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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 20908 of 2013

and

M.P. No. 1 of 2013

V.Chitra

... Petitioner

Vs.

1. State of Tamil Nadu
Rep. by its Secretary
Education Department
Fort St. George
Chennai - 600 009.
2. The Commissioner
Corporation of Chennai
Ribbon Buildings
Chennai - 600 003.
3. District Education Officer
School Education,
Corporation of Chennai
Ribbon Buildings
Chennai - 600 003.
4. The Headmaster
Chennai Corporation Middle School
Semmancheri, Thuraipakkam
Chennai - 600 119.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to give special treatment to the petitioner's son in a speciality hospital to get the recovery of the right eye sight and to pay compensation of Rs.25,00,000/- to the petitioner's son within the time frame fixed.

For Petitioner : Mr. P.Anbazhagan



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For Respondents : Mr. C.Kathiravan
Government Advocate (For R1)

Mrs. Karthikaa Ashok
Standing Counsel (For R2 to R4)

O R D E R

The writ of mandamus is filed to direct respondents to give special treatment to the petitioner's son in a speciality hospital to get the recovery of the right eye sight and to pay compensation of Rs.25,00,000/- to the petitioner's son.

2. The petitioner states that her son, viz., Ajith, was studying I standard - A section in Chennai Corporation Middle School, Tsunami Nagar, Tamil Nadu Slum Clearance Board, Chemmancheri, Chennai under the direct control of the Corporation of Chennai.

3. The case of the petitioner is that on 28.03.2013, during school hours, the classmate of the petitioner's son had took the class teacher's pen and had caused injuries on the right eye of her son by the pen of the teacher. Thus, the petitioner states that the teacher was not careful enough in maintaining the children in the said school, which caused injury in the right eye of the son of the petitioner. The son of the petitioner was treated initially at Primary Health Centre, Thuraipakkam, Chennai and thereafter, taken treatment in the Government Eye Hospital, Egmore, Chennai.

4. The respondent has filed a counter-affidavit stating that there are nearly 834 students studying in the fourth respondent school and the school is imparting education for the students living in and around Tsunami Nagar, Chemmancheri. The school is situated in a sensitive area, where there are prone to communal clashes and in spite of said difficulties, the fourth respondent school is conducting classes for the welfare of the students, as the family members affected due to Tsunami.

5. It is contended that on 28.03.2013 at about 12.40 p.m., the students were taking lunch under the supervision of the teachers and at about 1.30 p.m., when the teachers went to sign the attendance register, the students, viz., S.Vinodhkumar and V.Ajith, who were studying in Calss-I had a fight against each



other and the student, viz., S.Vinodhkumar, who had bought a pen, had hit the student, viz., V.Ajith, near his eyes. Immediately, the other students informed the teachers, who went to sign the attendance register. Subsequently, the Headmaster and the Teachers went to the spot and taken the student to the Primary Health Centre near the school and thereafter, after giving first aid to the student, he was taken to Egmore Child Hospital, Egmore, Chennai and given treatment.

6. It is further contended that the Headmaster along with the Teachers went to the hospital and enquired about the health of the student, viz., Ajith and given a sum of Rs.5,000/- as financial assistance to the family of the student and another sum of Rs.5,000/- was also given by the parents of the student, viz., S.Vinodhkumar. Further, on enquiry with Doctors of the Hospital, it was informed that the student's vision has not been affected and it will be cured by giving proper treatment. After two days, when they went to the Hospital to enquire about the health of the student, it was informed by the Hospital authority that they had left the Hospital, without even informing the authorities of the Hospital on their own will. But after the incident took place on 28.03.2013, the student has not returned to the school. Further, when they enquired the surroundings, the public informed that there was no such person in that area. Therefore, there is a suspicious in respect of the nature of injury caused to the students and the extent of disability. The authorities on enquiry came to understand that both students' families were living opposite to each other and very often, there was a family dispute between the elders of the students and it provoked them to fight even in the school. However, the authorities ascertained that due to the family enmities, the boys were also developed enmities and attacked each other in the school.

7. However, the son of the petitioner has not lost his vision. Even as per the certificate issued by the office of the Director and Superintendent, Regional Institute of Ophthalmology and Government Ophthalmic Hospital, Egmore, Chennai - 600008, the son of the petitioner sustained 30% visual impairment.

8. This being the factum narrated by the respondents, this Court is of the view that the negligence, prima facie, on the part of the school authorities has not been established. Contrarily, the school authorities had taken immediate care soon after knowing about the incidents. It may not be practically possible to prevent all such incidents inside the school in all circumstances.



9. If beyond the control of the teachers some incidents happened, it is to be enquired into and the facts are to be ascertained as to whether there is any negligence on the part of the school authorities. In the event of not establishing any such negligence, the High Court cannot grant any compensation. If at all the petitioner has got any evidence to establish any such negligence, she can very well approach the competent court of law seeking compensation by producing documents and evidences.

10. In such circumstances, an elaborate trial is required for grant of compensation. Thus, in the cases, where prima facie negligence is established, then alone the High Court can grant compensation.

11. This being the principles to be adopted, this Court is of the prima facie view that the petitioner is at liberty to approach the competent forum for the purpose of establishing his case in the manner known to law.

12. With the above liberty, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Maya

To

1. The Secretary
Education Department
Fort St. George
Chennai - 600 009.
2. The Commissioner
Corporation of Chennai
Ribbon Buildings
Chennai - 600 003.



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3. District Education Officer
School Education,
Corporation of Chennai
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4. The Headmaster
Chennai Corporation Middle School
Semmancheri, Thuraipakkam
Chennai - 600 119.

+1cc to M/s.P.Anbazhagan, Advocate, S.R.No.52994

+1cc to M/s.Karthikaa Ashok, Advocate, S.R.No.52592

+1cc to the Government Pleader, S.R.No.52810

W.P. No. 20908 of 2013

KSM(CO)
SU(26/10/2021)