



W.P.No.13970 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.13970 of 2019

Nirmala Balaji

... Petitioner

Vs.

1. The Secretary,
Department of Women and Child Development,
Government of India,
Shastri Bhavan, New Delhi – 110 001.
2. The District Collector,
Office of the District Collector,
1st Floor, Collectorate,
Kancheepuram District, Kancheepuram.
3. The Commissioner,
“SANGATHAN”,
Kendriya Vidhyalaya,
18, Institutional Area,
Shasheed Jeet Singh Marg, New Delhi – 110 016.
4. The Assistant Commissioner,
“SANGATHAN”,
Kendriya Vidhyalaya,
I.I.T. Complex,
Sardar Patel Road, Chennai.



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5. The Principal,
Kendriya Vidhyalaya No.2,
AFS Camp,
Selaiyur Post,
Chennai.

6. S.Jeyashankari

7. The Inspector of Police,
Selaiyur Police Station,
Tambaram,
Chennai – 600 073.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 to 5 to pay the compensation of Rs.25 Lakhs, as a relief to the petitioner's son, having lost his vision in the left eye.

For Petitioner	:	Dr.S.Manoharan
For Respondents	:	No appearance for R1 and R6 Mr.M.Alagu Gowtham Government Advocate for R2 & R7 Mr.M.Vaidhiyanathan for R3 to R5

ORDER

This Writ Petition has been filed for a direction to the respondents 1 to 5 to pay the compensation of Rs.25 Lakhs, as a relief to the petitioner's son, having lost his vision in the left eye.



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2. The case of the petitioner is that the petitioner's son who was studying in the 1st Standard 'D' Section in Kendriya Vidyalaya No.2, Airforce Station, Tambaram, Chennai was pocked on his left eye with a pencil by the fellow student one Master Bhuvanesh which affected the son of the petitioner vision permanently and her son became disabled permanently due to the negligence of the class teacher and the school authorities. Therefore, she made representation to the respondents to pay the compensation of Rs.25 Lakhs towards the grave injury sustained to her son during working hours of the School, but the same has not been considered. Hence, the petitioner has filed the present Writ Petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that immediately after the incident, the petitioner lodged a complaint before the Inspector of Police, Selaiyur, Chennai on 03.02.2019 against the School Administration, Class Teacher, Master Bhuvanesh and his parents. But so far, her complaint has not been registered, but only C.S.R.No.238 of 2019



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was given and no action has been taken by the respondent Police.

Admittedly, the petitioner's son and the sixth respondent's son, who are studying in the 1st Standard in the fifth respondent School, are fighting each other in front of the class teacher, as a result of which, the petitioner's son had lost his vision. But no steps have been taken by the class teacher to compromise them at the time of the incident, which is purely negligence on the part of the class teacher and the fifth respondent School. Hence, the petitioner sought for compensation for lost of her son's vision.

4. The learned counsel appearing for the respondents 3 to 5 would submit that the incident was purely accidental and unintentional, since the incident is no way be described as the teacher's negligence of duty. Moreover, if two students are fighting right in front of the teachers, the teachers would definitely take up the matter with the students and solve the problem. But, in this case the teacher was near the door and the students were far away from the teacher. Hence, there is no negligence on the part of the fifth respondent School.



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5. The learned Government Advocate appearing for the respondents 2 and 7 would submit that though the petitioner made a complaint before the Inspector of Police, the case was closed as a mistake of fact. If at all the petitioner has any grievance against the respondents 5 and 6, she has to approach the Competent Court for appropriate remedy. Without exhausting the same, the petitioner has approached this Court by filing the present Writ Petition is not sustainable one, accordingly he prayed for dismissal of the Writ Petition.

6. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

7. The facts in the present case are not in dispute. Admittedly, the petitioner's son and the sixth respondent's son who were studying 1st Standard in the fifth respondent School are fighting each other in front of the class teacher and the sixth respondent's son poked the eye of the petitioner's son with a pencil which affected the son of the petitioner vision



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permanently due to the negligence on the part of the class teacher and the school authorities. It is pertinent to note that the petitioner has not filed any proof before this Court to prove the negligence on the part of the fifth respondent School. However, the fact remains that it is purely a disputed question of fact in between the petitioner and the respondents 5 and 6 and it has to be resolved only by the Competent Civil Court. Without exhausting the same, filing the present Writ Petition under Article 226 is not entertainable and hence, the prayer sought for in the Writ Petition cannot be granted.

8. Accordingly, this Writ Petition is dismissed in the above terms. However, liberty is granted to the petitioner to approach the competent Civil Court to work out her remedy in the manner known to law. No costs.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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