

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.02.2020

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.22257 of 2019 and
WMP Nos.21536, 21539 & 31527 of 2019

Selvaraj

.. Petitioner

..Vs..

1. The Secretary,
Government of Tamil Nadu,
Department of Public,
Fort St.George, Chennai.
2. The Secretary,
Government of Tamil Nadu,
Department of Harijan Welfare and schedule Tribe,
Fort.St.George, Chennai.
3. The Director of Schedule Tribe,
Government of Tamil Nadu,
Ezhilagam, Chennai.
4. The District Collector,
Ariyalur District,
Ariyalur.
5. The Inspector of Police,
Jayangondam Police Station,
Jayangondam.
6. The Correspondent,
Pathima School with Hostel,
Jayangondam,
Udayarpalayam.

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st to 4th respondents to pay compensation under the ST quota Rs.10 lakhs with interest 12% from the date of death of petitioner's son in the light of order in W.P.No.1832 of 2017.

For Petitioner : Mr.M.Pari

For Respondent : Mr.N.Inbanathan, (for R1 to R5)
Additional Government Pleader
Mr.A.Mohamed Ismail (for R6)

O R D E R

The writ petition has been filled in the nature of Mandamus, seeking a direction against the respondents to pay compensation under the Scheduled Tribe quota from the date of the death of the son of the petitioner in the light of the order in W.P.No.1832 of 2017.

2. The writ petitioner Selvaraj, S/o. Motaiyan, resident of Udayarpalayam Taluk, Ariyalur District has filed the present writ petition claiming compensation for the unfortunate death of his son Manikandan on 21.11.2012.

3. In the affidavit filed in support of the writ petition, it had been stated that the three children of the petitioner by name Mariammal, Manikandan and Venkatesan were studying in the Pathima School and staying in the School hostel with free food and accommodation. Both Pathima School and its hostel are located in Jayangondam town which is adjacent to Government Hospital, Jayangondam.

4. It is stated that on 20.11.2012, the 2nd son Manikandan accidentally fell down from the stairs in the School and rolled down to ground floor and sustained multiple injuries. It is claimed that he was not taken to hospital. It is claimed that owing to medical negligence and owing to medical care not being given to his son, the boy died on 21.11.2012 at 4.30 am in the school premises itself. The First Information Report in Crime No.650 of 2012 had been registered on 22.11.2012 by the 5th respondent / Inspector of Police, Jayankondam Police Station, originally, under Section 174 of Cr.P.C. This Court has to express shock over the report of the Medical Officer who is not a party to this writ petition but who performed the Postmortem. In the report, it was stated that on seeing the internal parts, he was convinced that there was no poison.

5. The learned Doctor was also present before this Court on an earlier occasion. Today, the Correspondent of the School is present. The Inspector of Police, Jayangondam is also present.

6. It is stated by the Inspector of Police that no further action has been taken except registering the FIR. It is not known whether it was forwarded to the Jurisdictional Magistrate Court. It is clear that the Inspector of Police C.Tamilarasi had, for reasons best known to her, failed discharge her duties in accordance with law, particularly, when the FIR had been registered with respect to the death of a young boy. The fate of investigation over the FIR is not known.

7. At any rate, I am not inclined to go further into that aspect. The Correspondent who is present stated that a sum of Rs.1,00,000/- (Rupees One Lakh only) would be paid by way of Demand Draft to the father of the deceased / the present writ petitioner . This Demand Draft is to be paid on or before 31.03.2020. Similarly in the status report filed by the Tahsildar, it had been stated that efforts are being taken by the Government to give compensation of Rs.1,02,000/-.

8. In view of the above, a Mandamus is issued to the Government to pay the said compensation on or before 31.03.2020 directly to the writ petitioner herein. The writ petitioner is granted liberty to approach the competent Civil Court claiming further damages and the grant of the said amounts by this Court would not be a bar to seek additional compensation.

9. The writ petitioner can take advantage of Section 14 of the Limitation Act in view of the fact that he had filed an earlier writ petition in W.P.No.1832 of 2017 and also the present writ petition and prima facie both

are bonafide prosecutions of the cause for which the writ petitions had been filed.

10. With the above observation, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

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To

1. The Secretary,
Government of Tamil Nadu,
Department of Public,
Fort St.George, Chennai.

2. The Secretary,
Government of Tamil Nadu,
Department of Harijan Welfare and schedule Tribe,
Fort.St.George, Chennai.

3. The Director of Schedule Tribe,
Government of Tamil Nadu,
Ezhilagam, Chennai.

4. The District Collector,
Ariyalur District,
Ariyalur.

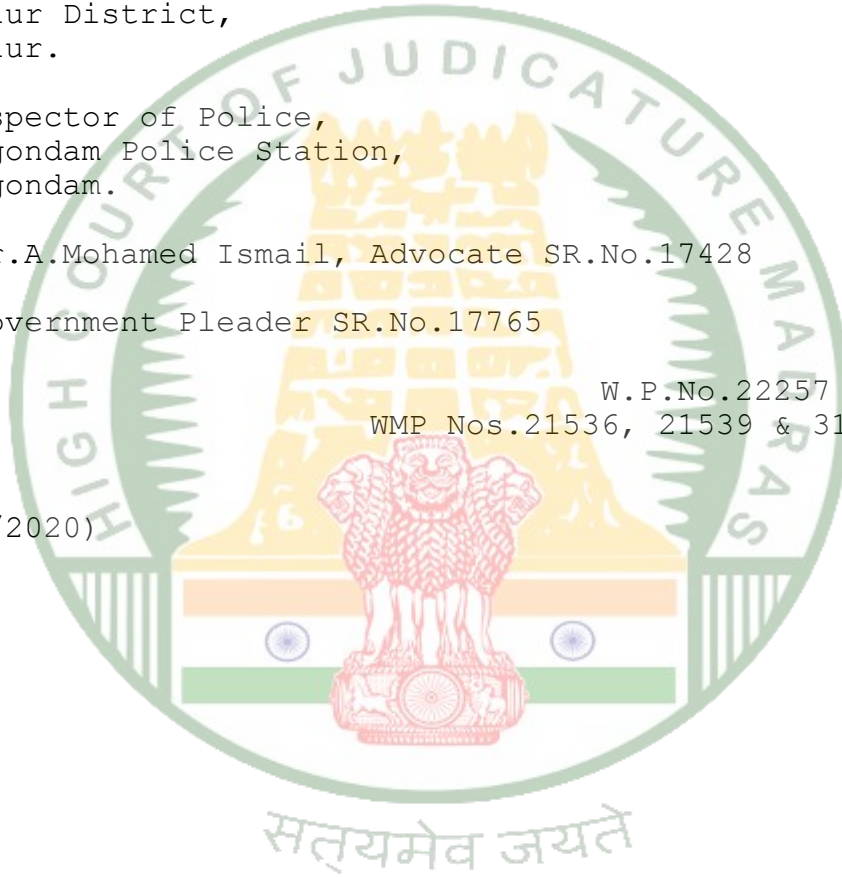
5. The Inspector of Police,
Jayangondam Police Station,
Jayangondam.

+1cc to Mr.A.Mohamed Ismail, Advocate SR.No.17428

+1cc to Government Pleader SR.No.17765

W.P.No.22257 of 2019 and
WMP Nos.21536, 21539 & 31527 of 2019

NRL (CO)
GMY (09/03/2020)



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