



WEB COPY



W.P.Nos.20558 & 20560 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.Nos.20558 & 20560 of 2023 &

WMP.No.19939 & 19941 of 2023

Gobiramakrishnan

... Petitioner in W.P.No.
20558 of 2023

Satheesh

... Petitioner in W.P.No.
20560 of 2023

Vs

1. Government of Tamilnadu

Rep. by Secretary [Public Law and Order-A] Department,
Chennai.

2. The Additional Director General of Police and

Inspector General of Prison,
Tamilnadu Prison Department,
Egmore, Chennai.

3. The Superintendent of Prison,

Central Prison, Coimbatore.

...Respondents in both WPs

Prayer:- Writ Petitions filed, under the Article 226 of Constitution of
India, to issue a Writ of Certiorarified Mandamus to call for the records



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passed by the third respondent in its proceedings No.8338/Po4/2023 dated 08.06.2023 to quash the same and consequently direct the third respondent to conduct proper enquiry in Sakthivel death.

For Petitioners : Mr.V.T.Narendran
in both WPs for Ms.A.Poonkodi

For Respondents : Mr.V.Jeevagiridharan
in both WPs Additional Government Pleader

COMMON ORDER

These Writ Petitions have been filed challenging the impugned notice in No.8338/Po4/2023 dated 08.06.2023 to show cause as to why a sum of Rs.1,50,000/- should not to be recovered from each of the petitioners and consequently direct the third respondent to conduct proper enquiry in Sakthivel death.

2. The brief background of facts of the case is as follows :

One Prisoner by name Sakthivel was arrested for the offences under sections 302, 307, 394 read with 397 of IPC. Originally the said prisoner was lodged in Sub Jail, Tiruppur on 01.01.2021 and thereafter, he was



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shifted to Central Prison, Coimbatore on 27.01.2021 and has been lodged in Tower 9th block. On 03.02.2023 at about 4.20 hours, the said prisoner attempted to commit suicide by hanging himself by using cotton dhoti in the iron grill. The same has been noticed by the duty warden and immediately the prisoner was rescued and rushed to the hospital. However, he was declared dead in the Medical College Hospital, Coimbatore. The Magisterial enquiry is also conducted and the Judicial Magistrate No.III, Coimbatore has conducted enquiry and found that the prisoner died due to suicide by hanging. The medical evidence also substantiate the same. In the meanwhile, taking cognizance of the death of the prisoner inside the prison, the National Human Rights Commission has recommended for adequate compensation. Pursuant to the above recommendation by the National Human Rights Commission, the Government has passed an order in G.O.Ms.No.321 dated 24.05.2023 released a sum of Rs.3,00,000/- as financial aid to the next kin of the deceased. While passing the Government Order, it directed that the amount should be recovered from the concerned prison officials, who are negligent and lapse in security. Based on the above



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Government Order, impugned show cause notice has been issued to the petitioners to show cause as to why the said Rs.3 lakhs should not be recovered from the writ petitioners. Challenging the same, the present Writ Petitions have been filed.

3. Counter has not been filed by the respondents. However G.O.Ms.No.321 dated 24.052023 has been produced before this by the learned Additional Government Pleader.

4. A perusal of the above Government Order, it is seen that it directed recovery of the amount from the concerned officials. When the Government itself has policy to release compensation upto Rs.3 lakhs to the eligible next kin of the deceased who died in jail, clothing the liability on the persons who are unconnected to the incident or cause of death of the prisoner is without any basis. Infact, the show cause notice is predetermined to recover the amount from the writ petitioners, without conducting any enquiry in this regard.



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5. Admittedly, the prisoner has committed suicide inside the cell at 4.02 a.m. Once, the lock up is closed, normally the keys will be with the jailer. Such being the position, a prisoner making an attempt to commit suicide inside the lock up, when the key of the lockup is not with the security or with the warden, they cannot be held liable for the suicide committed by the prisoner himself. Even the Judicial Magistrate in the enquiry has found that it is only a clear case of suicide and medical evidence also substantiate the same. Such being the position, without any materials to cloth the liability, particularly, as to the negligence on the part of the writ petitioners, the order directing recovery of the amount from the petitioners cannot be sustained in the eye of law.

6. Accordingly, these Writ Petitions are allowed and the impugned order passed by the first respondent dated 24.05.2023 is set aside. Consequently, connected miscellaneous petitions are closed. No costs.

30.08.2023

Index:Yes/No

Neutral Citation : Yes/No

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To,

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N.SATHISH KUMAR, J.

VTC

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