



WEB COPY

W.P.No.38690 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 11.04.2023**

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**W.P.No.38690 of 2016**

G.Vadivelu

... Petitioner

Vs.

1.The Secretary,  
Ministry of Home Affairs,  
Parliament House,  
New Delhi.

2.The Principal Secretary,  
Department of Home,  
Government of Tamil Nadu,  
Fort St. George,  
Chennai – 600 009.

3.The District Collector,  
Vizhupuram,  
Vizhupuram District.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the record pertaining to the impugned order No.Na.Ka.Pe.Me /7621/2016 dated 31.08.2016 of the 3<sup>rd</sup> respondent and consequently direct the respondents to grant relief under Natural Disaster Relief Fund to the petitioner, as announced by the respective Governments.



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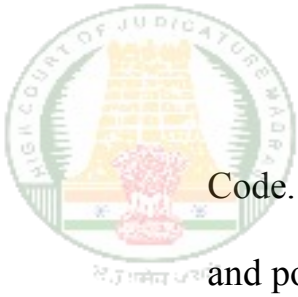


|                |                                                                                                                   |
|----------------|-------------------------------------------------------------------------------------------------------------------|
| For Petitioner | : Mr.S.T.Varadarajulu                                                                                             |
| For R1         | : Mr.A.R.Sakthivel<br>Senior Panel Counsel                                                                        |
| For R2 & R3    | : Mr.P.Kumaresan<br>Additional Advocate General<br>Assisted by Mr.S.Ravichandran<br>Additional Government Pleader |

### **ORDER**

The order dated 31.08.2016 passed by the District Collector, Vizhupuram is under challenge in the present writ petition.

2. The petitioner states that his mother Vembayee died on account of collapse of wall during 2015 flood and therefore, under the Government Scheme, the family of the deceased is entitled for compensation. The petitioner states that during November 2015, due to heavy down pour in that area, it flooded the entire village was flooded on 09.11.2015. Around 09:30 a.m. the mud wall of the hut collapsed and fell down on the mother of the petitioner, who was sleeping near the wall. She died subsequently. The petitioner and the family members informed the police, who in turn registered F.I.R. in Crime No.625 of 2015 under Section 174 of Criminal Procedure



Code. The dead body was taken to Vizhupuram Medical College Hospital and post-mortem was done on 11.11.2015.

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3. The learned counsel for the petitioner states that the Village Administrative Officer (VAO) had given a report stating that the death occurred due to collapse of wall and therefore, the petitioner is entitled for compensation. That apart, the Village Panchayat also certified that the petitioner is entitled to receive compensation under the Government Scheme.

4. The learned Additional Advocate General appearing on behalf of the State objected the said contentions by stating that the District Collector conducted an enquiry by summoning the Village Administrative Officer (VAO) and the other persons connected. A detailed enquiry was conducted by the District Collector, which resulted in passing of the impugned order dated 31.08.2016, which is under challenge in the present writ petition.

5. The findings of the District Collector unambiguously reveal that the Village Administrative Officer (VAO) without proper enquiry and without even seeing the dead body had given a wrong certificate. However, the



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District Collector during the course of enquiry considered the post-mortem report and the statement of the other persons and formed an opinion that there was no external or internal injury in the body of the mother of the petitioner. If the person had died due to wall collapse, then definitely there would be injuries on the person's body. But no injuries were found on the person's body. As per the post-mortem certificate, it establishes the fact that the person did not die due to wall collapse. Recording the reasons based on the post-mortem report and the statement of the other persons, the District Collector rejected the claim of the writ petitioner.

6. If at all the petitioner has to disprove the reasoning given by the District collector in the impugned order, he has to establish his case in the manner known to law. Therefore, the petitioner is at liberty to pursue the remedy by establishing his case with reference to documents and evidences. As of now the enquiry conducted by the District Collector reveals that there is no proof to establish that the death of the mother of the petitioner occurred due to the wall collapse. That being the factum, the relief of compensation in a writ proceeding cannot be granted and the petitioner is at liberty to work out the remedy for compensation in the manner known to law.



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7. If at all the petitioner initiates any further action, then the said action cannot be rejected merely on the ground of delay, since the writ petition was pending before the high Court.

8. Accordingly, this Writ Petition stands disposed of. No costs.

**11.04.2023**

Jeni

Index : Yes

Speaking order

Neutral Citation : Yes

To

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**S.M.SUBRAMANIAM, J.**

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