



W.P(MD).No.17093 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 02.09.2022

ORDER PRONOUNDED ON : 06.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.17093 of 2014

M.Maheswari

....Petitioner

Vs

1.The State of Tamil Nadu
Represented by its Secretary to Government
School Education Department
Secretariat
Fort.St.George
Chennai 600 009

2.The District Collector
Virudhunagar District
Virudhunagar

3.The District Educational Officer
Virudhunagar District
Virudhunagar

4.The District Sports Officer
Virudhunagar District
Virudhunagar

5.Devasahayam Higher Secondary School
Rep.by its Correspondent
Melakottai Chinnaiyapuram Village
Virudhunagar

....Respondents



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Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to take appropriate action against the fourth respondent as well as to pay adequate compensation not less than a sum of Rs.5/- lakhs with interest for the negligent death caused to the petitioner's son namely M.Anandakrishnan within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For R1 to R4 : Mr.V.Nirmalkumar
Government Advocate

For R5 : Mr.N.Vallinayagam

ORDER

The present writ petition has been filed seeking a writ of mandamus directing the first respondent to initiate proper action as against the fourth respondent and to pay adequate compensation not less than Rs.5,00,000/- for the negligent death caused to the petitioner's son.

2.According to the petitioner, her son namely M.Anandhakirshnan at the age of 14 years was studying 8th standard in the fifth respondent School. He was a very bright student not only good in studies, but also in Sports, especially in Athletics. According to the petitioner, her son M.Anandhakrishnan, was an eminent sports boy and he was selected by the fourth respondent to undergo Residential Training for the event of Athletics.



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The Residential Training was conducted by the fourth respondent to give special training to the selected students from different Schools in the Virudhunagar District. During the Residential Training period, the fourth respondent was supposed to take care of the students by providing food, shelter and safety.

3.The learned counsel for the petitioner had contended that the petitioner's son was taking part in the Residential Training from 01.05.2013 to 15.05.2013 for a period of 15 days. On 07.05.2013 at about 11.00 a.m, the police attached to Solakkarai Police Station has informed that her son died by drowning in the pond situated inside the premises of the fourth respondent's training centre. The postmortem report reveals that the death is caused due to drowning in the water. The police authorities had registered a case in Crime No.183 of 2013 dated 07.05.2013 under Section 174 Cr.P.C, based upon the complaint given by the fourth respondent. However, the police authorities have not invoked various provisions for the willful negligence committed by the fourth respondent.

4.The learned counsel had further contended that around 90 students were taking part in the Residential Training and they were not provided with any of the safety measures and forced to take bath in the said pond situated in



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the fourth respondent's premises. While taking bath, her son got stuck into the clay and mud of the pond and died due to suffocation. He had further contended that it is the bounden duty of the fourth respondent to take care of the students who were kept in his custody and it is his duty to provide basic amenities while conducting the Training Programme. Due to the shock, the petitioner's husband has also passed away on 20.03.2014. Hence, the present writ petition.

5.The learned Government Advocate appearing for the official respondents had filed a counter admitting the conduct of the Residential Training programme from 01.05.2013 to 15.05.2013 and the participation of the writ petitioner's son in the said programme. According to the fourth respondent, the petitioner's son and another boy by name Alagu Narayanan without getting proper permission of the camp District Sports and Youth Welfare Officer, left the coaching camp and went to the pond in the stadium campus and while taking bath, he slipped down and drowned into the pond. On the information of Alagu Narayanan, the deceased was taken from the pond and sent to Government Hospital, Virudhunagar. Subsequently, it was learnt that without knowing swimming, the deceased went to the pond for taking bath. The fourth respondent had further contended that a financial assistance for a sum of Rs.1,00,000/- has been paid to the writ petitioner on



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02.01.2015 from the Chief Minister's Public Relief Fund. The said amount was paid to the mother of the deceased who is the petitioner in the writ petition.

6.The learned Government Advocate had further contended that the concerned fourth respondent was kept under suspension and a charge memo was issued on 22.05.2013 on the allegation that the fourth respondent had failed to provide security/safety measures to the camp students and committed the offence by not obeying the written circular. At the conclusion of the enquiry, the concerned fourth respondent was imposed with punishment of two increments cut and also he was transferred to Dindigul. Hence, he prayed for dismissal of the writ petition.

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

8.There is no dispute that the petitioner's son is one among the participants of the Residential Training for the Athletics which was conducted in the campus of the fourth respondent. It is also not in dispute that during the said training programme on 07.05.2013 at about 11.00 a.m, the petitioner's son had died due to drowning in a pond which is located within the campus of the fourth respondent. As against the concerned fourth respondent, a



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disciplinary action has already been initiated by the first respondent herein and he has been imposed with punishment of two increment cuts for a period of two years. The charges that were levelled as against the concerned fourth respondent was that he had failed to provide security/safety measures to the camp students and he had committed the offence of in subordination by not obeying the written circular order of Member Secretary, SDAT, Chennai.

9.The facts narrated in the counter affidavit filed by the present fourth respondent herein will clearly disclose that the State found that the concerned fourth respondent is guilty of negligence and they conducted a departmental enquiry and also imposed punishment as against the concerned fourth respondent. Since the first part of the prayer for initiating appropriate action as against the fourth respondent has already been complied with by the State authorities, no further action is necessary.

10.As far as the prayer for payment of compensation is concerned, the counter filed by the fourth respondent clearly discloses that the petitioner's son along with another student without getting proper permission of the Camp District Sports and Youth Welfare Officer, has left the coaching camp and went to the pond in the stadium campus and while taking bath, he slipped down and drowned into the pond. The said averment in the paragraph of the



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counter affidavit will clearly indicate that the pond is located within the stadium campus and while the deceased was taking bath, he had slipped down and drowned into the pond. It is not the case of the respondent authorities that the proper bath room facilities were available in the campus and unnecessarily, the petitioner's son had gone to the pond for taking the bath.

11.The learned counsel for the petitioner had relied upon a judgment of our High Court reported ***in (2014) 4 MLJ Page 26 (D.Narayanasamy Vs. The District Collector, Collectorate, Tiruvarur and others)*** Paragraph Nos. 21 and 22 are extracted as follows:

“21.....Admittedly, the camp was organised in a village. I do not know whether that village itself had toilet facilities. The third respondent has failed to plead specifically about the kind of toilet facilities provided at the camp site. The report of the Project Officer of N.S.S. dated 19.12.2008 confirms that the petitioner's son was not the only child to go out to ease in public. Other children had also gone out. Therefore, it is possible that all the children, who had gone to the camp site, did not have adequate facilities and that therefore, a few children had to go out.

22. When children are taken out of the school premises, especially to a remote place, the School Authorities are expected to exercise a much higher degree of care and caution than they are normally expected to exercise within the school campus. By allowing or at least by their failure to notice that a few children had gone out of



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the camp site to ease in a public place, the Educational Authorities have become guilty of negligence. To the extent that the Programme Officer of N.S.S., and the teachers, who accompanied the students, did not keep a watch on them, the Educational Authorities are guilty of negligence.”

12.A perusal of the above said judgement will clearly indicate the facts of the said case are similar to the case on hand. In the said case, the students have gone out to attend the nature's call while attending a N.S.S camp in a village. In the present case, the students have gone out to take a bath while attending a Residential Training programme for Athletics. When a pond is located within the stadium campus, the authorities should have carefully fence it or to kept a warning board. No such preventive action has been taken in the present case. It is also not the case of the respondent authorities that proper bath room facilities have been created inside the campus and there was no necessity for the students to go to the pond for taking bath. Hence, it is clear that the fourth respondent had been negligent in not taking care of the students by providing proper amenities. The fourth respondent was also negligent in not overseeing the students while they are attempting to take a bath in the pond which is located within the stadium campus. Since the facts alleging to the death of the student are not in dispute, the question of directing the petitioner to approach the competent civil Court does not arise.



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13. Therefore, there is no doubt that the State as well as the fourth respondent herein are obliged to pay compensation. The notional income of the petitioner's son could be taken at Rs.8,000/- per month. The age of the petitioner's son is 14 years and hence, the correct multiplier is 15. After deducting 50% towards his personal expenses, the monthly income would be Rs.4,000/- per month.

Total Loss of Income (Rs.4000X12X15)	= Rs. 7,20,000.00
Funeral Expenses	= Rs. 15,000.00
Loss of Filial Consortium	= Rs. 25,000.00

	Rs. 7,60,000.00

14. Accordingly, the writ petitioner is entitled to a sum of Rs.7,60,000/- towards total compensation with interest at 6% per annum from June 2013 onwards till the date of realisation. The respondents 1 to 4 are directed to pay the said amount with a period of twelve (12) weeks from the date of receipt of a copy of this order. The writ petition is allowed. No costs.

06.09.2022

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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