



W.P.(MD).No.2330 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 17.08.2022

ORDER PRONOUNCED ON : 29 .08.2022

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

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K.Lingam

....Petitioner

Vs

1.The Home Secretary
Secretariat
St.George Fort
Chennai

2.The Inspector General of Prison
Additional Director General of Police
Chennai

3.The Superintendent
Central Prison
Palayamkottai
Tirunelveli District

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pay Rs.10,00,000/- compensation to the petitioner for the permanent loss of his right eye sight in Palayamkottai Central Prison on the basis of the petitioner's representation dated 14.11.2012.



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For Petitioner : Mr.R.Alagumani

For Respondents : Mr.D.Sasikumar
Additional Government Pleader

ORDER

The present writ petition has been filed seeking a writ of mandamus directing the respondents to pay Rs.10,00,000/- as compensation to the petitioner for permanent loss of eye sight on his right eye in Palayamkottai Central Prison on the basis of the petitioner's representation dated 14.11.2012.

2.According to the petitioner, he was charged with an offence under Section 302 I.P.C by Villathikulam Police Station. He was acquitted by Principal Sessions Court, Thoothukudi on 16.04.1998. However, the Hon'ble Division Bench of this Court had reversed the said order and convicted the petitioner for life imprisonment. Thereafter, the petitioner had approached the Hon'ble Supreme Court in C.A.No.53 of 2009 and the Hon'ble Supreme Court was pleased to acquit the writ petitioner on 12.10.2012. The petitioner had further contended that he was confined to Palayamkottai Central Prison between 07.02.2009 to 16.10.2012. On 18.08.2009 at about 6.00 a.m, when he was about to take path, he had fallen down on the floor in the common bathroom and sustained injury on his right eye and right eyebrow. Since



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prison doctor was not available, some convict warders had given treatment to him by providing stitching on the right eyebrow. Thereafter, he complained that he is losing his eye sight and hence, he was taken to high ground Government Hospital to ENT department on 22.08.2009 and he was treated as an out patient. Since he was continuously suffering from diminishing eye sight, he was again taken to Ophthalmology department of Government hospital on 25.08.2009 where he was an inpatient till 07.09.2009. According to the petitioner, he was released from the Central Prison on 16.10.2012 after he was acquitted by the Hon'ble Supreme Court. Thereafter, the petitioner has given a representation on 14.11.2012 alleging that there was a delay in taking the petitioner to Ophthalmology department and he has permanently lost his vision in the right eye and hence, he prayed for payment of compensation of Rs.10,00,000/-.

3.The learned counsel for the petitioner had contended that though the petitioner has suffered an eye injury on 18.08.2009, he was taken to Hospital only on 22.08.2009 and to the Ophthalmology department only on 25.08.2009. Had he been taken to the Hospital in time, he would not have suffered permanent loss of eye sight in his right eye. The learned counsel had relied upon certain medical reports dated 03.11.2014, 13.08.2022 and 12.08.2022 to contend that the petitioner is suffering from loss of vision in his right eye.



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4.Per contra, the learned Additional Government Pleader appearing for the respondents had contended that the petitioner had fallen down on 18.08.2009 and had sustained injury in the right eye and had bleeding in the nose, immediately he was given treatment by the prison medical officer. In respect of eye complaint, treatment was given in the Prison Hospital and thereafter, as per advise of the Prison Medical Officer, he was taken to Tirunelveli Medical College Hospital on 22.08.2009 as an out patient. Thereafter, the petitioner was admitted as an inpatient on 25.08.2009 and he was discharged only on 07.09.2009.

5.The learned Additional Government Pleader had further contended that the petitioner had complained of diminution of eyesight on 21.08.2009 and he was immediately referred to Tirunelveli Medical College Hospital where he was treated as an inpatient for 12 days. As per report of the doctor dated 25.08.2009, the petitioner had evidence of Drusen's disease which is a degenerative slowly progressive disease. But the other features in both the eyes were normal. The learned counsel had further contended that the petitioner was again reviewed by the doctors of the Medical College Hospital on 03.10.2009 and his vision in right eye was found to be 6/24. Thereafter, the petitioner was again reviewed on 31.10.2009 and his vision was found to



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be 6/18 in right eye. Again on 05.06.2010, when the petitioner had complained of diminished vision in the right eye, he was referred to the Government Hospital. At that point of time, he was tested as 6/12 in the right eye. The learned Additional Government Pleader had further contended that the petitioner had complained of chest pain and he was admitted to the Medical College Hospital on 23.03.2011 and he was discharged on 26.03.2011. Thereafter, he released on 16.10.2012. He did not complain of any problem in his right eye. Only after he was released from the Prison on 16.10.2012, the present representation has been sent by the petitioner on 14.11.2012. He had further contended that the loss of vision in the right eye of the petitioner is not due to any injury in the right eyelid but only due hypertension for which the respondent authorities cannot be held liable. Hence, he prayed for dismissal of the writ petition.

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

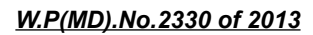
7.There is no dispute that the petitioner was lodged in the third respondent prison as a convict person between 07.02.2009 and 16.02.2012. It is also an admitted fact that the petitioner has fallen down and sustained injuries on 18.08.2009. According to the learned counsel for the petitioner,



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his right eye and eyelid got injured. However, the learned Additional Government Pleader has contended that the injury was only in the eyelid and the problem relating to the vision of the writ petitioner is not due to the injury caused but due to drusen's disease which is a degenerative slowly progressive disease.

8.The learned counsel for the petitioner had contended that only due to the delay by prison authorities in taking the petitioner to the Hospital, the petitioner had lost his vision permanently in his right eye. However, the learned Additional Government Pleader had placed records before this Court to the effect that he was taken to Government Hospital on 22.08.2009. Hence, this Court has to arrive at a finding whether there was a delay on the part of the Prison authority in giving treatment to the writ petitioner or not. Whether the petitioner had suffered permanent loss of vision in his right eye and whether the same is due to the delay and negligence on the part of the respondent officials or not. The medical report submitted by the medical officer, Central Prison Palayamkottai dated 13.02.2013 reveals that the petitioner is suffering from Drusen's disease which is degenerative slowly progressive disease. The medical certificate filed by the writ petitioner in his typed set of papers also indicates that on 25.08.2009, the Doctor of the Medical College, Tirunelveli have diagnosed the disease as drusen's disease.



9. The petitioner by way of additional evidence has produced certain documents to the effect that he is losing vision in his right eye and the records are of very recent origin namely in the month of August 2022. Even in the medical report dated 13.08.2022, the petitioner has been diagnosed with the onset of the Presbyopia. It is nothing, but a gradual loss of eyes' ability to focus on nearby objects and it is an aged related condition where the eye lens does not change shape as early as it once did. Hence, it is clear that the declining vision of the writ petitioner is not in any way related to the injury sustained by the petitioner on 18.08.2009, but it is only due to some



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age related issue which was diagnosed by the authorities in the Government Hospital as Drusen's disease and diagnosed by Doctor Prateek of Aravind Eye Hospital, Madurai on 12.08.2022.

10.The above narrated facts will clearly establish that the petitioner has not sustained any eye injury on 18.08.2009. There were injuries only in the right eyebrow and there was bleeding in his nose for which he was given proper treatment by the Prison Authorities and he was immediately referred to the Ophthalmology department of Tirunelveli Medical College Hospital. Therefore, there is no negligence on the part of the prison authorities in referring the writ petitioner to the concerned department of the Hospital. Further, there are no medical records to establish that the petitioner has permanently lost his vision in the right eye. All the medical records indicate that he is suffering from certain kind of degenerative disease which has resulted in diminishing eye vision. Hence, the respondent authorities cannot be held liable for the same and cannot be called upon to pay compensation.

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

29 .08.2022

Internet : Yes/No
Index : Yes/No
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To

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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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