



WP (MD) No.5162 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2023

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CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP (MD) No.5162 of 2016

and

WMP (MD) No.4617 of 2016

S.Poonkothai

Vs

... Petitioner

1.The District Collector,
Collectorate,
Thanthonimalai Post,
Karur.

2.Revenue Divisional Officer,
Karur.

3.The Additional Director of Panchayat,
Office of the Collectorate,
Karur.

4.The Block Development Officer,
Village Panchayats,
Karur Panchayat Union,
Vennaiimalai,
Karur.

5.The President,
Kathaparai Panchayat,
Vennaiimalai,
Karur.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus, directing the respondents to follow GO.Ms.No.33, dated 02.03.2016 issued by the Rural Development and Panchayat Raj(PR-1) Department in letter and spirit without illegally threatening the petitioner of facing either lock and seal of the premises at Sri.Karia Kalimman plastics in NO.228/a, Arumugam Nagar, Kadhaparai, Vennaimalai, Karur or by seizure of the article inside the premises in a hurried manner without following the principles of natural justice.

For petitioner : Mr.V.Balaji

For Respondents : Mr.A.Kannan,

Additional Government Pleader

ORDER

This writ petition is filed for a writ of mandamus, directing the respondents to follow the government order in GO.Ms.No.33, dated 02.03.2016 issued by the Rural Development and Panchayat Raj (PR-1) Department in letter and spirit without illegally threatening the petitioner of facing either lock and seal of the premises at Sri.Karia Kalimman plastics in NO.228/a, Arumugam Nagar, Kadhaparai, Vennaimalai, Karur or by seizure of the article inside the premises.



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2.The learned Counsel for the petitioner submits that this petitioner is the owner of the firm Sri.Karia Kalamman Plastics. Her husband one Sekar is doing similar business at Vengamedu, Karur namely Abi Plastics. The petitioner's husband Sekar availed the services of one Balakrishnan for cleaning the septic tank and while executing the work the said Balakrishnan and Sankar Dhyal died. On the complaint of one Mariappan and the deceased Balakrishnan wife Chitra, a criminal case was registered against this petitioner's husband on the file of the Inspector of Police, Vengamedu Police Station, Karur in Crime No.279 of 2015 for the offence under Section 304(A) (2 counts) and under Section 3(1)(j) and 3(2) (va) of SC/ST (POA) Act, 2015.

3.The learned Counsel further submits that based on the complaint of the 4th respondent, the 5th respondent sent a notice to the petitioner's husband to pay a compensation of Rs.10 Lakh to the family of the deceased and the petitioner has also sent a reply on 03.03.2010. Even after the receipt of the reply, the 4th respondent issued further



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notice in Na.Ka.No.A4/375/2016 dated 05.03.2016 along with GO.Ms.No.33 Rural and Panchayat Development and Panchayat Raj (PR-1) Department dated 02.03.2016 calling upon the petitioner and her husband to pay a sum of Rs.10 Lakh to the family of the deceased. As per the said Government Order, the respondents are not entitle to take any coercive steps of locking and sealing or seizing the materials available in the premises. Further the 4th respondent has taken steps to recover Rs.10 Lakh from this petitioner. Therefore, this writ petitioner has filed this writ petition for implementation of the above said government order, dated 02.03.2016. The learned Counsel further submits that the criminal case registered in Crime No.279 of 2015 was tried by the learned Principal Sessions Judge, Karur in SC.No.22 of 2017 and all the accused were acquitted of the charges by judgment and decree dated 28.11.2017.

4.Per contra, the learned Additional Government Pleader by referring the counter filed by the 4th respondent submits that as per Section 7 of the Prohibition of the Employment



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as Manual Scavengers and their Rehabilitation Act, 2013 no person, local authority or any agency shall from such date as the state government as may notify, engage or employ, either directly or indirectly, any person for hazardous cleaning of a sewer or a septic tank. In this case, the petitioner engaged manual scavengers for cleaning the septic tank in their company premises against the provisions of the said Act and while executing the work, two persons died. Therefore, as per the dictum laid down by the Hon'ble Supreme Court in WP(Civil) No.583 of 2033 dated 27.03.2014 and on the directions of the District Collector / District Magistrate concerned in letter No. D2/73/2016, dated 02.02.2016, notice was issued to the petitioner calling upon her to pay compensation of Rs.10 Lakh to the family of the deceased.

5.The learned Additional Government Pleader further submits that Section 18 of the Prohibition of the Employment as Manual Scavengers and their Rehabilitation Act, 2013, mandates the local authority and the District Magistrate to implement the Act. Therefore, as per the



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dictum laid down by the Hon'ble Supreme Court cited above, the petitioner is liable to pay a sum of Rs.10 Lakh as compensation to the deceased family.

6.This Court considered the rival submissions and perused the materials placed on record.

7.The petitioner's husband is running a plastic company, viz., Abi Plastics and Sri.Karia Kaliammal Plastics at Karur. He availed the services of one Balakrishnan and another for cleaning the septic tank in his company premises. The said Balakrishnan in turn has contacted one Thirumurthy and availed his service to clean the septic tank. While cleaning the septic tank, the said Balakrishnan and Sankar Dhayalan succumbed to death. Therefore, a criminal case was registered as against the petitioner's husband and two others, by the Inspector of Police in Crime No.279 of 2015 and the case in SC.No.22 of 2017 ended in acquittal. The Hon'ble Supreme Court in WP(C)No.583 of 2003 cited supra by order dated 27.03.2014 directed the authorities to identify the families of the



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persons, who have died in sewerage works (manhole, septic tanks) since 1993 and to award a sum of Rs.10 Lakh compensation for each such a death of the family members depending upon them. Subsequent to the directions, the Director of Rural Development and Panchayat Raj has made a proposal to the Government with regard to the Rural areas and for authorising all the District Collectors to draw and disburse the ex-gratia amount of Rs.3 Lakh each to the dependent from the general fund of the rural, local bodies. The said proposal was accepted by the Government and orders were issued directing the District Collector for taking necessary action for implementing the orders by following the due procedure including verification of legal heirship. By referring this Government order this writ petition is filed.

8. Admittedly two persons died while cleaning the septic tank in the petitioner's husband's company namely Abi Plastics. As per the above cited orders of the Hon'ble Supreme Court, the local bodies are liable to pay a sum of Rs.10 Lakh as compensation to the victim's family.



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9.The 4th respondent in executing the above direction of the Hon'ble Supreme Court, issued notice to the petitioner, which made this petitioner to file this writ petition by referring the said government order in GO.Ms.No.33. As pointed out, the Director of Rural Development and Panchayat Raj has made a proposal to disburse Rs.3 Lakh each to the victim's family and has authorised the District Collector to draw and disburse the ex-gratia amount of Rs.3 lakh each to the dependant of the such victims and the said proposal was accepted by the Government. The petitioner cannot take advantage of the said government order. That Government order has been passed for the families who have not been paid compensation prior to the orders of the Hon'ble Supreme Court in WP(Civil)No.583 of 2003 dated 27.03.2014.

10.Considering the issue involved in this writ petition, this writ petition is disposed of with a direction to the 1st respondent to disburse the compensation as directed by the Hon'ble Supreme Court in WP(Civil)No.583 of 2003, dated 17.03.2014, to the families of the deceased



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within a period of eight weeks from the date of receipt of a copy of this order. The government may pay compensation to them and recover the same from the petitioner and her husband. The petitioner is at liberty to establish her case before the competent authority that she is not liable to pay any compensation. No costs. Consequently connected miscellaneous petition is also dismissed.

02.03.2023

dsk

To

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