

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2019

CORAM::

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.NO.41 OF 2018

Anjalidevi,
W/o.Sudhakar,
No.11, Mariamman Koil Street,
Mettunatham Village,
Velliyanur PO,
Tindivanam Taluk.

... Petitioner

/versus/

1. The Correspondent,
S.K.D.Nursery & Primary School,
Sozhiyasorkulam Village,
Alagrammam Post,
Tindivanam Taluk.
2. The Chief Educational Officer,
Villupuram.
3. The District Education Officer,
Tindivanam.
4. The District Elementary Education Officer,
Tindivanam.
5. The Regional Transport Officer,
Tindivanam.
6. The Joint Director,
Elementary Education,
DPI Campus, College Road,
Chennai-6.

... Respondents

R6 suo motu impleaded vide order dated 11.04.2019,

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 2 to 4 to cancel the recognition granted to the 1st respondent school and also direct the 5th respondent to cancel the Certificate of Registration issued to school bus bearing

registration No. TN 01 Y 9082 and thereby direct the 1st respondent to pay compensation of Rs.25 lakhs for having committed gross illegality in not adopting safety measures while plying the school bus.

For Petitioner : Mr.N.Suresh
For R1 : Mr.S.Silambuselman

For R2 to R4 & R6 : Ms.P.Kavitha,
Government Advocate (Edn)

For R5 : Mr.N.Inbanathan,
Additional Government Pleader

O R D E R

The petitioner herein is the mother of Yuvashree, who died in the motor accident, after she de-boarding her school bus.

2. Aggrieved by non constitution of committee as contemplated under Rule 10 of Tamil Nadu Motor Vehicles (Regulation and Control of School Bus) Special Rules, 2012 and the alleged negligence on the part of the Institute and Government Authority, the present Writ Petition is filed seeking mandamus directing the authorities to cancel the recognition granted to the 1st respondent school and also to direct the 5th respondent to cancel the Certificate of Registration issued to school bus bearing registration No.TN 01 Y 9082, which has caused the accident and direct the 1st respondent to pay compensation of Rs.25 Lakhs for having committed gross illegality in not adopting safety measures while plying the school bus.

3. The matter is pending nearly for 1 ½ years. This Court, earlier directed the 6th respondent/the Joint Director, Elementary Education, to file action taken report. Accordingly, the 6th respondent has filed counter affidavit, wherein, the procedures adopted to ensure safety of the school children has been incorporated in its affidavit and a reference about the reports he received from the Chief Educational Officers is made in the counter affidavit. The communication of the Chief Educational Officers, which is annexed along with the counter affidavit, does not indicate that the Chief Educational Officer of the respective Districts implementing Rule 10 of Tamil Nadu Motor Vehicles (Regulation and Control of School Buses) scrupulously. In fact, the Chief Educational Officer of Villupuram District, from which this Writ Petition is arisen, only extracted the provisions and how the Officials used to

conduct Inspection. There is no whisper in his report, whether he has conducted such inspection with the 1st respondent/School at any point of time or whether the 1st respondent/Institute has constituted committee as per Rule 10.

4. For the sake of filing the report, the 6th respondent/the Joint Director, Elementary Education, has chosen to file a superficial counter and bunch of papers calling it as report. Be it as it may, the learned Government Advocate appearing for the Education Department also not properly been instructed by the respondents. There is no material to show whether any action taken against the Institute to de-recognized it or to ensure the safety measures taken by the 1st respondent/school under Tamil Nadu Motor Vehicle (Regulation Control of School Buses) Special Rules 2012.

5. In the counter filed by the 1st respondent/School, the accident occurred on 08.11.2017 is admitted. However, the Institute denies any negligence on their part. It is specifically stated in the counter that petitioner herein who is the mother of the deceased Yuvashree was present and the accident took place only after she de-boarded the bus and walking on the road. Police case has been registered by the Mailam Police Station, Villupuram District in Crime No.799 of 2017. The bus driver Sundaraman S/o.Elumalai and bus conductor Elumalai S/o.Veerappan were arrested and enlarged on bail. The criminal case is under investigation. The vehicle was subsequently inspected by the 5th respondent/Regional Transport Officer. The bus permit has been canceled and the vehicle is under the custody of Inspector of Police, Mailam Police Station, Villupuram District.

6. From the typed set of papers, this Court also finds that the 5th respondent/Regional Transport Officer, has taken action against the driver under Section 19 of the Tamil Nadu Motor Vehicles Act. The licensee of the driver was temporarily suspended for a period of six months between 09.01.2018 and 08.07.2018. From the counter filed by the 1st respondent/School, it is clear as crystal that they have not constituted the committee as contemplated Rules 10 of the Tamil Nadu Motor Vehicles, neither the school authorities namely respondents 2 to 4 monitor the implementation of the said Rules. Even after the accident and direction of this Court, the respondents 2 to 4 has not bestow their attention to implement the Rules by the offending 1st respondent/school or other schools within their control.

7. From the counter and arguments of the learned Government Advocate representing the respondents 2 to 4, it is clearly seen that the respondents 2 to 4, who are responsible for monitoring the schools which they have recognized, has failed to monitor and ensure the 1st respondent/school constituted: School Level Transport Committee consisting of the following Officer.

(i). Police Official not below the rank of Sub-Inspector of the area concerned.

(ii). An Official from the Educational Authority concerned.

(iii). The Motor Vehicles Inspector Grade-I/Grade-II of area concerned.

(iv). A representative from the Parent Teacher Association.

8. The 1st respondent/school has not taken steps to constitute the committee and to have periodical meeting once in a month, as contemplated under Rules 10(2). Hence, the respondents 1 to 4 are liable for dereliction of duty. Though, the petitioner herein has sought for compensation of Rs.25 lakhs from the 1st respondent, the quantum of compensation for the death of Yuvashi can only be decided by the competent Motor Accident Tribunal. As far as, the gross negligence and dereliction of duty on the part of the respondents 1 to 4, they are liable to pay cost Rs.10,000/- each to the petitioner, within the period four months, from the date of receipt of a copy of this Order.

9. Accordingly, the Writ Petition is disposed of. No costs.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

bsm

To

1. The Chief Educational Officer,
Villupuram.
2. The District Education Officer,
Tindivanam.

3. The District Elementary Education Officer,
Tindivanam.
4. The Regional Transport Officer,
Tindivanam.
5. The Joint Director,
Elementary Education,
DPI Campus, College Road,
Chennai-6.

+1cc to Mr.S.Silambuselvan, Advocate, S.R.No.52468

+1cc to Mr.N.Suresh, Advocate, S.R.No.52125

+1cc to the Government Pleader, S.R.No.52830

W.P.No.41 of 2018

PVS (CO)
CS/30/07/2019



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