



W.P.(MD)Nos.14580, 11794, 9926 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)Nos.14580, 11794 and 9926 of 2020

and

W.M.P.(MD).No.8884 of 2020

W.P.(MD)No.14580 of 2020

Nagaraj

Vs

... Petitioner

- 1.The State of Tamil Nadu,
represented by its Secretary,
Public Works Department,
Secretariat, St.George Fort, Chennai.
- 2.The Secretary,
Geology and Mining Department,
Secretariat, St.George Fort, Chennai.
- 3.The Director,
Geology and Mining Department,
Chennai.
- 4.The District Collector,
Karur District, Karur.
- 5.The Chief Executive Engineer,
Public Works Department,
River Protection Division,
Kaveri River,
Trichy.



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6.The Superintending Engineer,
Public Works Department,
River Protection Division,
Kaveri River,
Trichy.

7.The Executive Engineer,
Public Works Department,
River Protection Division,
Kaveri River, Trichy.

8.The Revenue Divisional Officer,
Karur District,
Karur.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to provide compensation for death of the petitioner's son, namely, Prabhakaran, S/o Nagaraj, aged 24 years for negligence on the part of the respondents.

W.P.(MD)No.11794 of 2020

Senthilkumar

Vs

... Petitioner

1.The State of Tamil Nadu,
represented by its Secretary,
Public Works Department,
Secretariat, St.George Fort,
Chennai.

2.The Secretary,
Geology and Mining Department,
Secretariat, St.George Fort,
Chennai.



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3.The Director,
Geology and Mining Department,
Chennai.

4.The District Collector,
Karur District,
Karur.

5.The Chief Executive Engineer,
Public Works Department,
River Protection Division,
Kaveri River,
Trichy.

6.The Superintending Engineer,
Public Works Department,
River Protection Division,
Kaveri River,
Trichy.

7.The Executive Engineer,
Public Works Department,
River Protection Division,
Kaveri River, Trichy.

8.The Revenue Divisional Officer,
Karur District,
Karur.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to provide compensation for death of the petitioner's son, namely, Naveenkumar, S/o Senthilkumar aged 18 years for negligence on the part of the respondents.



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W.P.(MD)No.9926 of 2020

Devaraj

... Petitioner

Vs

- 1.The State of Tamil Nadu,
represented by its Secretary,
Public Works Department,
Secretariat, St.George Fort,
Chennai.
- 2.The Secretary,
Geology and Mining Department,
Secretariat, St.George Fort, Chennai.
- 3.The Director,
Geology and Mining Department,
Chennai.
- 4.The District Collector,
Karur District,
Karur.
- 5.The Chief Executive Engineer,
Public Works Department,
River Protection Division,
Kaveri River, Trichy.
- 6.The Superintending Engineer,
Public Works Department,
River Protection Division,
Kaveri River,
Trichy.
- 7.The Executive Engineer,
Public Works Department,
River Protection Division,
Kaveri River, Trichy.



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8. The Revenue Divisional Officer,
Karur District,
Karur.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pursuant to the impugned order of the seventh respondent in his proceeding in Ka.ditha.An.Na.Ka.1044/2019/Tha6/Dated:08.07.2019 and quash the same consequently direct the respondents to provide compensation sum of Rs.26,00,0000/- (Rupees Twenty Six Lakhs) with 9% interest for death of the petitioner's son, namely, Purusothaman S/o Devaraj, aged 17 years for negligence on the part of the respondents.

For Petitioner : Mr.S.Gokulraj

For R-1 to R-8 : Ms.D.Farjana Ghoushia
Special Government Pleader
(In all Writ Petitions)

COMMON ORDER

The issue involved in all the three Writ Petitions are common and hence, they are taken up together, heard and disposed of through this common order.

2. W.P.(MD).No.9926 of 2020 has been filed by one Devaraj challenging the impugned order passed by the Executive Engineer, Public



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Works Department, through proceedings dated 08.07.2019 and for a consequential direction to the respondents to pay compensation for the demise of his son, Purusothaman, aged 17 years.

3. W.P.(MD).No.14580 of 2020 has been filed by one Nagaraj for the issue of writ of mandamus seeking for a direction to the respondents to pay compensation for the demise of his son, Prabhakaran, aged 24 years.

4. W.P.(MD).No.11794 of 2020 has been filed by one Senthilkumar seeking for compensation from the respondents for the demise of his son, Naveenkumar, aged about 18 years.

5. The case of the petitioners is that there was a temple festival that took place during the month of March 2019 and as a tradition during this festival, holy water is taken from the Kaveri River. The sons of the petitioners went to Kaveri River for taking holy water and they died due to drowning near Avudiyar Bridge at the time of taking the water. The petitioners have alleged that illegal sand quarrying had taken place and as a



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result, huge pits dug up to 30 to 40 feet was left behind near Avudiyar Village and as a result, there was water turbulence in these pits which resulted in the boys drowning in the water on the fateful day. Therefore, according to the petitioner, the entire incident had taken place due to the negligence on the part of the respondents in not taking action against illegal mining and therefore, the petitioners have sought for payment of compensation from the respondents.

6. The counter affidavits have been filed in these writ petitions. The respondents have taken a stand that there are specific place where persons were allowed to take bath with sufficient safeguards. According to the respondents, there was no quarrying operation and that the sons of the petitioners had entered into the river in a place not notified for taking bath and as a result, they drowned and died and therefore, there was no negligence on the part of the respondents.

7. Heard the learned counsel appearing for the petitioners and learned Special Government Pleader appearing for the respondents.



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8. In the instant case, this Court has to necessarily take note of the Judgment of the Division Bench of this Court in W.P.(MD).Nos.4251 of 2017, etc batch, dated 16.02.2018. The Division Bench of this Court was considering the illegal quarrying that was taking place in the Kaveri River at Karur and Tiruchirappalli District. In the batch of Writ Petitions, there were also cases where there was drowning in the Kaveri river without noticing the huge pits that were dug to the depth of 30 to 40 feet as a result of illegal quarrying. The Division Bench of this Court took up the issue very seriously and appointed the Court Commissioners to inspect and to submit the report. The Court Commissioners were directed to inspect the following places.

“We appoint Mr.R.Alagumani (Enrl.No. 1461/1997), Advocate, Chamber No.82, Law Chamber, High Court, Madurai, Cell No. 9842177806; Mr.B.Saravanan, Advocate, No.22, High Court, Madurai, Cell No.9443716952; and Prof.Dr.Ravichandran, Head of the Department, Plant Science and Environment, Manonmaniam sundaranar University, Tirunelveli, as Advocate Commissioners to inspect the mining areas namely, Mayanur, Kulithalai, Sinthalavadi,



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Silaipilariyaputhur, Karakadu, Manamedu, Musiri (West), Pettaivaithalai, Panaiyarkurichi, Kariyamanickam, Kiliyanallur, Thiruvasi, Kodaiyampettai, Viragalur, Alampatti in the District of Trichy, Koviladi, Vittalapuram, Nadupadudukai in the District of Tanjore. Incase, we have omitted to mention any of the mining areas in the above three Districts, it is open to the concerned Counsel for the parties to give work memo to the Advocate Commissioners for inspection and report about the physical features and extent of mining.”

9. The Court Commissioners conducted the inspection and submitted comprehensive reports to the effect that there was excess quarrying by the Public Works Department and there was also illegal quarrying by the sand mafia. For appropriate appreciation, relevant portions in the Judgment in this regard are extracted hereunder.

“Illegal Mining

26. The Court Commissioners have inspected all the sand quarrying sites and given a status report with respect to the present position



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of the river bed. The Commissioners have reported that the illegal sand mining has been undertaken in many places and the authorities are silent spectators.

a) In respect of the quarrying at Thirukampuliyur, it was reported that illegal sand mining is taking place very near to the water project and the same is allowed to go unchecked.

b) The inspection of the illegal quarry at Sinthalaivaadi shows that there were several roads formed inside the river which ultimately lead to the illegal sand mining of unbelievable proportion. The roads running for several kilometers connecting the abandoned quarry and the illegal quarry remain motorable without steps being taken for dismantling.

c) The inspection of the permitted quarry at Sinthalaivaadi also showed that natural course of the river water has been artificially altered in order to mine sand from the quarry.

d) The inspection at Sirugamani quarry made the Commissioners to report that the sand mining has been done extensively and beyond the permitted area and the depth of excavation had crossed the permitted limit of one meter.



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e) *The mining plan with regard to Kulithalai was granted even without conducting spot inspection. The licensee obtained the mining permission by giving incorrect particulars.*

f) *The Court Commissioners found considerable damage caused to the river on account of the sand quarrying at Nanjaikadambankurichy quarry site. According to the Commissioners, damage caused to the river and the site is irreparable and the replenishment would take decades to restore the river to its original position.*

g) *The Court Commissioners submitted that Nanjai Thottakurichi quarry site shall be banned to avoid future quarrying and to enable replenishment. The Commissioners have recommended to dismantle the road running inside the river connecting Thottakurichi with Kadambakurichi.*

h) *The inspection of Unniyur permit quarry made the Commissioners to report that the Public Works Department has quarried more than the permitted extent.*

27. Similar reports were submitted with regard to the other quarries adjoining River Cauvery and Coleroon.”



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10. The Division Bench after being satisfied that there is large scale illegal mining, issued various directions to stop the illegal mining and for a foolproof system of mining in an ecologically, friendly and environmentally suitable manner.

11. The Division Bench also dealt with the payment of compensation for the death of a boy aged about 19 years who was caught in one of the pits while bathing and drowning. The Court took into consideration the fact that this drowning had taken place in one of those areas where there was illegal mining and therefore, the State was made vicariously liable for the negligence and the State was directed to pay compensation to the father of the deceased.

12. The above Judgment of the Division Bench becomes very relevant in these writ petitions, since the present writ petitions pertain to drowning of the sons of the petitioners at Avudiyar Bridge, Kaveri River at Karur District. The learned counsel for the petitioners submitted that this place is situated very near to the places where this Court had identified



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illegal quarrying operations in the Kaveri River running through Karur District.

13. The petitioners have made representations to the respondents seeking for compensation. Hence, it is the duty of the concerned Authority to deal with these representations in the light of the Judgment rendered by the Division Bench and take a decision within the time frame fixed by this Court. Even in the counter affidavit that has been filed in these writ petitions, it is seen that the representations made by the petitioners have been acted upon and a report has already been submitted and it is pending before the District Collector. The State has to take into consideration the fact as to whether the demise of the boys had taken place due to the illegal sand mining that had taken place in the place where they had drowned. This Court expects the State to act in a fair manner by keeping in mind the Judgment of the Division Bench referred supra. Insofar as W.P.(MD).No.9926 of 2020, this Court is not satisfied with the reasons assigned in the impugned order passed by the seventh respondent and the same is hereby set aside.



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14. In the light of the above discussion, there shall be a direction to the petitioners to submit a fresh representation to the District Collector, Karur District, along with all the relevant documents and also a copy of this order. The District Collector is directed to obtain a report from the concerned authorities and act upon the representation in line with the Judgment of the Division Bench referred supra. The compensation amount that is determined shall be paid to the petitioners within a period of four (4) months from the date of receipt of a copy of this order.

15. These writ petitions are disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

05.10.2023

NCC:yes/no
Index:yes
Internet:yes/no
tsg

To
1.The Secretary,
the State of Tamil Nadu,
Public Works Department,
Secretariat, St.George Fort,
Chennai.



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N.ANAND VENKATESH, J.

tsg

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