decisions granted compensation to students who suffered injury in the school. Reference is made infra to some of the relevant decisions:



(a) In Minor K.Priyadarshini v. Director of Elementary Education, 2016 (4) CTC 731, a learned Single Judge of this Court held as under:

"14. The next question relates to the amount of compensation.

15. The Supreme Court in Deep Chand Sood observed that award of Rs. 5,00,000/- as compensation cannot, by any stretch, be termed to be excessive. The Supreme Court indicated that a larger amount could have been awarded to the parents. However, it was not possible, in view of the fact that in the normal course of events, the appellate Court ought not to interfere with the award of compensation. It is, therefore, clear that the Supreme Court was in favour of awarding more amount as compensation than the amount awarded by the High Court.

16. The minor petitioner lost her right eye sight completely. The writ petitioner spent considerable amount towards treatment of the minor. By taking inspiration from the judgments referred to above and the permanent disability sustained by the minor petitioner, I am of the view that interest of justice would be subserved by directing the Management of Rathish English Matric School to pay a sum of Rs. 7,00,000/-. (Rupees Seven Lakhs only) as compensation. The payment shall be made, within two months from today, with interest at 12% per annum from the date of registration of Writ Petition.

17. Mrs. C. Padmavathy, the then District Elementary Educational Officer, Tirunelveli, the second respondent herein, made a deliberate attempt to mislead the Court by filing a false affidavit. Mere comparison of the counter-affidavit filed by the Superintendent of Police, Tirunelveli and the counter-affidavit of second respondent would reveal the falsity of the case pleaded by the District Elementary Educational Officer. I am, therefore, of the view that cost of the litigation shall be borne by the second respondent.

18. The second respondent is directed to pay a sum of Rs. 1,00,000/- (Rupees One Lakh only) by way of cost to the writ petitioner. The Chief Secretary to Government, eighth respondent, is directed to pay the cost amount viz., Rs. 1,00,000/- (Rupees One Lakh only) at the first instance, within two months from today and recover it from Mrs. C. Padmavathy, either from her salary, if she is still in service or from her pension in equal monthly installments, if she has already retired from service."



2011, a learned Single Judge of this Court considering the disability certificate indicating 30% of visual disability, granted compensation to the victim.

19. In view of the law enunciated in the decisions referred supra and the reasons given supra by this Court, the following order is passed:

- (i) The writ petition is allowed and the respondents 1 to 5 are directed to grant Rs.25,00,000/- to the petitioner's son, R.Remish Fedlin, for the injuries resulting in the loss of right eyesight suffered at the 4th and 5th respondent school; and
- (ii) The said exercise shall be done within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(W)

/True copy/

Sub Assistant Registrar

To

1. The Secretary,
Government of Tamilnadu,
Education Department,
Secretariat, Chennai.
2. The Chief Educational Officer,
Kanyakumari District,
Nagercoil.
3. The District Educational Officer,
Thuckalai Educational District,
Thuckalai, Kanyakumari District.

order made in
W.P.(MD) No.7906 of 2013
28.03.2017

vsa

MS/SV-MMS/SAR-1/18.04.2018/6P.4C