

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
18.01.2018	13.03.2019

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CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A(MD)No.85 of 2018
and
C.M.P (MD)No.389 of 2018

1.The Secretary to Government of Tamil Nadu,
Adi-Dravidar Welfare Department,
Secretariat, Chennai-600 009.

2.The Commissioner,
Adi Dravidar Welfare Department,
Chepauk, Chennai-600 005.

3.The District Collector,
Office of the District Collector,
Madurai.

4.The District Adi-Dravidar and
Tribal Welfare Officer,
Madurai District,
Madurai-625 020.

... Appellants/Respondents

Vs.

M.Kannammal

... Respondent/Writ Petitioner

Prayer: Writ Appeal is filed under Clause 15 of Letter Patent Act to set aside the order this Court passed in W.P.(MD)No.1347 of 2011, dated 21.06.2016 by allowing this writ appeal.

Prayer in WP(MD). 1347/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus or any other writ or direction in the nature of writ directing the respondents to appoint the petitioners son Alagupandi on compassionate ground due to the death of the petitioner's son Ramesh at Government Adi Dravidar Welfare Hostel, Thirupparankundram, Madurai District, consequently directing the respondents to pay adequate amount of compensation to the petitioner and her family members.



For Appellants : Mr.D.Muruganantham
Additional Government Pleader
For Respondent : Mr.R.Alagumani

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JUDGMENT

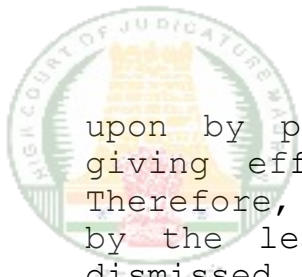
[Judgment of the Court was delivered by **N.KIRUBAKARAN, J**]

The petitioner is the mother of one Ramesh, who was doing his second year B.Com degree in Mannar Thirumalai Naicker College, Pasumalai, Madurai and was staying in Government Adi Diravidar Welfare hostel, Thirupparankundram. While staying in Government hostel, he was bitten by a poisonous snake on 19.12.2009 and rushed to Government Rajaji Hospital, Madurai at 11.45 p.m. In spite of treatment, he died on 21.12.2009. Thereafter, the respondent approached this Court by way of Writ Petition in W.P.(MD)No.1347 of 2011, after giving a representation on 22.12.2009, seeking Government employment for the death of her son during the course of study in the Government Arts College.

2.The learned Single Judge after taking note of the compromise reached between the respondent family and the authorities, in which it was accepted by the authorities to give adequate compensation, and also the recommendation made by the District Collector to the Principal Secretary to Government and Commissioner of Revenue Administration Department, dated 22.12.2009, to provide adequate compensation and also employment to one of the petitioner's family members, and payment of Rs.1,00,000/- to the family of the deceased by the Government, directed the second respondent to give effect to the proposal sent by the District Collector by providing compassionate appointment to the respondent's elder son, namely, Alagupandi, commensurate with his educational qualifications, within ten weeks. The said order is being challenged before this Court.

3.Heard Mr.D.Muruganandam, learned Additional Government Pleader appearing for the appellants and Mr.R.Alagumani, learned counsel appearing for the respondent.

4.A perusal of the order passed by the learned Single Judge would reveal that he only took note of the compromise reached between the parties and the payment of Rs.1,00,000/- towards compensation by the Government and the proposal of the District Collector to the Commissioner of Adi Dravidar Welfare Department, namely, the second appellant herein recommending compassionate appointment and directed to give effect to the proposal sent by the District Collector on 22.12.2009, by providing of compassionate appointment to the respondent's elder son Alagupandi according to his qualification within a period of ten weeks. Therefore, the order is passed based on the compromise reached between the respondent's family and authorities, which was subsequently acted



upon by payment of Rs.1,00,000/- to the respondent's family by giving effect to the recommendation of the District Collector. Therefore, there is no illegality or infirmity in the order passed by the learned Single Judge. Therefore, the appeal has to be dismissed.

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5.Mr.R.Alagumani, learned counsel appearing for the respondent would point out that the petitioner was already issued a letter dated 08.12.2017, calling the respondent's son P.Alagupandi to appear for certificate verification before the Adi Dravidar Welfare Officer on 11.12.2017 by producing certificates for educational qualification, community certificate and legal heir certificate, which had also been complied with by the petitioner. Further, in the Contempt Petition in Cont.P(MD)No.1497 of 2016, undertaking was given by stating that the appointment process has already been initiated and very soon appointment order would be given. Having acted upon the order of the learned Single Judge and having given an undertaking before the learned Single Judge in the Contempt Application, the present writ appeal has been filed. It is nothing but an abuse of process of law.

6.Having acted upon the order of the learned Single Judge, in the middle of the process, the appellants cannot rush to this Court by way of this appeal. The learned Single Judge has not done anything new. The learned Single Judge only directed to act upon the proposal sent by the District Collector for compassionate appointment. Without doing so, the Secretary of Adi Dravidar Welfare Department, who is supposed to safeguard the interest of the Schedule Caste People, has rushed to this Court unnecessarily. Especially the Schedule Caste family, which lost their son while studying, is to be benefited by way of compassionate appointment. Therefore, this Court is of the opinion that this appeal is nothing but an abuse of process of law and it has to be dismissed with heavy cost and the cost has to be paid by the Commissioner, Adi Dravidar Welfare Department, Chepauk, Chennai, the second appellant for the following reasons:-

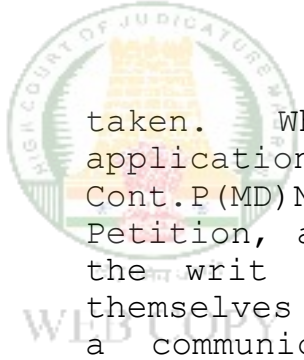
(i) The respondent's son died as early as on 21.12.2009.

(ii) The representation was given to the District Collector on 22.12.2009.

(iii) A proposal has been given by the District Collector, Madurai, to the Commissioner of Adi Dravidar Welfare Department on 22.12.2009.

(iv) Since no action has been taken on the proposal of the District Collector, Madurai, the writ petition in W.P(MD)No.1347 of 2011 was filed and the said writ petition was ordered on 21.06.2016 with a direction to comply with the order within a period of ten weeks from the date of receipt of a copy of this order. The order copy was made on 12.07.2016 and the appellant has got time till 11.08.2016.

(v) If really the appellants intend to file appeal they should have been filed the appeal in time i.e., within one month from the date of receipt of a copy of this order. No such steps have been



taken. Whereas, the appeal was filed along with condone delay application, since the respondent filed the Contempt Petition in Cont.P(MD)No.1497 of 2016. Only after taking notice in the Contempt Petition, after giving undertaking before the learned Single Judge, the writ appeal has been processed. Moreover, the appellants themselves acted upon the order of the learned Single Judge and sent a communication to the respondent on 08.12.2017 calling the respondent's son for certificate verification.

7.Having done all these processes, instead of getting extension before the learned Single Judge, the appeal has been filed only to safeguard the officials, who failed to act upon either to implement the order or to file appeal in time.

8.In fine, this writ appeal is dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS-III)

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Sub Assistant Registrar

TO

1.The Secretary to Government of Tamil Nadu,
Adi-Dravidar Welfare Department,
Secretariat, Chennai-600 009.

2.The Commissioner,
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+1. C.C. to M/S.R.Alagumani, Advocate SR.No. 4900

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