



W.P(MD).No.7881 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD).No.7881 of 2021

Valli

... Petitioner

Vs.

1. The Principal Secretary to Government,
Health and Social Welfare Department,
Secretariat,
Chennai-09.

2.The Dean,
Illuppur Government Hospital,
Higher Secondary School (Opp)
Illuppur Taluk,
Pudhukkottai District.

3.Dr.Tamil Mani,
Illuppur Government Hospital,
Higher Secondary School (Opp)
Illuppur Taluk,
Pudhukkottai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Mandamus, directing the respondents to pay



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a reasonable compensation to the tune of Rs.10,00,000/- to the petitioner for the negligence act of the third respondent in performing the sterilization.

For Petitioner : Mr.A.Azhageson

For Respondents : Mr.V.OM.Prakash
Government Advocate
for RR1 and 2
No-appearance for R3

ORDER

Heard the learned counsel on either side.

2. The writ petitioner underwent family planning operation on 21.08.2017. However, the petitioner conceived in the year 2020 and a female child was born on 08.05.2021. Seeking compensation, this writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the petitioner is a coolie and that she is already having three children, when she underwent family planning operation. The learned counsel relied upon



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the decision of this Court made in S.A.Nos.48 and 49 of 2018 dated 06.02.2018. In the said case, a compensation of Rs.1,50,000/- (Rupees One Lakhs Fifty Thousand only) was awarded and this Court has declined to interfere with the same.

4. The learned Additional Government Pleader appearing for the respondents submitted that the Government of Tamil Nadu has issued G.O. (Ms).No.119, Health and Family Welfare (R1) Department, dated 30.05.2013, in which, for failure of Sterilization, a sum of Rs.30,000/- has been directed to be paid. The respondents are ready to make the said payment to the petitioner herein.

5. I have carefully considered the rival contention and went through the materials available on record.

6. Even in the decision of this Court which is relied upon by the petitioner, it has been stated that according to the medical science, there



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cannot be 100% guarantee for the women, who had undergone sterilization as there are cases, even after the operation, women had become pregnant and delivered child. When the petitioner became pregnant, even at the earliest stage, the petitioner could have undergone abortion and she has not chosen to do so. Therefore, the petitioner cannot expect the Government to compensate her for delivery of the child. However, considering the overall circumstances and in the interest of justice, the respondents 1 and 2 are directed to pay a sum of Rs.50,000/- (Rupees Fifty Thousand only) as compensation to the petitioner. This amount shall be paid to the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition is disposed of. No costs.

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Index: Yes/No

Speaking Order : Yes / No

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To

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G.R.SWAMINATHAN, J.

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