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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.10.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.3111 of 2021

and

W.M.P.(MD)Nos.2488m 2489, 2491 and 2493 of 2021

M.Shanthi

... Petitioner

vs.

1.State of Tamilnadu, represented by
The Principal Secretary,
Municipal Administration and Water Supply Department,
State of Tamilnadu, State Secretariat,
Fort St.George, Chennai-600 009.

2.State of Tamilnadu, represented by
The Principal Secretary,
Health and Family Welfare Department,
State of Tamilnadu, State Secretariat,
Fort St.George, Chennai-600 009.

3.The District Collector,
Office of the District Collector, Madurai- 625 002.

4.The Commissioner of Police, Madurai City,
1/165, Alagar Kovil Main Road,
K.K Nagar, Reserve Line, K.Pudur, Madurai- 625002.

5.The Commissioner,
Madurai Corporation, Aringnar Anna Maligai,
Outpost, Thallakulam, Madurai- 625002.

1/7



6. The Dean,
Madurai Government Rajaji Medical College Hospital,
Government Rajaji Hospital, Madurai- 625020.

7. Ponram

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents No.1, 5 and 7 to pay fair and reasonable amount of compensation for the petitioner and her family for the injury sustained by the husband of the petitioner during his corona disinfection work which was caused due to the negligence of the respondents in accordance with law within the time stipulated by this Court.

For Petitioner	:Mr.R.Alagumani
For R1 to R3 and R6	:Mr.B.Sarsavanan Additional Government Pleader
For R5	:Mr.S.Vinayak
For R4	:Mr.R.Sivakumar Government Advocate (Crl.side)

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus directing the Madurai Corporation to pay compensation for the eye injury sustained by the husband of the petitioner due to the negligence on the part of the Corporation.



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2.The case of the petitioner is that her husband is working with Madurai Corporation. On 17.11.2020, the husband of the petitioner was assigned the job to sanitize and disinfect in a particular area. When the husband of the petitioner opened the container containing concentrated ‘Lyzol IP’, the chemical struck the eyes of the petitioner's husband and it also splashed on his upper body. As a result, the husband of the petitioner suffered chemical injuries and loss of eye site. According to the petitioner, the husband of the petitioner was made to carry out the sanitization and disinfection work without proper safeguards. Hence, the petitioner is seeking compensation on the ground that there was negligence on the part of the respondents.

3.The fifth respondent has filed a counter affidavit. In the counter affidavit, the fifth respondent has taken a stand that all the contract workers engaged in the sanitization work were provided with mask, eye glass and gloves. Therefore, if the husband of the petitioner was also engaged in that work, he would also have been provided with such protective gears. That apart, the husband of the petitioner did not suffer



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complete loss of eye site, since he was present for work after five days from the date of incident and he has also received salary and he continuous to work in the Corporation. That apart, on humanitarian ground, the husband of the petitioner was also given assistance, when he was treated in the hospital. Hence, the fifth respondent has sought for dismissal of this Writ Petition.

4.Heard Mr.R.Alagumani, learned Counsel appearing for the petitioner, Mr.B.Sarsavanan, learned Additional Government Pleader appearing for respondents 1 to 3 and 6, Mr.S.Vinayak, learned Counsel for the fifth respondent and Mr.R.Sivakumar, learned Government Advocate (Crl.side) appearing for the fourth respondent.

5.In the considered view of this Court, there is serious dispute of facts and this Court cannot go into the disputed questions of facts in a Writ Petition. This Court is not doubting the fact that the husband of the petitioner had sustained injuries. However, the question is whether such injuries were due to negligence on the part of the respondents. The petitioner is coming with one set of facts and the fifth respondent has



come with another set of facts disputing the claim made by the petitioner.

This cannot be decided in a Writ Petition and if at all, the injury was sustained due to negligence on the part of the Corporation, it can only be established before a competent Civil Court by adducing evidence. The matter necessarily requires appreciation of evidence and that exercise cannot be done in a Writ Petition.

6. In view of the above, liberty is granted to the petitioner to workout her remedy before competent Civil Court and seek for compensation. Except giving this liberty, no further orders can be passed in this Writ Petition and accordingly, this Writ Petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
NCC : Yes/No

11.10.2023

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