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**S. Radha v Secretary to Government,
Municipal Administration, Government
of Tamil Nadu, 2011**

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***S. Radha v Secretary to Government, Municipal Administration,
Government of Tamil Nadu***

HIGH COURT OF MADRAS

Decided on 24 February 2011

THE HONOURABLE MR. JUSTICE R.SUDHAKAR

Writ Petition No.4211 of 2011 and M.P.No.1 of 2011

1.S.Radha,
2.Minor S.Kirthika,
3.Minor S.Sanjay,
4.K.Suseela,
(Minor petitioners 2 and 3 are
represented by their next friend
and natural guardian the first
petitioner).

... Petitioners

vs.

1.The Secretary to Government,
Municipal Administration,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 005.

2.The Collector,
Kancheepuram District,
Kancheepuram 631 501.

3.The Commissioner,
Kancheepuram Municipality,
Kancheepuram 631 501.

4.J.Annamalai,
Municipal Contractor,
No.27, Gokulam Street,
Little Kancheepuram 631 503,
Kancheepuram District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to pay the petitioners a just and reasonable compensation for the death of K.Sundaraj who died on 21/22.10.2010 while cleaning and removing the blockage in the drainage system in the junction at Putheri Street Egambaranathar Temple, Sannathi Street, Kancheepuram, as may be determined by this Court within a time frame as may be fixed by this Court.

For Petitioners : Mr.S.Subbiah,

For Respondents : Mr.L.S.M.Hasan Fizal,
Government Advocate
for R1 and R2

Mr.P.Srinivas,
for R3

ORDER

Writ Petition is filed praying to issue a Writ of Mandamus, directing the respondents to pay the petitioners a just and reasonable compensation for the death of K.Sundaraj who died on 21/22.10.2010 while cleaning and removing the blockage in the drainage system in the junction at Putheri Street Egambaranathar Temple, Sannathi Street, Kancheepuram, as may be determined by this Court within a time frame as may be fixed by this Court.

2. Mr.L.S.M.Hasan Fizal, learned Government Advocate, takes notice on behalf of the respondents 1 and 2. Mr.P.Srinivas, learned counsel takes notice on behalf of the third respondent. By consent of both parties, the writ petition is taken up for final disposal. Notice to the fourth respondent is dispensed with in view of the nature of the order to be passed in this case.

3. The first petitioner is the wife, the second and the third petitioners are minor children of the deceased and the fourth respondent is the mother of late Sundaraj. The said Sundaraj was engaged by the fourth respondent at the behest of the third as a Scavenger. During the course of his duty, when the said Sundaraj entered into the drainage to clear the blockage, he was struck by poisonous gas, and he died.

4. The work entrusted to the deceased resulting in his death, if proved to be true, is contrary to the direction issued by the First Bench of this Court prohibiting manual scavenging. It is also stated by the petitioner that Government Orders have been passed banning manual scavenging.

5. In the present case, petitioners' claim is that the deceased Sundaraj died in the course of clearing the blockage, when he entered into the drainage on being engaged by the fourth respondent as per the instructions of the third respondent. Consequent to the death of Sundaraj at midnight (i.e.) 21/22.10.2010 at Kancheepuram, petitioners have given a representation to the second respondent District Collector, marking copy to the Chief Minister's Cell, etc., seeking compensation for the death as a result of negligence on the part of the authority. In this case, no representation has been given to the third respondent, claiming compensation. The petitioners who are living in poverty, seek compensation on the death of the breadwinner.

6. Heard Mr.P.Srinivas, learned counsel appearing for the third respondent and Mr.L.S.M.Hasan Fizal, learned Government Advocate appearing for the respondents 1 and 2, who state that the petitioners can give a detailed representation along with a copy of this order to the third respondent and the third respondent will consider the claim on its own merits and deal with the matter in accordance with law. To this course of action, petitioners counsel has no objection.

7. If the facts as stated by the petitioners is correct then the bereaved family requires to be compensated. The deceased who was engaged for manual scavenging, apparently was illiterate unaware of the law that bans manual scavenging. But that plea cannot be taken by respondents 2 and 3 who are officers administering the district and are enjoined by law to desist such practice.

8. The case of the petitioners, widow, two minor children and aged mother is still worse. The fact that they have come to this Court for justice is a sad state of affair that too in spite of the illiteracy. The respondents shall treat the issue with all seriousness that it requires and decide the claim sympathetically and expeditiously.

9. In view of the above submissions, the petitioners are directed to give a representation to the third respondent along with a copy of this order. On receipt of the representation along with a copy of this order, the third respondent shall take appropriate and prompt action in accordance with law, preferably within a period of six weeks from the date of receipt of the representation along with a copy of this order. The third respondent shall file a report as to the nature of action taken in the matter.

10. The writ petition is disposed of as above. No costs. Consequently, connected miscellaneous petition is closed. Registry to post this matter on 18.4.2011 under caption "for reporting".

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To

1.The Secretary to Government,
Municipal Administration,
Government of Tamil Nadu,
Fort St. George,
Chennai-600 005.

2.The Collector,
Kancheepuram District,
Kancheepuram 631 501.

3.The Commissioner,
Kancheepuram Municipality,
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