



**W.P.(MD) No.16453 of 2020**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED: 06.10.2023**

**CORAM**

**THE HON'BLE MR.JUSTICE N.ANAND VENKATESH**

**W.P.(MD) No.16453 of 2020**

V.Mary

... Petitioner

**Vs**

1. The District Collector,  
O/o.The District Collector,  
Madurai Dist.

2. The Chief Educational Officer,  
O/o.The Chief Educational Office,  
Madurai.

3. The District Educational Officer  
O/o.The District Educational Office, Madurai.

4. Headmistress,  
Sri Meenakshi Womens Higher Secondary  
School, Pallar Illam, Karadikall Post,  
Thirumangalam Taluk, Madurai Dist.

5. The Correspondent,  
Sri Meenakshi Womens Higher Secondary  
School, Pallar Illam, Karadikall Post,  
Thirumangalam Taluk, Madurai Dist.

... Respondents



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**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 4<sup>th</sup> and 5<sup>th</sup> respondents to pay a sum of Rs.25.00 Lakhs for future treatment and for future life of petitioners daughter Sudha on the basis of her representation dated 24.9.2020.

For Petitioner : Mr.K.P.Ramesh  
For Respondents : Mr.P.Thambidurai for R1 to R3  
Government Advocate  
Mr.J.Devasenar for R4&R5

### **ORDER**

This writ petition has been filed for a writ of mandamus directing the 4<sup>th</sup> and 5<sup>th</sup> respondents to pay a sum of Rs.25.00 Lakhs as compensation for the grievous injuries sustained by the daughter of the petitioner based on the representation dated 24.9.2020.

2.Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3.The case of the petitioner is that her daughter was studying in 10<sup>th</sup> standard in the 5<sup>th</sup> respondent school and was staying in the hostel. According to the petitioner, her daughter was made to clean the water tank of the school, which is situated at a height of 22 feet and at the time



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of opening the cover of the water tank, the petitioner's daughter has lost her balance and fell down resulting in serious spinal cord injuries and other injuries sustained all over the body. The daughter of the petitioner was admitted in a private hospital and she was taking continuous treatment and she was bedridden in view of the spinal cord injuries.

4. The grievance of the petitioner is that the incident had taken place due to the gross negligence on the part of the 4<sup>th</sup> and 5<sup>th</sup> respondents and hence, the petitioner has sought for payment of compensation against the 4<sup>th</sup> and 5<sup>th</sup> respondents.

5. The 4<sup>th</sup> and 5<sup>th</sup> respondents have filed a counter affidavit and they have denied the entire allegations made by the petitioner and they have come up with a very specific stand that the daughter of the petitioner had attempted to commit suicide and therefore she had jumped from the water tank and sustained injuries.

6. The official respondent, namely, the third respondent has taken a stand that an enquiry was conducted after the incident took place



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and it was found that the daughter of the petitioner had attempted to commit suicide and that she was never made to clean the water tank as alleged by the petitioner. It is also brought to the notice of this Court that the school had paid a sum of Rs.4,25,000/- to the petitioner on humanitarian grounds and therefore, according to the contesting respondents, the entire case of the petitioner is an afterthought only to arm-twist and recover more money from the school.

7. This Court has carefully considered the submissions made on either side and perused the materials available on record.

8. The learned counsel on either side relied upon various materials to substantiate their respective stand taken in this writ petition. This Court, exercising its jurisdiction under Article 226 of the Constitution of India, cannot go into the disputed questions of facts and more particularly, while deciding the case involving payment of compensation. It is true that there is no total taboo to invoke the jurisdiction under Article 226 of the Constitution seeking for compensation on account of negligence. However, while deciding such a



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case, the Apex Court had repeatedly held that the Court must not get into the disputed questions of facts and it will be safer to leave the parties to agitate before the competent civil Court. Only in a case where the facts are quite clear and it does not require any appreciation of evidence, this Court will exercise its jurisdiction and issue directions for payment of compensation.

9. In the instant case, there are two contradictory versions given by the respective parties regarding the incident. The petitioner has come up with a case that her daughter was made to clean the water tank and at that time, she slipped and fell down and sustained serious injuries. On the other hand, the 4<sup>th</sup> and 5<sup>th</sup> respondents have come up with a theory, where, according to them, the daughter of the petitioner attempted to commit suicide. The official respondent, who is said to have conducted an enquiry, has also concurred with the stand taken by the 4<sup>th</sup> and 5<sup>th</sup> respondents. In view of the same, it will not be proper for this Court to assess the different stands that have been taken in this writ petition.



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10. This case definitely requires appreciation of evidence and therefore, the appropriate Court to deal with the same will be the competent civil Court, which will have the advantage of recording evidence and appreciating the evidence and thereafter take a considered decision as to whether there was any negligence on the part of the 4<sup>th</sup> and 5<sup>th</sup> respondents. This exercise cannot be done in this writ petition. In view of the same, the relief sought for by the petitioner in this writ petition cannot be granted. However, liberty is given to the petitioner to work out her remedy before the competent civil Court and proceed further in accordance with law. The time spent before this Court by filing this writ petition can be taken into account under Section 14 of the Limitation Act, in order to get over the period of limitation in filing the suit. Except giving this clarity, no further orders can be passed. Accordingly, this writ petition is disposed of. No costs.

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Index : Yes/No  
NCC : Yes/No  
RR



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**N.ANAND VENKATESH, J.**

**RR**

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