



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.12456 of 2019
and W.M.P. (MD) .No.9288 of 2019

Jeyarani

... Petitioner

Vs.

1.The Chief Secretary / The Chief Minister Special Cell,
Government of Tamil Nadu,
Fort St. George,
Chennai.

2.The Principal Secretary,
Department of Home Affairs,
Government of Tamil Nadu,
Chennai.

3.The Principal Secretary,
Department of Social Welfare,
Government of Tamil Nadu,
Chennai.

4.The Principal Secretary,
Department of Rural Industries,
Government of Tamil Nadu,
Chennai.

5.The Chief Inspector of Factories,
Chennai.

6.The District Collector,
Virudhunagar District,
Virudhunagar.

7.Mani

8.Ravi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 6 to pay the compensation and to take necessary action against the respondents 7 & 8, based on petitioner's representation, dated 10.04.2019, within a time frame fixed by this Court.



For Petitioner

: Mr.G.Mariappan

For Respondents

: Mr.M.Lingadurai for R1 to R6
Government Advocate

WEB COPY

Ms.M.Maria Vinola for R7

ORDER

This writ petition has been filed for the issue of writ of Mandamus directing the respondents to pay compensation to the petitioner based on the representation made by the petitioner, on 10.04.2019.

2.The case of the petitioner is that her son Pandithurai, who was aged about 12 years was studying in 7th standard at Government Higher Secondary School, Uppathur. On 09.11.2018, he was playing with his friends after returning back from School. At that point of time, the explosive substance namely illegal fire crackers that remained strewn in that place exploded. It is alleged by the petitioner that the 7th and 8th respondents were running an illegal cracker unit without obtaining any license or permission. The same resulted in the son of the petitioner sustaining serious burn injuries. It is seen from medical records that the petitioner's son had sustained more than 50% burn injuries. The photographs that have been filed in the typed set of papers shows that there are serious burns over the face, neck, upper torso and the entire lower part of the body.

3.The petitioner had given treatment to her son in atleast four hospitals and the learned counsel for the petitioner submitted that the petitioner has already spent more than Rs.10,00,000/- (Rupees Ten Lakhs only). Additional typed set of papers containing medical bills has been filed to substantiate this claim.

4.The petitioner being a daily coolie in a private Mill and who is earning a monthly income of not even Rs.8,000/-, found it difficult to sustain the medical expenses. Hence, a representation was made to the respondents seeking for compensation. Since the same was not considered, the present writ petition has been filed before this Court, seeking for compensation.

5.The 6th respondent has filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

"5.It is submitted that the sixth respondent in his Rc.No.E4/12058/2019, dated 24.04.2019 called for a detailed report from the Tahsildar, Sattur, on the representation of the petitioner.

6.It is submitted that the Tahsildar, Sattur, in his letter Rc.No.A1/3743/2019, dated



27.08.2019 after conducting detailed enquiry, has sent a detailed report to the sixth respondent, recommending for the grant of relief from Chief Minister's Relief Fund.

7.It is submitted that Tmt.Jayarani, the petitioner is residing at D.No.3/20 North Street, Pudhugramam, Uppathur Post, Sattur Taluk, Virudhunagar District. On 09.11.2018, at about 5.30 p.m. the petitioner sister's son Nithish Kumar, and Bala Ganesh son of Raj, on return from the School, were playing. At that time, they tried to burn the unused crackers materials. A Crackers fire accident was taken place on 09.11.2018. Nithish Kumar, Bala Ganesh were also affected in the Crackers Fire Accident. The petitioner's son Pandithurai was affected too much in the Crackers Fire Accident that took place on 09.11.2018 at 5.30 p.m. The petitioner has stated that so far, she has spent Rs.6,00,000/- for the Medical Expenses of his son Pandithurai. Still she requires Rs.2,00,000/- for the Medical Expenses of his son. Hence, she has requested to grant Rs.10,00,000/- from the Chief Minister's Relief Fund, for the Medical expenses of her son Pandithurai, who was affected in the Crackers Fire Accident which took place on 09.11.2018 at 5.30 p.m.

8.It is submitted that the petitioner's husband is working as a Agricultural Labour. The petitioner has got two sons by name Raja Sekar and Pandithurai, and one female child by name Gayathiri. It is reported that All the three children are school going students. The petitioner belongs to Hindu Parayar Community. Her family is below the poverty line. It is reported that the annual income of the petitioners family is Rs.48,000/-. Hence, the sixth respondent in his Rc.No.L4/24626/2019, dated 23.09.2019 sent a report to the Additional Chief Secretary / Commissioner of Revenue Administration and Disaster Management, Chennai, recommending for the grant of relief from the Chief Minister's Relief Fund.

9.With regard to the averments made in para 8 of the affidavit, it is submitted that the Inspector of Police, Sattur Police Station has registered a case in F.I.R.No.278 of 2018, under Section 286, 338 of the Indian Penal Code, 1860 and 9 (B) (i) (a) of the Indian Explosives Act,



1884 against the respondents 7 and 8.

10. With regard to the averments made in para 9 to 13 of the affidavit, it is submitted that the Disaster Management, Chennai, in his letter L.Dis. Revenue Thani.5(2) / 37121/2019, dated 15.10.2019, has stated that as per G.O.Ms.No.268, Disaster Management 1 (1) Department, dated 18.08.2017, relief from Chief Minister's Relief Fund can be granted in respect of (a) death caused due to Snake bite (b) death caused during Flood (c) death caused during Fire Accident occurred in houses and (d) death caused in the demolition of building in Cyclone. There is no rule provision to grant relief from Chief Minister's Relief Fund for the medical expenses of the petitioner's son.

6. The 7th respondent has also filed a counter affidavit and the 7th respondent has denied the fact that he is dealing with illegal fire crackers. The 7th respondent has taken a stand that he is having a goat farm and doing agriculture and that he has been implicated without any materials.

7. Heard Mr.G.Mariappan, learned counsel appearing for the petitioner, Mr.M.Lingadurai, learned Government Advocate appearing for the respondents 1 to 6 and Ms.Maria Vinola, learned counsel appearing for the 7th respondent.

8. This Court has carefully considered the submissions made on either side and the materials available on record.

9. There is no dispute with regard to the fact that the son of the petitioner sustained serious burn injuries due to the explosion of fire crackers that remained strewn in and around the place where the children were playing. It is seen from the counter affidavit filed by the 6th respondent that based on the representation made by the petitioner, the 6th respondent had sought for a report from the Tahsildar and the Tahsildar after conducting an enquiry, through letter, dated 27.08.2019, had recommended for grant of compensation from the Chief Minister's Relief Fund. Thereafter, the 6th respondent through letter, dated 23.09.2019, gave a report to the Additional Chief Secretary / Commissioner of Revenue Administration and Disaster Management, recommending for the grant of compensation from the Chief Minister's Relief Fund. On receipt of this report, the first respondent has taken a decision that the compensation cannot be paid from the Chief Minister's Relief Fund, since the present case does not fall within the parameters provided under the Chief Minister's Relief Fund Scheme. It is also seen from the counter affidavit that the Inspector of Police, Sattur Police Station, has already registered an FIR in Crime No.278 of 2018 and



the case is under investigation.

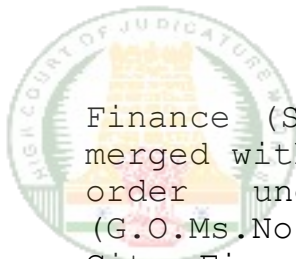
10.This Court is aware of the fact that it cannot exercise writ jurisdiction in cases where there are disputed questions of fact. Under normal circumstances, cases relating to claim for compensation must be ordinarily filed only before a Civil Court. However, there are cases where this Court can exercise its jurisdiction under Article 226 of the Constitution of India and grant compensation, where this Court need not undertake the process of appreciation of evidence in order to decide the payment of compensation.

11.This Court can take judicial notice of the fact that frequent accidents due to explosion from illegal fire cracker units takes place at Virudhunagar District. On all such occasions, the Government pays some compensation for the deceased as well as the injured. This Court is not clear as to whether such cases involving illegal fire crackers are ultimately taken to its logical end. There is always an excitement when such incidents happen and ultimately, everybody forgets about it till the next incident takes place. We are living in an era where short memory is the order of the day. Virudhunagar District is no exception to this norm and every time a huge fire accident takes place in an illegal fire cracker unit, compensation is paid to the deceased and injured and thereafter, everybody forgets it.

12.In the present case, there is no dispute that the petitioner's son sustained burn injuries due to explosion of illegal crackers that were found in the place where he was playing along with his friends. The fact that this happened in Virudhunagar District makes it almost certain that this is yet another case of explosion that had taken place due to some illegal fire cracker unit, which had strewn the crackers around the place. Unfortunately, the petitioner's son became the victim and he sustained greivous burn injuries all over his body. It is brought to the notice of this Court that he is virtually in a vegetative state and unless plastic surgery is performed, it will be a horrifying sight for the parent to keep watching a child with burn injuries all over the body.

13.The Tahsildar and the Collector after assessing the situation, found that there was genuineness in the claim made by the petitioner and therefore, recommended for payment of compensation from the Chief Minister's Relief Fund. However, the first respondent went by the literal words that are used under the Scheme and found that the claim made by the petitioner does not strictly fall within the parameters.

14.One of the earliest ex-gratia schemes for immediate relief during disasters was the Madras Cyclone Relief Fund, 1955. In 1967, two funds viz., the Chief Minister's State Relief Fund and the



Finance (S), dated 19.05.1971, the Madras Cyclone Relief Fund was merged with the Chief Minister's State Relief Fund. By an executive order under Article 162 of the Constitution of India (G.O.Ms.No.1036, (Finance Department), dated 13.07.1971), the Madras City Fire Relief Fund was merged with the Chief Minister's State Relief Fund. Under the same order, the name of the Chief Minister's State Relief Fund was changed to the Chief Minister's Public Relief Fund.

15.The fund is operated by the Secretary to Government, Department of Finance, and its benefit is intended to reach those who require immediate financial assistance on account of natural calamities, unexpected deaths, accidents, higher education etc.

16.In the considered view of this Court, the petitioner's son is almost half dead and he is lying in vegetative state and he is taken care by his parent. Therefore, this Court has to give an expanded meaning for the purpose behind granting compensation from the Chief Minister's Relief Fund. The petitioner is very poor and she will not be able to sustain with the medical treatment, unless the Government comes to her rescue.

17.Taking into consideration the facts and circumstances of the case and also the grievous injuries sustained by the petitioner's son and after considering the report of the Tahsildar and the Collector, this Court deems it fit to fix a compensation of Rs.5,00,000/- (Rupees Five Lakhs Only) payable by the first respondent from the Chief Minister's Relief Fund to the petitioner. This payment shall be made within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this order should not be taken as a precedent in all other cases, where such a claim is made and the direction issued by this Court is based on the peculiar facts of the present case, where this Court found that there was no serious dispute in the manner in which the petitioner's son sustained grievous injuries.

18.In the result, this writ petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM



NOTE:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Chief Secretary / The Chief Minister Special Cell,
Government of Tamil Nadu,
Fort St. George,
Chennai.
- 2.The Principal Secretary,
Department of Home Affairs,
Government of Tamil Nadu,
Chennai.
- 3.The Principal Secretary,
Department of Social Welfare,
Government of Tamil Nadu,
Chennai.
- 4.The Principal Secretary,
Department of Rural Industries,
Government of Tamil Nadu,
Chennai.
- 5.The Chief Inspector of Factories,
Chennai.
- 6.The District Collector,
Virudhunagar District,
Virudhunagar.

+1 CC to M/s.SPL GP (SR-21211[F] dated 05/07/2021)

+1 CC to M/s.M.MARIA VINOLA, Advocate SR-21070[F] dated 02/07/2021

Order made in
W.P. (MD) .No.12456 of 2019
02.07.2021

NS (CO)
TR(09.07.2021) 7P 9C