



WEB COPY



WP No.873 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2023

CORAM

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.873 of 2020

Shenbagam

... Petitioner

Versus

1. The Secretary,
Health Department,
St. Fort George,
Chennai – 600 009.
2. The District Health Officer,
District Health Office,
Vellore District, Vellore.
3. Dr.Deepa
4. Dr.N.Shanmugaiah (Retd.)

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 1st and 2nd respondents to take necessary action against the 3rd and 4th respondents and directing the respondents to pay an adequate compensation.

For Petitioner : Mr.T.Sivagnanasambandan

For Respondents : Mr.U.Baranidharan
Additional Govt. Pleader [R1 to R3]



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ORDER

This petition has been filed seeking a direction to the 1st and 2nd respondents to take necessary action against the 3rd and 4th respondents and directing the respondents to pay an adequate compensation.

2. The case of the petitioner is that she has two male children and therefore, she underwent family planning operation while giving birth to the second child. However, again the petitioner become pregnant. Therefore, the petitioner issued notice to the respondents to pay compensation for deliberate negligence and carelessness on the part of the 4th respondent. Since the same is not considered and hence, the present writ petition has filed.

3. The learned counsel for the petitioner submitted that in similar situation, this Court passed an order directing the respondents therein to pay a sum of Rs.3,00,000/- to the mother, who delivered a baby even after the birth control operation. The said order will applicable in the present case also. Therefore, this Court may direct the respondents to pay suitable compensation to the petitioner within the stipulated time as fixed by this Court.



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4. The learned Additional Government Pleader appearing on behalf of the respondents submitted that the respondents therein has filed writ appeal before this Court and the said order has been stayed by this Court. However, in the event of failure of the operation, the State Government will pay a sum of Rs.60,000/- as compensation to the affected persons.

5. Heard the learned counsel on either side and perused the materials available on record.

6. In such view of the matter, the petitioner is entitled to get compensation for a sum of Rs.60,000/- (Rupees Sixty thousand only) in terms of G.O.Ms.No.173, dated 31.05.2022, Health & Family Welfare Department. Considering the facts and circumstances of the case, this Court directs the first respondent to pay a sum of Rs.30,000/- along with interest at the rate of 6% from the date of failure of operation i.e. 2013 to till date and also to pay another sum of Rs.30,000/- as compensation, without interest, to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.



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7. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed. However, liberty is granted to the petitioner to work out her remedy before the civil Court for enhancement of compensation in the manner known to law.

24.04.2023

Index : Yes/No

rli

To

1. The Secretary,
Health Department,
St. Fort George,
Chennai – 600 009.
2. The District Health Officer,
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Vellore District, Vellore.



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