

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 12TH DAY OF AUGUST 2014/21ST SRAVANA, 1936

WP(C).No. 13671 of 2014 (H)

PETITIONER(S):

**REGIONAL CANCER CENTRE,
REPRESENTED BY ITS DIRETOR, PAUL SEBATIAN,
POST BOX NO 2417, MEDICAL COLLEGE CAMPUS,
THIRUVANANTHAPURAM 695011.**

**BY ADVS.SRI.M.SREEKUMAR
SRI.A.ABDUL KHARIM**

RESPONDENT(S):

- 1. KERALA STATE HUMAN RIGHTS COMMISSION,
REPRESENTED BY ITS SECRETARY, T.C. 11/53-1,
TURBO PLUS TOWER, PMG JUNCTION,
THIRUVANANTHAPURAM 695001.**
- 2. MRS. ANITHASURENDRAN,
WIDOW OF LATE V.S. SURENDRAN, VALLIKKAKUZHI VEEDU,
AZHAKAMM P.O, MOOKKANNOOR, ERNAKULAM 683577.**

**R1 BY ADV. SRI.SEBASTIAN DAVIS
R2 BY ADV. SRI.M.V.ANANDAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12-08-2014,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1** TRUE COPY OF THE FIR NO 1407/2013 OF MEDICAL COLLEGE POLICE STATION, THIRUVANANTHAPURAM DATED 19-08-2013
- EXHIBIT P2** TRUE COPY OF THE INQUEST REPORT IN CRIME NO 1407/13 OF MEDICAL COLLEGE POLICE STATION, THIRUVANANTHAPURAM DATED 19-08-2013
- EXHIBIT P3** TRUE COPY OF THE FINAL REPORT IN CRIME NO 1407/13 OF MEDICAL COLLEGE POLICE STATION, THIRUVANANTHAPURAM DATED 10-09-2013
- EXHIBIT P4** TRUE COPY OF THE FILED BY 2ND RESPONDENT BEFORE THE 1ST RESPONDENT DATED 12-09-2013
- EXHIBIT P5** TRUE COPY OF THE REPORT NO 2440/MED. SUPDT/2013/RCC FILED BY THE PETITIONER DATED 01-11-2013 BEFORE THE 1ST RESPONDENT
- EXHIBIT P6** TRUE COPY OF THE ADDITIONAL STATEMENT FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 31-12-2013 IN HRMP NO 6322/2013/P & EKM
- EXHIBIT P7** TRUE COPY OF THE ARGUMENT NOTE SUBMITTED BY THE COUNSEL OF PETITIONER BEFORE THE 1ST RESPONDENT DATED 18-02-2014 IN HRMP NO 6322/2013
- EXHIBIT P8** TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT IN HRMP NO 6322/2013 DATED 29-01-2014

RESPONDENT(S)' EXHIBITS

- EXHIBIT R2(A):** TRUE COPY OF THE REPLY DATED 24/1/14 TO THE REPORT FILED BY THE RESPONDENT BEFORE THE LEARNED HUMAN RIGHTS COMMISSION.

/ TRUE COPY /

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

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WP(C).No.13671 of 2014-H.
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Dated this the 12th day of August, 2014.

J U D G M E N T

The petitioner is an autonomous body established by the Government of Kerala in the year 1984 and is a premier and tertiary care cancer institute in the State of Kerala challenges Ext.P8 order passed by the Human Rights Commission whereby petitioner was directed to pay compensation of ₹ 1,00,000/- to the second respondent.

2. One Surendran, husband of the second respondent was referred to the petitioner from Amrita Institute of Medical Science, Kochi. He was found dead on 18.8.2013. Ext.P1 FIR and Ext.P2 inquest report would show that the above Surendran had committed suicide. Final report in the matter filed by the police before the competent Magistrate would indicate that the death of Surendran is mentioned as suicide. The second respondent approached the Human Rights Commission alleging

negligence on the part of the petitioner in providing medical care which had driven the said Surendran to commit suicide. The second respondent also alleges breach of duty and care on the part of the petitioner.

3. The petitioner's case is that they have provided all facilities to Surendran and the petitioner cannot be found fault with the suicide committed by the said Surendran. The Commission relied on a decision of this Court in **Marakkar and another v. State of Kerala and another** (2009(4) KHC 141). The petitioner questioned the jurisdiction of the Commission to decide the matter. The petitioner would rely on the definition of Section 2(d) of the Protection of Human Rights Act, 1993, which reads as follows:

“2. xxx xxx xxx
 xxx xxx xx

(d) “Human Rights” means the rights relating to life, Liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.”

4. Human right violation necessarily demands intervention of the statutory body constituted under the above Act. But that does not mean every breach on the part of the State or those official will amount to violation of human rights. In fact, on going by the impugned order what is revealed is that Human Rights Commission had made an enquiry as to find out the negligence and cast a liability on the petitioner. The nature of violation is the subject on which Commission can take a decision. Nature of violation clearly indicated in this case is negligence. Negligence is nothing but civil wrong and not necessarily tantamount to the action in violation of human rights.

5. Keeping aside the finding of facts in Ext.P8 and untrammelled by the decision in Ext.P8, considering the plight and other situation of second respondent, the parties shall arrive at an amicable settlement by accepting the amount as ordered by the Human Rights Commission. The petitioner shall pay an amount of ₹ 1,00,000/- to the

second respondent within a period of one month. If the petitioner is not willing to settle as above, the petitioner is at liberty to reopen this judgment.

This writ petition is closed.

**A.MUHAMED MUSTAQUE,
(Judge)**

Kvs/-