



W.P.(MD)No.2204 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2204 of 2017

T.Murugadass

... Petitioner

Vs

1.The Government of Tamil Nadu,
Represented by its Secretary,
Social Welfare Department,
Fort St.George, Chennai – 600 009.

2.Tamil Nadu Water Supply and Drainage Board,
Represented by its Chairman,
No.31, Kamarjar Salai, Chepauk,
Chennai – 600 005.

3.The District Collector,
Virudhunagar District,
Collectorate Complex,
Virudhunagar.

4.Block Development Officer,
Stichiyapuram, Sivakasi West,
Virudhunagar- 626 124.
(R.4 amended vide Court order
dated 13.02.2017 in W.M.P(MD)No.
2034 in W.P(MD)No.2204 of 2017)

... Respondents



W.P.(MD)No.2204 of 2017

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to disburse a compensation of Rs.2.00 lakhs to this petitioner owing to the death caused by the negligence of the officers of respondents 2 and 4.

For Petitioner : Mr.D.Dhana Chandra Prakash

For Respondents : Mr.M.Prakash
Additional Government Pleader for R.1 & R.3

Mr.R.Satheesh for R.2

Mr.T.S.Mohammed Mohideen for R.4

ORDER

Heard the learned counsel on either side.

2.The petitioner's son, namely, M.Shanmugam accompanied by three of his friends went to take bath on 31.08.2014 in their Village Oorani known as Vetrilaiyurani. All the four children drowned to death. The Government had paid a sum of Rs.50,000/- (Rupees Fifty Thousand only) as ex-gratia. The petitioner seeks enhancement of the same and wants a sum of Rs.2,00,000/- (Rupees Two Lakhs only) to be paid. The respondents have filed a detailed counter affidavit controverting the averments made in the affidavit filed in support of the writ petition.



W.P.(MD)No.2204 of 2017

3.The respondents can be directed to pay compensation only if it is established that they are guilty of negligence. Unless a finding of negligence can be arrived at, it is not possible for this Court to direct the respondents to pay any compensation. In this case, the children on their own had gone to the water body and taken bath. They had drowned. I can take judicial note of the fact that the tanks in the villages are meant for common use. The village people take bath in such water bodies. We cannot expect the local bodies to fence the same. The incident is truly unfortunate. But then, the respondents cannot be fastened with any negligence. Therefore, I am not in a position to grant relief to the petitioner. The writ petition is dismissed. It appears that the petitioner had declined to receive a sum of Rs.50,000/- (Rupees Fifty Thousand only) sanctioned by the Government. If it has not been already received by the petitioner, the first respondent is directed to make the said payment to the petitioner forthwith and without any delay. No costs.

06.07.2022

Index : Yes / No
Internet : Yes/ No
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To

1.The Secretary,
Government of Tamil Nadu,
Social Welfare Department,
Fort St.George,
Chennai – 600 009.



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W.P.(MD)No.2204 of 2017

G.R.SWAMINATHAN, J.

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2.The Chairman,
Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarjar Salai,
Chepauk,
Chennai – 600 005.

3.The District Collector,
Virudhunagar District,
Collectorate Complex,
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4.Block Development Officer,
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