



WEB COPY



W.P.(MD).No.14966 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 26.07.2022

ORDER PRONOUNDED ON : 29.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.14966 of 2013

T.Manivannan

.....Petitioner

Vs

1.Union of Indian Represented by
The Principal Secretary
Department of Women and Child Welfare
Near Parliament
New Delhi

2.The Commissioner of Integrated Child Development Scheme
M.G.R.Salai,Tharamani
Chennai

3.State of Tamil Nadu
Represented by the Principal Secretary
Department of Social Welfare and Nutritious Meals Department
Fort St.George
Chennai

4.The Principal Secretary to the Government
Government of Tamilnadu
Health Department
Fort.St.George
Chennai



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5.The Principal Secretary and Special Commissioner
Government of Tamilnadu
Fort St.George
Chennai

6.The District Collector
Office of the District Collector
Madurai District

7.The Inspector of Police
Solavanthan Police Station
Madurai District

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondent Nos.1 to 6 to pay Rupees 20,00,000/- compensation to the petitioner for the death of the petitioner's 2 years old son namely Munichamy @ Akash at Thirumal Natham, Anganvadi noon meals centre consequently to direct the respondents to initiate necessary action against the officials who are responsible for the death of the petitioner's only sons namely Munichamy @ Akash aged 2 years.

For Petitioner	: Mr.R.Alagumani
For R1	: Mr.S.Jeyasingh
For R2 to R7	: Mr.N.Muthuvijayan Special Government Pleader

ORDER

The present writ petition has been filed seeking a direction to the respondents 1 to 6 to pay a compensation of Rs.20,00,000/- for the death of



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the petitioner's two years old son who died due to the alleged negligence of the respondents.

2. According to the learned counsel for the petitioner, the petitioner's two years old son was admitted to Anganvadi noon meals centre in Thirumal Natham on 31.07.2013 at 12.30 p.m. The concerned Anganvadi worker gave noon meal to the petitioner's son. After consuming the said food, the petitioner's son started vomiting and became unconscious. He was immediately admitted to the Sholavanthan Government Hospital. After giving first aid, the Doctor had advised the parents to take him back home on the ground that the child is alright. However, at about 1.30 p.m, the petitioner's son again started vomiting and became unconscious. He was rushed to Government Rajaji Hospital, Madurai where he was declared dead.

3. The learned counsel for the petitioner had further contended that the petitioner has lodged a criminal complaint and F.I.R was registered in Crime No.223 of 2013 under Section 174 Cr.P.C. According to the petitioner, as far as this Anganvadi is concerned, there is no separate building and kitchen has not been properly constructed. Therefore, the cook of the Anganvadi was carrying out cooking activities at her house in the early morning and she used to take food and keep it in the drama stage which was used as noon meal



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centre. Therefore, the rice has become very hard to eat when the children had eaten the same at about 12.30 p.m. It has resulted in death of the petitioner's son. Various other allegations have been made as against the Anganvadi teacher, which are not connected with the present case.

4. According to the learned counsel for the petitioner, if proper Anganvadi building and kitchen had been provided in the Anganvadi centre, the death of the petitioner's son would not have happened. The respondents 1 to 6 are duty bound to inspect the Anganvadi building either by themselves or through their subordinate. However, they were not even aware of the fact that the centre is being conducted at a drama stage. No adequate training has been given to the Anganvadi workers for providing first aid. The learned counsel had further contended that though the petitioner has given a representation on 30.07.2013 for conducting an enquiry, the respondents have pointed out that the petitioner's sons had died because of fits. Despite several representations, compensation has not been paid. Hence, the present writ petition.

5. The second respondent has filed a detailed counter contending that the Anganvadi worker had not fed the son of the petitioner. The deceased child was fed by his own aunt namely Tamilselvi who is the mother of



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another child namely Divasri who is also a student in the Anganvadi.

According to the second respondent, 9 children have consumed noon meals on 30.07.2013. Except the son of the petitioner, no other child has been affected. The food is being prepared hygienically and properly. As per medical examination, none of the children were found to be affected with any poisonous food. Since Anganvadi centre was under construction, it was temporarily functioning from the hall behind the drama stage with the permission of the local Panchayat president. However, now new building has been constructed and the same is functioning from 01.10.2013 onwards.

6.The second respondent has further contended that there is no negligence or dereliction of duty on the part of the Anganvadi worker. The postmortem report and forensic report would reveal that no poison was detected in the stomach of the petitioner's son. The medical authorities have found that the deceased would appear to have died on Asphyxia due to choking. Hence, the department or Anganvadi workers are in no way responsible for the said unfortunate incident.

7.The fourth respondent has also filed an independent counter and reiterated the submissions made on the side of the second respondent herein.

The fourth respondent has also relied upon the report of the Deputy Director



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and Assistant Chemical Examiner to the Government, Regional Forensic Science Laboratory, Madurai to contend that the viscera report does not disclose any poison and the reason for the death is Asphyxia due to choking. Hence, he prayed for dismissal of the writ petition.

8.I have considered the submissions made on either side and perused the materials available on record.

9.There is no dispute that the petitioner's son is admitted to the Anganvadi centre and he had consumed noon meal at 12.30 p.m on 31.07.2013. Immediately, after consuming the noon meal, he had vomited and he was rushed to Government Hospital, Sholavanthan. The Doctor therein found that the petitioner's son to be alright and he was sent home. Thereafter, around 1.30 p.m, the petitioner's son again started vomiting and reached unconscious stage. On the way to Government Rajaji Hospital, Madurai, the petitioner's son had passed away. These facts are not in dispute.

10.According to the petitioner, the said noon meals centre does not have proper building and the food is being cooked in some other place and brought to the centre in the early morning and it became difficult for the students to consume the same at about 12.30 p.m. The petitioner has given a



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representation on 08.08.2013 in which the petitioner has admitted that his son died due to choking. The viscera report discloses that there is no poisonous substance in the stomach or intestine. Hence, it is clear that there is no negligence in preparation or serving of the noon meal.

11.The second respondent in his counter has pointed out that the petitioner's son was fed by his aunt. Though the petitioner has contended that the child was fed by the Anganvadi worker, it is not believable that the worker would be feeding all the 9 kids of two years old. Hence, it is clear that the unfortunate event of death of the petitioner's son has happened due to choking at the time of consuming food. This is confirmed in the forensic report also. The reason stated supra, will clearly show that the respondent authorities are not in any way responsible for the unfortunate death of the petitioner's son.

12.Only if the Court arrives at the finding that the death of the petitioner's son had happened due to the negligence attitude or activity of the respondent authorities, the question of fixing the liability upon them for payment of compensation would arise. In the present case, as stated supra, the petitioner's son had passed away due to chocking at the time of taking food.

The other 8 children who had consumed the same food, have not exhibited



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any single adverse symptom after taking the food. Hence, the question of directing the authorities to pay compensation to the death of the petitioner's son would not arise.

13.In view of the above said discussion, the writ petition is devoid of any merits and the same is dismissed. No costs.

29.07.2022

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To

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Department of Social Welfare and Nutritious Meals Department
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R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

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