



W.P.No.39252 of 2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2022

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.39252 of 2015

and

M.P.No.1 of 2015

E.Gajendran

... Petitioner

Vs

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Home Department,
Fort St.George,
Chennai – 600 009.
2. The Director General of Police,
Mylapore,
Chennai – 600 004.
3. The District Collector,
Kancheepuram District,
Kancheepuram.
4. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.



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5. The Inspector of Police,
Cheyyur Police Station,
Cheyyur,
Kancheepuram District.
6. The Correspondent,
Sirumalar Girls Higher Secondary School, (Aided)
Cheyyur – 603 302.
Kancheepuram District.

7.D.Ramesh

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the respondents Nos.1 to 5 to take appropriate action against the 6th and 7th respondents and consequently direct the respondent Nos.1 to 3 to pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) being the compensation to the petitioner's family for his daughter's death due to sexual harassment and torture given by the school teacher of Sirumalar Girls Higher Secondary School, Cheyyur, Kancheepuram District.

For Petitioner : M/s.K.Balu

For Respondents :

For R1 & R2 : Mrs.P.Rajarajeswari
Government Advocate

For R3 : Mr.T.K.Saravanan
Government Advocate



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ORDER

The petitioner has filed this writ petition for a Mandamus to direct the Respondent Nos.1 to 5 to pay appropriate compensation for the death of the petitioner's daughter who died on 08.10.2015, on account of alleged sexual harassment by the seventh respondent herein.

2. It is submitted that the seventh respondent was arrested immediately on 09.10.2015 and produced before the Mahila Court, Chengalpet and thereafter, remanded to judicial custody.

3. The facts on record seems to indicate that the seventh respondent was enlarged on bail on 17.11.2015. The facts on record also indicate that the criminal case is now pending before the concerned Mahila Court and that a final Charge Sheet under Section 173 of Cr.P.C has been filed on 01.04.2016.



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4. In the counter filed by the fifth respondent, the Inspector of Police, Cheyyur, it is submitted that the investigation was completed and a Charge Sheet has been filed before the concerned court. Therefore, it is open for the petitioner to workout his remedy for compensation.

5. The fifth respondent further submitted that the Respondent Nos.2, 4 & 5 have no role as far as awarding of compensation is concerned and that the compensation if any, has to be granted by the first respondent.

6. The learned counsel for the petitioner has placed reliance on the Tamil Nadu Victim Compensation, Scheme, 2013 notified vide G.O(Ms).No.1055, Home (Police.XII) dated 30.11.2013.

7. The learned counsel for the petitioner would submit that the petitioner's case is squarely covered by Clause 4(1)(b) of the aforesaid scheme and therefore, the first and the third respondent should be directed to pay compensation.



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8. The learned counsel for the petitioner would further submit that there is no delay in reporting the matter to the jurisdictional police officer and therefore, the compensation has to be paid.

9. On the other hand, the learned Government Advocate for the official respondents would submit that the compensation can be paid only under the provisions of the Tamil Nadu Victim Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes, 2018 as notified by G.O.(Ms).No.1591, Home (Pol.12), 24.09.2018 published in the G.O.(Ms).No.40 dated 03.10.2018.

10. By way of rejoinder, the learned counsel for the petitioner would however submit that an explanation to Rule 18 of the aforesaid rule makes it clear that the scheme does not apply to minor victims under the Protection of Children from Sexual Offences, Act, 2012.

“Explanation: *It is clarified that this Scheme does not apply to minor victims under Protection of Children from Sexual Offences Act, 2012 (Central Act 32 of 2012) in so far as their compensation issues are to be dealt with only by the Special Courts under Section 33 (8) of Protection of Children form Sexual Offences Act, 2012 and Rule 7 of the*



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*Protection of Children from Sexual Offences Rules,
2012.”*

11. It is submitted that the Tamil Nadu Victim Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, 2018 Scheme is applicable to the case only where the victim is alive and not to the case where the victim is dead.

12. It is therefore submitted that the petitioner is entitled for appropriate compensation in terms of G.O(Ms).No.1055, Home (Police.XII) dated 30.11.2013 notified Tamil Nadu Victim Compensation, Scheme, 2013.

13. In my view, the petitioner's claim for compensation deserves a proper disposal in the hands of the Respondent Nos.1 to 3, under the provisions of the Tamil Nadu Victim Compensation, Scheme, 2013 under Section 357 A of the Code of Criminal Procedure.

14. Under these circumstances, I direct the respondents Nos.1 to 3



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to dispose of the petitioner's representation within a period of four weeks from the date of receipt of a copy of this order. In case, the petitioner is to be directed to work out his remedy before the District Legal Service Authority, the petitioner may be directed to approach the third respondent.

15. The writ petition stands disposed of with the above observations and directions. No costs. Consequently, connected miscellaneous petition is closed.

30.09.2022

Index : Yes/No
Speaking/Non-Speaking Order

rgm

C.SARAVANAN, J.
rgm



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