

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.10.2018

CORAM
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.13603 of 2013 and
M.P.No.1 of 2013

M.K.Mohammed Ishmayil

... Petitioner

Versus

1.The State of Tamil Nadu
rep by Secretary,
Educational Department,
Fort George,
Chennai.

2.The Chief Educational Officer,
Villupuram District 605 602.

3.District Educational Officer,
Dindivanam District,
Dindivanam.

4.The National Higher Secondary School
rep by the Correspondent Mr. Ramtex Thiyarajan
Dindivanam.

5.Venkatraman

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of Writ of Mandamus directing the respondents jointly or severally to pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) as compensation for the present status of the petitioner's son "Abbas Ali" and for the loss of education, future career and the mental agony suffered by the petitioner and his family.

For Petitioner : Mrs. Vetriselvi
for M/s.D.Geetha

For Respondents : Mr.A. Rajaperumal,
Additional Government Pleader
for R1 to R3
: Mr.P. Ganesan for
C.S. Associates for R4
: Mr.N.Suresh for R5

O R D E R

The Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents jointly or severally to pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) as compensation for the present status of the petitioner's son "Abbas Ali" and for the loss of education, future career and mental agony suffered by the petitioner and his family.

2. The brief facts that are necessary for the disposal of the Writ Petition are as follows:-

(i) The petitioner's son by name Abbas Ali was studying in the fourth respondent school which is an aided school. It is stated that on 24.1.2013, when the petitioner's son was writing his model examination in his school, a boy next to him was asking something to the petitioner's son and he was responding to him. Since the petitioner's son was seen speaking to some one, the fifth respondent herein, who is the teacher and the invigilator stated to have beaten the petitioner's son. It is stated that because of the assault in front of other students, the petitioner's son felt humiliated and insulted. This incident is now cited as the reason why the petitioner's son was affected mentally and psychologically.

(ii) It is stated that the petitioner's son, thereafter, was looking dull and completely withdrawn. According to the petitioner, his son never spoke to any one and throughout the night, he did not have sleep and repeatedly saying "Mahappa Mustafa" and Abbas Ralilla". In short, it is the case of the petitioner that the petitioner's son was psychologically affected and mentally disturbed because he was humiliated in front of other students on the fateful date on 24.01.2013. It is further stated that the petitioner's son's condition became worst and therefore, the petitioner approached several doctors and got treatment for his son. The Psychiatrists and the doctors, according to the petitioner, opined that the mental illness of petitioner's son was due to the incident on 24.1.2013. It is, therefore, the petitioner has come forward with the present writ petition to direct the respondents jointly and severally to pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) towards compensation for what has happened to the petitioner's son on 24.01.2013.

3. The respondents four and five, namely, the institution and the teacher concerned have filed independent counter affidavits denying the averments in the affidavit filed in support of the writ petition.

4. The fifth respondent has admitted that on 24.1.2013, the petitioner's son was helping a fellow student copying his answer

sheet and in that context, the petitioner's son was chided and he was given one blow on his back and advised him not to repeat in future. After that, according to the fifth respondent, the petitioner's son did not feel wounded or there was no cause for any mental illness or instability due to the incident on 24.1.2013. Even after the incident, it is stated that the petitioner's son got very good marks in the subject and therefore, it was stated that there was no mental instability to the petitioner's son. It is also stated that neither the fourth respondent nor the fifth respondent is responsible for any illness or mental instability that is alleged in the petition.

5. The fourth respondent also filed a counter affidavit denying the allegations and averments made in the affidavit filed in support of the writ petition. As requested by this Court, the fourth respondent has also produced before this Court, a file relating to the enquiry that was conducted against the fifth respondent by the fourth respondent with regard to the incident dated 24.1.2013.

6. From the detailed enquiry proceedings, it appears that a fair enquiry was conducted by the fourth respondent as to the incident dated 24.1.2013 in the fourth respondent school and though there was no injury or mental agony as alleged by the petitioner, considering the fact that the fifth respondent has patted the student on his back in front of other students, punishment of censure was imposed as against him.

7. From the materials placed before this Court, this Court is not in a position to decide whether the petitioner's son was really affected by any mental illness or whether he is mentally unstable or whether such mental illness or mental instability was caused on account of the incident dated 24.1.2013. This Court cannot decide the factual issues which require oral evidence of witnesses. In these circumstances, considering the limited scope of jurisdictional power conferred under Article 226 of the Constitution of India, this Court is unable to entertain the writ petition. Therefore, the Writ Petition is dismissed, however, this Court preserves the liberty of the petitioner to file a suit for the relief that is sought for in the present writ petition. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mpa/tsi

To

1.The Secretary,
State of Tamil Nadu
Educational Department,
Fort George,
Chennai.

2.The Chief Educational Officer
Villupuram district 605 602.

3.District Educational Officer,
Dindivanam District,
Dindivanam.

+1cc to Mr.D.Geetha, Advocate, S.R.No.70358

+1cc to M/s.C.S.Associates, Advocate, S.R.No.70476

+1cc to the Government Pleader, S.R.No. 70525

+1cc to Mr.N.Suresh, Advocate, S.R.No.71258

W.P.No.13603 of 2013

MP (CO)

rrs 02/11/2018



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