

WP(MD) No.3924 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON
10.12.2024

PRONOUNCED ON
28.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

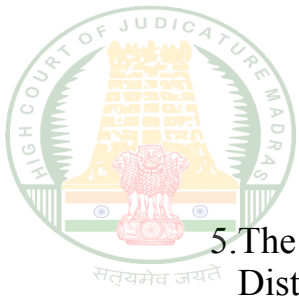
W.P.(MD)Nos.3924 of 2017 &
WMP.(MD).No.3106 of 2017

P.Mariappan

... Petitioner

VS.

- 1.The State of Tamil Nadu,
Rep., by its Secretary,
Education Department,
Fort St., George,
Chennai – 9.
- 2.The Director,
Directorate of School Education,
DPI Compound, Nungambakkam,
Chennai – 6.
- 3.The District Collector,
O/o.The District Collector,
Tirunelveli District.
- 4.The Chief Educational Officer,
O/o. The Chief Educational Officer,
Chief Educational Office,
Tirunelveli District.



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5.The District Educational Officer,
District Education Officer,
Tirunelveli District.

6.The Head Master,
Government Higher Secondary School,
Sambavar Vadakarai,
Thenkasi Taluk,
Tirunelveli District.

7.Mrs.Vasuki

8.The Inspector of Police,
Sambavar Vadakarai Police Station,
Tenkasi.

... Respondents

*(R8 is suo moto impleaded vide Court order dated 25.11.2024 in W.P.
(MD).No.3924 of 2017*

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents to provide compensation of Rs.10 lakhs to the petitioner for the loss suffered by the petitioner's son within the time stipulated by this Court.

For Petitioner : Mr.I.Pinaygash

For Respondents : Mr.V.OM.Prakash, G.A., for RR1to 6

M/s.M.Aasha G.A.(Crl Side) for R8

Mr.M.Saravanan for

Mr.A.Robinson for R7



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ORDER

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The Writ Petition had been filed seeking for compensation to the petitioner for the loss suffered by the petitioner's son.

2. Heard Mr.I.Pinaygash, learned counsel appearing for the petitioner, Mr.V.OM.Prakash, learned Government Advocate appearing for the respondents 1 to 6, Ms.M.Aasha, learned Government Advocate (Criminal side) appearing for the eight respondent, Mr.M.Saravanan, learned counsel appearing for Mr.A.Robinson, learned counsel appearing for the seventh respondents.

3. It is the case of the petitioner that the petitioner's son while studying in the 6th respondent school was assaulted by the seventh respondent, which had caused loss of eye sight to him. Therefore, he had also lodged a complaint against the 6th & 7th respondents and the same has not been dealt with in a proper manner. Therefore, he had approached this Court in Crl.O.P.(MD).No.21983 of 2016, in which a direction was given to the 8th respondent to register a case. Even though a case has been registered



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against the 7th respondent, no action has been initiated by the other official respondents against the sixth and seventh respondents and therefore, the petitioner's son is entitled to be compensated.

4. On the contrary, the learned counsel appearing for the respondents would submit that the incident took place in the year 2014 and the petitioner had filed a complaint in the year 2016. He would further submit that only after the disposal of the criminal case, if the 7th respondent is found guilty, the petitioner would be entitled for damages. He would further submit that neither the negligence nor the quantification of the incident can be decided by this Court.

5. The learned counsel appearing for the 7th respondent would submit that the cause of the incident was due to a fight between two persons including the petitioner's son, which was attempting to be stopped by the 7th respondent. The 7th respondent was neither negligent nor an abuser of the student. He would draw attention of this Court to the final report filed by the eight respondent, wherein also the allegation is that the 7th respondent had been negligent in not preventing the incident, which had caused.



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6. I have heard the rival submissions made by the learned counsels appearing on either side and perused the materials placed on record.

7. Originally when the matter was listed before this Court considering the disputes that had been raised over the loss of vision of the petitioner's son, this Court by its order dated 06.12.2022 had referred the child to Aravind Eye Hospital at Tirunelveli for examination. It is seen that the report filed only indicates that both eyes macula are within normal limits. But however, he had been advised for review after three months. It was also indicated that the patient was evaluated in glaucoma clinic and indirect ophthalmoscopic examination which revealed no treatable lesions were found. Even thereafter to assess the actual injury that had been caused to the petitioner's son for the purpose of awarding compensation, this Court by its order dated 03.10.2023, had directed the petitioner's son to appear before the named Doctor at Aravind Eye Hospital, Madurai on 06.10.2023 and the named Doctor was requested to file a report

(a) as to the vision and capacity in his left eye

(b) whether the condition of his left eye would in any way affect his future prospects.



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8. A report dated 06.10.2023 had been issued by the named Doctor and had answered the questions raised by this Court in the following manner:-

(i) vision and capacity in the left eye of Master

M.Mahish:

The uncorrected visual acuity in the left eye is 6/60 and the Best Corrected Visual Acuity (BCVA) is 6/9. With the present spectacles which Master M.Mahish is using, the vision is near normal in the left eye and he can function normally by wearing glasses.

(ii) whether the condition of the left eye would in any way affect his future prospects:-

Master Mahish can continue his present studies without any hindrance and also function normally in most of the professions by wearing the spectacles.

9. The report indicates that the petitioner's son can function normally with the spectacles and would not affect his future prospects. The report further indicates that even though the child had suffered grievous injury in



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the year 2014, the child had recovered very well following the surgical intervention.

10. From the conjoint reading of the report, the accident had occurred in which the petitioner's son had been injured, the nature of injury as alleged by the petitioner is not being supported by the medical reports given by the Doctors, pursuant to the directions issued by this Court. A reading of the final report filed against the 7th respondent also would indicate that the 7th respondent had attempted to intervene in a fight between the petitioner's son and another during which the injury had occurred.

11. Therefore, the claim of the petitioner that the 7th respondent had caused the injury using the metal pedal rod is also not supported raising disputed questions of fact, which cannot be gone into by this Court under Article 226 of the Constitution.

12. In view of the same, the Writ Petition is dismissed, however liberty is given to the petitioner to approach the appropriate Civil Court for filing the suit claiming for damages, if the petitioner so approaches while



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computing the period of limitation of the period of pendency of this Writ

Petition shall stand excluded. However, there shall be no order as to costs.

Consequently connected Miscellaneous Petition is also closed.

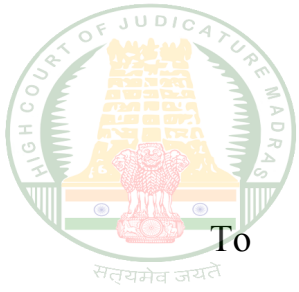
28.01.2025

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Pbn



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To

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K.KUMARESH BABU.,J.

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A Pre-delivery order made in
W.P.(MD)Nos.3924 of 2017 &
WMP.(MD).No.3106 of 2017

28.01.2025