



W.P.(MD) No.4009 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.4009 of 2018

T.Mahalakshmi

... Petitioner

Vs.

- 1.The Director,
Health and Family Welfare,
No.359, Anna Salai, TMS Building,
Chennai – 600 006.
- 2.The Block Medical Officer,
Govt. Primary Health Centre,
Uchipuli Primary Health – 316,
Mandapam Block,
Ramanathapuram District – 623 534.
- 3.The Deputy Director,
Family Welfare, Mandapam – 623 518,
Ramanathapuram District.
- 4.The District Collector,
Collector Office, Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the second and third respondents to issue compensation to the petitioner considering the representation dated 01.02.2018.

For Petitioner : Mr.T.Murugan



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For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

The petitioner has filed this Writ Petition for issuance of a Writ of Mandamus directing the second and third respondents to provide compensation to the petitioner by considering her representation dated 01.02.2018.

2. The petitioner has undergone tubal sterilization during the month of August, 2012. However, the petitioner conceived and gave birth to a female child on 25.05.2013. Under these circumstances, the petitioner has sought for a compensation from the respondents *vide* a representation dated 01.02.2018.

3. This Writ Petition is opposed by the learned Special Government Pleader for the respondents on the ground that during the period in dispute, i.e. when the child was born on 25.05.2013, the Government had obtained an insurance cover from the ICICI Lombard Insurance Company for the period between 01.01.2008 and 31.03.2013. It is submitted that the petitioner should have approached the Insurance Company for



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compensation. Instead, she has given the representation dated 01.02.2018 to the respondents belatedly and thereafter filed this Writ Petition without impleading the said Insurance Company.

4. It is submitted that with effect from 01.04.2013, the Family Planning Indemnity Scheme put in place pursuant to G.O.(Ms) No.119, Health and Family Welfare (R1) Department, dated 30.05.2013, as per which, the compensation is to be paid by the Family Welfare Department, Tamil Nadu Government. It is further submitted that since the petitioner gave birth to the child before issuance of G.O.(Ms) No.119, Health and Family Welfare (R1) Department, dated 30.05.2013, this Writ Petition is liable to be dismissed.

5.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

6. The petitioner appears to be from economic weaker sections of the society. She has undergone tubal sterilization on 31.08.2012 as confirmed by the Sterilization Certificate issued by the second respondent



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on 08.03.2013. The petitioner has given birth to the female child on

25.05.2013. The fact that the petitioner is entitled to a compensation under

the Scheme of Government of Tamil Nadu either directly or through the

Insurance Company is not in dispute. It cannot be expected for the

petitioner to now approach the ICICI Lombard Insurance Company under

the insurance scheme which was in force between 01.01.2008 and

31.03.2013 at this distant point of time. All the same, the Government of

Tamil Nadu has now issued G.O.(Ms) No.119, Health and Family Welfare

(R1) Department, dated 30.05.2013. In terms of clause 6(3)(1C) of the

said G.O., a person who gave birth to a child due to the failure of

sterilization is entitled for a compensation of Rs.30,000/-. This amount can

be paid out of funds that are available with the Department to such person.

7. Accordingly, this Writ Petition is disposed of by directing the third respondent to release a sum of Rs.30,000/- to the petitioner, within a period of 6 weeks from the date of receipt of a copy of this order. No costs.

04.04.2024

Index : Yes / No

Neutral Citation: Yes / No

Speaking Order/No Speaking Order

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Copy To:

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C.SARAVANAN, J.

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