



W.P.No.17996 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.11.2024

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.17996 of 2022

D.Nithiya Sukumar

...Petitioner

Vs.

1. The District Collector
Office of Collectorate
Nagapattinam-611 002.

2. The Chennai Petroleum Corporation Ltd.,
Represented by its Managing Director
Manali, Chennai-600 068.

3. The Indian Institute of Technology- Madras
Represented by its Director,
Chennai-600 036.

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to pay compensation of Rs. 30,00,000/- (Rupees Thirty lakhs only) to the petitioner for the loss of life of her two children viz., Vidyadharan and Suvaratheesh at Anapula Pond at P.Panangudi, Nagapattinam District.

For Petitioner

For Respondents

: Mr.V.Manisekaran

: MrG.Ameedius for R1

Government Advocate

Mr.A.Jenasenan for R2

M/s.M.Velmurugan for R3



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ORDER

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The petitioner herein seeks issuance of a writ of mandamus directing the respondents to pay compensation of Rs. 30,00,000/- (Rupees Thirty lakhs only) to the petitioner for the loss of lives of two of her children.

2. It is the case of the petitioner that her sons drowned in the pond called “Anapula pond” situated at P.Panangudi Village, Nagapattinam District as there was no parapet wall to protect the lives of the innocent people. It is the further case of the petitioner that the above mentioned pond was adopted by the 2nd respondent, rejuvenated under CSR scheme and handed over to the local authority. However, during rejuvenation of the said pond, the 2nd respondent has not constructed any parapet wall so as to prevent any accident. Therefore, it is the case of the petitioner that the 2nd respondent was negligent in implementing rejuvenation scheme which caused the lives of the petitioner's sons.

3. The learned Government Advocate appearing for the 1st respondent, by taking this Court to the Government Order issued by the Government of Tamil Nadu in G.O.Ms.No.165, Revenue and Disaster Management



Department, dated 17.07.2021, submits that taking sympathetic view of the matter, the Government of Tamil Nadu sanctioned Rs.10,00,000/- (rupees ten lakhs only) towards compensation for the petitioner and the same was received by her on 24.07.2021.

4. The learned counsel for the 2nd respondent submits that Anapula pond and 16 other water bodies were adopted by the 2nd respondent for the purpose of rejuvenation to improve the ground water situation. The project was carried out with all precautionary measures and during execution of rejuvenation project, there was no untoward incident. Therefore, there is no negligence on the part of the 2nd respondent in executing the project.

5. Merely because no parapet wall was constructed to the pond, it cannot be assumed that 2nd respondent was negligent in executing the rejuvenation project. The object of the project is to improve the water table in the locality and during the execution of the project, there was no untoward incident. In such circumstances, *prima facie*, I do not find anything to fasten liability on the 2nd respondent. Therefore, this Court is not inclined to entertain the writ petition filed by the petitioner. Whether there was any negligence on the part of the 2nd respondent or not is a disputed question of fact which cannot



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be gone into conveniently especially when there is no prima facie material against the 2nd respondent. Accordingly, the writ petition stands dismissed.

However, it is open to the petitioner to work out her remedy if any, before the Civil Court. No costs.

20.11.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

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S.SOUNTHAR, J.

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