

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2020

CORAM :

**THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND**

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

W.P.No.29330 of 2019

R.Ravi

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by the Chief Secretary,
Secretariat, Fort St. George,
Chennai – 600 009.

2.The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai – 600 003.

3.The Commissioner of Police,
Chennai City Police,
Egmore,
Chennai – 600 007.

4.The District Collector,
Kanchipuram District,
Kanchipuram.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents to consider the petitioner's representation dated 24.09.2019.

For Petitioner : Mr.K.V.Muthu Visakan

For R1 & R4 : Mr.V.Jayaprakash Narayanan
Government Pleader

For R2 : Mr.S.R.Rajagopalan
Additional Advocate General
assisted by Mr.V.C.Selvasekaran,
Standing Counsel

For R3 : Mr.C.Emalias
Additional Advocate General

ORDER

The petitioner is the father of late R.Subhasri, who was aged about 23 years and had a qualification of B.Tech. (Mechatronics Engineering) and worked as a Technical Information Engineer at M/s.GGS Information Services India Pvt. Ltd. at Kandhanchavadi, Chennai – 600 096 and was in receipt of annual salary plus bonus to a tune of Rs.2,22,072/-.

2.The petitioner avers that, on 12.09.2019 at about 14.30 hours, his daughter was proceeding from office to home in her two wheeler bearing Registration No.TN-11-Q-3760 on the 200 feet Road, Pallavaram-Thoraipakkam radial road and when she was nearing Ocean Dev Apartments, Pallikaranai, a giant flex-board erected unauthorisedly on the median of the public road fell on her, due to which, she lost balance and fell down and she was run over by a lorry bearing Registration No.TN-01-AA-6810. The petitioner would further submit that she was taken to nearby private hospital and she was declared as 'dead on

arrival'. The petitioner came forward to file this writ petition contending among other things that, if the officials of Greater Chennai Corporation as well as the police had taken necessary preventive measures, the tragic incident would not have happened and on account of the same, he lost his only daughter and his grievances are still inconsolable.

3.Learned counsel appearing for the petitioner would submit that, in a batch of matters in W.P.No.16307 of 2018, etc., this Court took *suo motto* cognizance and started monitoring the investigation done in this case against the accused, namely, Jayagopal and another, and also ordered payment of compensation of Rs.5,00,000/- and it was also paid by the Government. The learned counsel appearing for the petitioner would further submit that the materials available on record would indicate that, on account of the negligence and careless attitude of the officials of the Greater Chennai Corporation and Police, the death of his daughter had occurred, and also pointed out that, despite repeated orders having been passed by this Court to abut such incidents caused on account of erection of unauthorised digital banners/placards, nothing has been done and on account of the tragic demise of the petitioner's daughter, public awareness was created and now, such unauthorised erection of banners, etc., has utmost come to a standstill.

4.It is further contended by the learned counsel appearing for the petitioner that, though a common law remedy is available to recover

compensation from the officials of the Greater Chennai Corporation as well as from the police officials, it cannot be an efficacious or alternate remedy, and the petitioner, in this regard, has also submitted a detailed representation dated 24.09.2019 to the respondents and despite receipt and acknowledgment of the same, the officials have not responded and therefore, the petitioner is constrained to approach this Court by filing this writ petition.

5.The matter was moved during vacation and vide order dated 10.10.2019, this writ petition was ordered to be tagged along with W.P.No.16307, etc. batch. When the matter is listed today, the 2nd respondent filed a counter affidavit and took a stand that, as against the concerned accused, a case in Crime No.882 of 2019 was registered in Pallikkarani Police Station, under Section 3 of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, and Section 326-I of the Chennai City Municipal Corporation Act, 1919, and as ordered by this Court, vide order dated 13.09.2019 in Cont.P.No.61 of 2019 and related batch, the State Government has already paid an interim compensation of Rs.5,00,000/.

6.In so far as the prayer sought for by the petitioner in the form of representation is concerned, it is submitted by the learned Additional Advocate General appearing for the Greater Chennai Corporation that, it requires pleadings, oral and documentary evidence. The learned Additional Advocate General further pointed out that, apart from the compensation of Rs.5,00,000/- paid to the petitioner's father, a major opposition party has also paid Rs.1,00,000/- by way of

compensation and the father of the petitioner is also in receipt of the same and some more amount has also been paid as compensation by other political parties and on instructions, would undertake to consider and dispose of the representation dated 24.09.2019, submitted by the petitioner, on merits and in accordance with law, within a stipulated time frame. The learned Additional Advocate General further submits that, disciplinary proceedings have been initiated against the concerned officials of the Greater Chennai Corporation and seeks time to file a status report in the pending writ petitions and related contempt petitions.

7.Mr.C.Emalias, learned Additional Advocate General, representing the Commissioner of Police, Chennai City Police, would submit that, disciplinary proceedings under Rule 3(b) of Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955, have been initiated against the Inspector of Police, Pallikaranai Police Station, and the enquiry is pending.

8.This Court, upon considering the rival submissions, is *prima facie* of the view that, primordial responsibility and duty is cast upon the officials of the Corporation to prevent the erection of unauthorised banners and despite series of orders and directions issued, they have failed to do so, and as a result, the life of a young girl got extinguished on account of the said tragic incident.

9.Be that as it may, in the light of the limited scope of the prayer sought for by the petitioner, this Court directs the 2nd respondent to consider the representation of the petitioner dated 24.09.2019 and dispose of the same on merits and in accordance with law, after giving an opportunity of personal hearing to the petitioner, and pass a speaking order and communicate the decision taken to the writ petitioner. The entire exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

Accordingly, this writ petition stands disposed of. No costs.

(M.S.N., J.) (R.H., J.)
06.01.2020

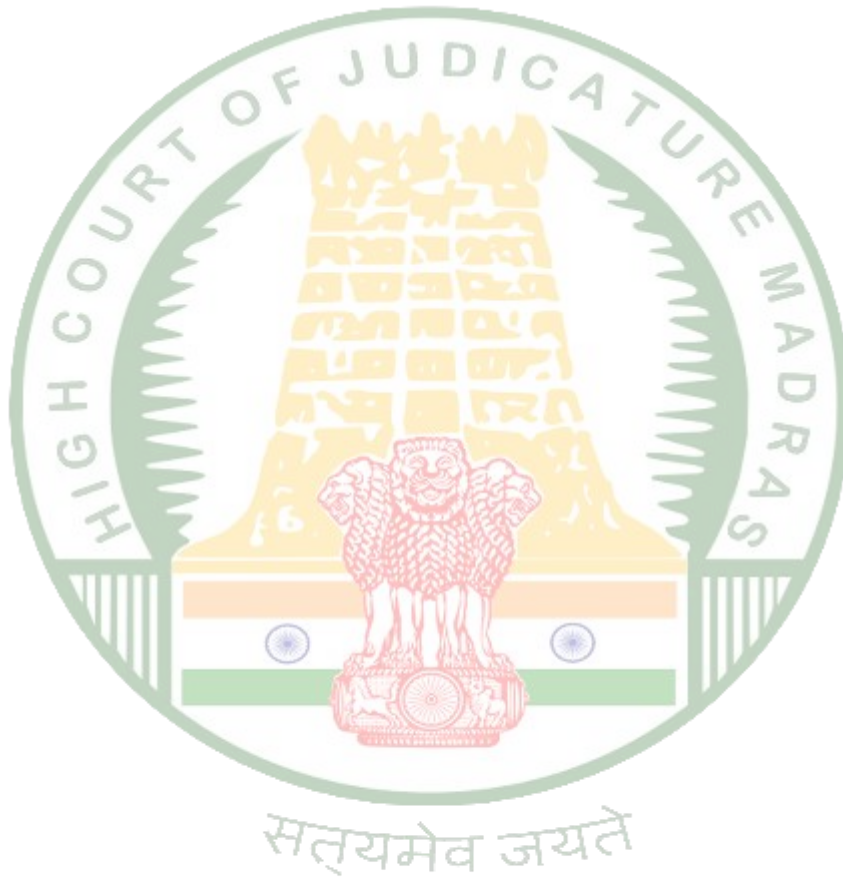
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Internet : Yes
Index : No
Speaking order

To

- 1.The Chief Secretary,
Government of Tamil Nadu,
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Chennai – 600 009.
- 2.The Commissioner,
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M. SATHYANARAYANAN, J.
and
R. HEMALATHA, J.

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