



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21864 of 2019

And

W.M.P.No.16762 of 2021

K.N.Babu

...Petitioner

Vs.

1. The Director General of Police,
O/o.The Director General of Police,
Mylapore, Chennai - 4.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 7.
3. Inspector of Police,
Neelangarai Police Station,
Neelangarai, Chennai - 600 041.
4. Sub - Inspector of Police,
Neelangarai Police Station,
Neelangarai, Chennai - 600 041.

(R3 and R4 are impleaded as per
order dated 29.7.19 by NAVJ in
WMP.21574/19 in WP.21864/19)

- 5.Dr.V.Murugan
- 6.Ramasundaram
- 7.Tamilanban

(R5 to R7 are suo moto impleaded
as per order dated 14/10/2019 in
WP.21864/2019 by MSRJ)

- 8.Dr.K.Ravindranath

(R8 suo motu impleaded as per
order dated 11/11/2019 made in
WP.21864/2019 by MSRJ)

...Respondents



Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to take appropriate action based on the petitioner's representation dated 15.06.2019.

For Petitioner : Mr.Uma Shankar
Senior Counsel
for M/s.M.Selvam

For Respondents : Mr.A.Gopinath for R1 and R2
Government Advocate (Crl. Side)
Mr.W.L.Raja for R8
Senior Counsel

O R D E R

This writ petition has been filed seeking issuance of Writ of Mandamus directing the respondents to take appropriate action based on the petitioner's representation dated 15.06.2019.

2.The case of the petitioner is that he is a resident of Mettu Street, Kazhipattur, OMR, Kancheepuram District and he is married and had two children. On 24.06.2016, the petitioner's wife and his younger daughter went to V.G.P.Universal Kingdom which is a theme park offering joy rides and other entertainments and the said theme park is owned by VGP Group of companies. On that day, the petitioner's wife and his younger daughter boarded a joy ride named 'wave swinger' which was supposed to be well maintained and managed by skilled staff, but the Management of the V.G.P.Universal Kingdom did not have skilled persons for running the joy rides nor the machineries.

3.It is the further case of the petitioner that due to the manual mishandling and mechanical defects, the petitioner's wife and his younger daughter were thrown out of the joy ride as a result of which both sustained injuries. His wife suffered fracture of her right hand and his daughter suffered severe head injury. They were taken to a local hospital for first aid and considering the severity of the injury suffered by his daughter, both were shifted to Global Health City Hospital, Perumbakkam. Initially, a case in Crime No.1064 of 2016 was registered for the offence under Section 337 of IPC and since the petitioner's daughter died on 14.07.2016 and the offence was altered into Section 304 A of IPC.

4.It is the further case of the petitioner that Dr.Meena Registration No.48734 of the Global Health City, Perumbakkam, has given a statement dated 10.10.2016 stating that the petitioner's daughter has suffered injury, however, the law



enforcing agency, without conducting proper investigation filed final report in C.C.No.302 of 2019 on the file of learned judicial Magistrate, Alandur. Hence the petitioner made representation dated 15.06.2019 to the respondents 1 and 2 seeking to take action against the erred Police Officials and since no action was taken, has filed this writ petition.

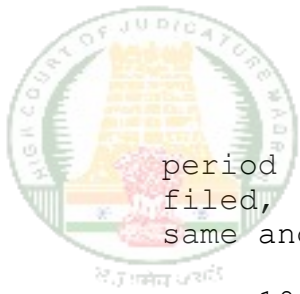
5.The learned counsel appearing for the petitioner submitted that since the law enforcing agency conducted a shabby investigation in favour of VGP Group of companies and filed final report, this Court may issue direction to the first respondent to appoint an honest Officer to conduct further investigation in respect of the death of the petitioner's daughter namely, Bhavanapriya, within a reasonable time frame and also permit the petitioner to file appropriate petition before the State Legal Services Authority under Victim Compensation Scheme.

6.The learned Senior Counsel appearing for the eighth respondent submitted that this Court may consider the request made by the learned counsel appearing for the petitioner.

7.The petitioner claims that on 24.06.2016, his wife and younger daughter went to V.G.P.Universal Kingdom and boarded a joy ride named 'wave swinger' and due to the manual mishandling and mechanical defects, they were thrown out of the joy ride as a result of which both sustained injuries and they were taken to hospital and subsequently discharged. The petitioner's daughter was re-admitted on 10.07.2016 and she died on 14.07.2016. The above facts prove that shabby investigation was conducted by the law enforcing agency.

8.However, rendering any opinion on the merits of the case will adversely affect the parties. Since this Court is prima facie satisfied that it is necessary to issue direction to depute a fit Officer for conducting further investigation, this Court directs the second respondent to appoint a fit Officer not below the rank of the Deputy Superintendent of Police to conduct further investigation in the matter and take appropriate action, if necessary, before the trial Court for filing additional report under Section 173(8) of Cr.P.C.

9.The second respondent shall appoint a fit Officer not below the rank of the Deputy Superintendent of Police for conducting further investigation, within a period of four weeks from the date of receipt of a copy of this order and the said Officer shall conduct further investigation and conclude the same within a period of twelve weeks thereafter. The petitioner is permitted to file appropriate petition before the State Legal Services Authority under Victim Compensation Scheme, within a



period of four weeks thereafter and on such petition being filed, the State Legal Services Authority shall consider the same and pass appropriate orders as expeditiously as possible.

10. This writ petition is accordingly disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

pri

To

1. The Director General of Police,
O/o. The Director General of Police,
Mylapore, Chennai - 4.
2. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 7.
3. The Inspector of Police,
Neelangarai Police Station,
Neelangarai, Chennai - 600 041.
4. The Sub - Inspector of Police,
Neelangarai Police Station,
Neelangarai, Chennai - 600 041.
5. The Member Secretary,
State Legal Services Authority,
High Court, Chennai.

+2ccs to Mr.M.Selvam, Advocate, S.R.No.45150,45467

+1cc to Mr.E.Jaya Sankar, Advocate, S.R.No.45126

W.P.No.21864 of 2019
And
W.M.P.No.16762 of 2021

VG-II[co]
NSK 02/11/2021