



W.P.(MD).No.10168 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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ORDER RESERVED ON : 19.07.2022

ORDER PRONOUNDED ON : 22.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.10168 of 2014

M.Rani

....Petitioner

-Vs-

1.The District Collector
Theni District

2.The District Collector
Madurai District

3.The Director
Medical Rural Health Services and Family Welfare
Directorate of Family Welfare
Madurai District

4.The Assistant Director
Medical Rural Health Services and Family Welfare
Usilampatti
Madurai District

5.The Medical Officer
Government Head Quarters Hospital
Usilampatti
Madurai District

...Respondents



W.P(MD).No.10168 of 2014

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pay a sum of Rs.5,00,000/-compensation to the petitioner for the failure of permanent sterilisation (Family Planning).

For Petitioner : Mr.M.Gnanagurunathan
For Respondents : Mr.P.Sasikumar
Additional Government Pleader

ORDER

The writ petition has been filed seeking writ of mandamus as against the respondents seeking a compensation of Rs.5,00,000/- to the petitioner for failure of permanent sterilisation operation (Family Planning).

2.According to the petitioner, she is already having two children and with a consent of her husband, she underwent permanent sterilisation operation on 11.06.2003 in the fifth respondent hospital. The fourth respondent had issued a certificate to the petitioner that she has successfully underwent sterilisation operation on 09.07.2003.

3.The petitioner had further contended that she had given birth to a girl child on 10.05.2007 due to failure of the said permanent sterilisation operation. According to the petitioner, this has happened due to medical



W.P(MD).No.10168 of 2014

negligence on the part of the respondent. Hence, she sent a representation to the first respondent herein on 02.06.2008 seeking compensation for the failure of family planning operation. Though the first respondent had directed the petitioner to approach the other respondents, there was no proper response from them. According to the petitioner, she had appeared before the fourth respondent along with all the relevant records. However, no orders were passed for disbursing compensation. Hence, the present writ petition.

4.The Government had filed a counter affidavit contending that the petitioner suppressed that she has received a compensation of sum of Rs.5,000/- on 09.03.2010. Since she has suppressed the real facts, she is not entitled to seek compensation of a sum of Rs.5,00,000/-.

5.I have given anxious consideration to the submissions made on either side and perused the materials available on record.

6.Admittedly, the petitioner has underwent a family planning operation in the fifth respondent hospital on 11.06.2003. However, due to failure of the said operation, she had delivered a girl baby on 10.05.2007. The above said facts are not in dispute.



W.P(MD).No.10168 of 2014

7.The learned Additional Government Pleader appearing for the respondents had contended that there is no negligence on the part of the respondents in conducting the operation and hence, the petitioner would not be entitled to any compensation from the State authorities. The very fact that the petitioner has conceived again and delivered a baby on 10.05.2007 discloses that there was negligence on the part of the respondents in performing the family planning operation. The delivery of girl baby will clearly show that there was medical negligence on the part of the respondents authorities. Hence, I find that the petitioner is entitled to seek compensation from the respondents authorities.

8. The petitioner has delivered a girl child on 10.05.2007 and the said child now aged about 15 years. The Hon'ble Supreme Court in a judgment reported in **(2000) 5 SCC 182 (State of Haryana Vs. Santra)** has upheld the order of the High Court in granting compensation while dealing with a case of birth to a child after tubectomy operation. The Hon'ble Supreme Court has held that when there was a negligence on the part of the doctors, ultimately the State Government is responsible for the said negligence.

9.In view of the above said discussion, this Court is of the view that the petitioner would be entitled to a compensation of Rs.3,00,000/-. In addition



W.P(MD).No.10168 of 2014

to the said amount, the respondents are directed to provide free education to the said girl child born on 10.05.2007 to the writ petitioner. The respondents shall pay a sum of Rs.1,50,000/- to meet out the day to day expenses for food and proper up-bringing of the girl child. Further, the benefits granted by the State Government under the female child scheme shall also be given to the writ petitioner.

10. With the above observations, this writ petition stands allowed. No costs.

22 .07.2022

Internet : Yes/No
Index : Yes/No
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W.P(MD).No.10168 of 2014

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W.P(MD).No.10168 of 2014

R.VIJAYAKUMAR, J.

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Pre-delivery order made in

W.P.(MD).No.10168 of 2014

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