

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.01.2018
CORAM
THE HONOURABLE Mr.JUSTICE V.PARTHIBAN
W.P.No.4543 of 2009

V.Viji

... Petitioner

Vs

1.The Director of Public Health,
Greams Road,
Teynampet, Chennai.

2.The Joint Director,
Health and Welfare,
Cuddalore.

3.The Chief Medical Officer,
Government Hospital,
Vridhachalam,
Cuddalore District.

4.Dr. Kaladevi,
Government Hospital,
Virudhachalam.

.... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, to direct the respondents to pay the compensation sum of Rs.1,00,000/- to the petitioner and a sum of Rs.2,00,000/- to her child for bringing up the child which was born on 03.01.2008 after sterilization.

For Petitioner : Mr.T.Sivagnanasambandan

For Respondents: Mr.T.M.Pappiah

Special Government Pleader for RR1 to 3
: Mr.S.Suresh for R4

O R D E R

Heard Mr.T.Sivagnanasambandan, learned counsel for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader appearing for the respondents 1 to 3 and Mr.S.Suresh, learned counsel appearing for the fourth respondent.

2. The petitioner has approached this Court, seeking the following relief,

"To issue a writ of Mandamus, to direct the respondents to pay the compensation sum of Rs.1,00,000/- to the petitioner and a sum of Rs.2,00,000/- to her child for bringing up the child which was born on 03.01.2008 after sterilization."

3. The case of the petitioner is as follows:-

The basis of the claim for compensation cannot be adjudicated by this Court which is exercising its jurisdiction under Article 226 of the Constitution of India. The entitlement of compensation has to be established by the petitioner before the proper forum, on the basis of the factual materials to be let in as evidence and only on such evidence being let in, the petitioner's case can be considered for grant of compensation. Such facts cannot be established before this Court.

4. The very nature of the claim is a tortuous claim which cannot be maintained before this Court. Therefore, the writ petition has to be dismissed as not maintainable and therefore, the same is dismissed. It is open to the petitioner to approach appropriate Civil Court for establishing her claim for suitable compensation.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gsk

To

1.The Director of Public Health,
Greams Road,
Teynampet, Chennai.

2.The Joint Director,
Health and Welfare,
Cuddalore.

3.The Chief Medical Officer,
Government Hospital,
Vridhachalam,
Cuddalore District.

RV(CO)
sm:8.2.2018

W.P.No.4543 of 2009