



IN THE HIGH COURT OF ORISSA AT CUTTACK

A.F.R.

W.P.(C) No.12427 of 2017

(In the matter of an application under Articles 226 and 227 of the Constitution of India, 1950).

Sania Pradhan @ Sanyasi Pradhan *Petitioner(s)*
& *Anr.*

-versus-

State of Odisha & Ors. *Opposite Party (s)*

Advocates appeared in the case through Hybrid Mode:

For Petitioner(s) : *Mr. Biswajit Moharana, Adv.*

For Opposite Party (s) : *Mr. Sonak Mishra, A.S.C.*

CORAM:

DR. JUSTICE S.K. PANIGRAHI

DATE OF HEARING:-15.04.2024

DATE OF JUDGMENT: -25.06.2024

Dr. S.K. Panigrahi, J.

1. In this Writ Petition, the Petitioners seek a direction from this Court to the Opposite Parties/ State to pay an amount of Rs.5,00,000/- (Rupees Five Lakh only) towards compensation for death of their son Kunal Pradhan inside the campus of Project Upper Primary School, Ranikiari in the district of Ganjam due to falling of latrine wall of the school.

I. FACTUAL MATRIX OF THE CASE:

2. The brief fact of the case as presented by the Parties during the course of argument and on the basis of material placed on record:



- (i) The Petitioner No.1 is a farmer and Petitioner No.2 is the wife of the Petitioner No.1. They blessed with a son named Kunal Pradhan, who was studying in Class-II in the Project Upper Primary School, Ranikiari of the district of Ganjam.
- (ii) The son of the Petitioners had attended the School on 24.09.2016. After the School Classes were over he was playing with his friends inside the School premises. All of a sudden, the old latrine wall of the School fell down on him and he was trapped under the collapsed wall. As a result, he sustained severe injury on his head and body. After hearing the same, the Petitioner No.2 rushed to the School and shifted him to Bhanjanagar Hospital for his treatment. Due to his critical condition, he was referred to M.K.C.G. Medical College and Hospital, Berhampur. But, the son of the Petitioners died on the way to Berhampur. The doctor declared him dead.
- (iii) The Petitioner No.1 had reported the same before the I.I.C., Tarasing Police Station. The same was registered as Tarasing P.S. Case No.4 of 2016. Pursuant to the direction of the I.I.C., Tarasingh Police Station, the I.O. held the inquest over the dead body of the deceased and post-mortem was conducted by the Doctor.
- (iv) The I.O. filed final report before the learned S.D.J.M., Bhanjanagar on 26.09.2016 declaring that the death of deceased Kunal Pradhan was due to falling of wall inside the School campus of the Project Upper Primary School, Ranikiari.
- (v) After death of their son, the Petitioners approached the Opposite Party No.4/ District Education Officer, Ganjam through the Opposite Party



No.5/ Headmaster, P.U.P. School, Ranikiari and Block Education Officer, Bhanjanager for payment of compensation on 18.11.2016.

- (vi) However, the Opposite Parties/State are not disbursing compensation with a plea that the Notification dated 01.06.2016 of the Department of Revenue and Disaster Management, Government of Odisha does not stipulate for payment of compensation for death due to falling of wall.
- (vii) Therefore, the Petitioners are constrained to approach this Court with a prayer to direct the Opposite Parties to pay compensation of Rs.5,00,000/ (Rupees Five Lakh only) to them.

II. SUBMISSIONS ON BEHALF OF THE PETITIONERS:

3. Learned counsel for the Petitioners earnestly made the following submissions in support of his contentions.
- (i) The son of the Petitioners died due to gross negligence of the State authorities for not maintaining the School structure properly. As such an unfortunate incident has occurred due to dereliction of the State authorities, the State authorities should have acted promptly to provide adequate compensation to the unfortunate parents who lost their only son forever.
- (ii) The negligence on the part of the Opposite Parties/State to repair the latrine wall or demolish the same. As it is the duty of the State administration to ensure the safety of the students and they have failed to maintain the safety of the School building, they are negligent in performing their duties for which they are bound to pay compensation to the Petitioners.



- (iii) It is the duty and responsibility of the State to provide basic and safe infrastructure in the Primary Schools in order to prevent any untoward incident like the present one. It is also the duty of the State to repair the damaged school building or walls. Due to such negligence and callousness attitude of the State administration, a tender life has met with tragic end.
- (iv) Non-payment of compensation to the Petitioners by the Opposite Parties/ State is illegal and in gross violation of Article 14 of the Constitution of India.
- (v) Reliance has also been placed by the learned counsel for the Petitioner on the judgment dated 30.01.2024 passed by the learned Division Bench of this Court in W.A. No.1677 of 2022, whereby the order dated 18.10.2022 passed by the learned Single Judge in W.P.(C) No.16845 of 2012 has been confirmed awarding compensation of Rs.10,00,000/- (Ten Lakhs) due to premature death of a child who was pursuing his studies at Jawahar Navodaya Vidyalaya, Konark in an untoward incident occurred while he was playing cricket due to hitting of a cricket bat. In the said Writ Appeal, the learned Division Bench has taken into account the judgment dated 13.12.2023 passed by this Court in W.P.(C) No.21267 of 2014 wherein plethora of judicial pronouncements have been referred to in order to decide the issue i.e. “whether the respondent is entitled to compensation or not and under what circumstances compensation can be awarded”.
- (vi) In such view of the matter, he submits that the Opposite Parties/ State may be directed to pay compensation of Rs.5,00,000/- (Rupees Five Lakh



only) to the Petitioners within a stipulated period for death of their son Kunal Pradhan.

III. SUBMISSIONS ON BEHALF OF THE OPPOSITE PARTY NO.4/ STATE:

4. In reply, learned counsel for the Opposite Party No.4/ State earnestly made the following submissions in support of his contentions:
 - (i) Kunal Pradhan son of the Petitioners a student of Class-III of Project Upper Primary School, Ranikiari under Bhanjanagar Block died being injured in the school premises while playing and swing on the door of an old toilet building wall which collapsed and caused serious injury to the child. Thereafter, initially he was admitted in the Bhanjanagar Sub-Divisional Medical Centre for treatment. But, due to his critical condition, he was referred to M.K.C.G. Medical College and Hospital, Berhampur. While he was taken to Berhampur, the said child Kunal Pradhan died on the way on 24.09.2016.
 - (ii) After the death of the son of the Petitioners, the Headmaster, Project Upper Primary School, Ranikiari submitted a proposal to the Block Education Officer, Bhanjanagar for sanction of ex-gratia grant vide his letter No.187 dated 18.11.2016 which has been forwarded to the Opposite Party No.4/ District Education Officer, Ganjam, Berhampur vide letter No.2220 dated 22.12.2016 of Block Education Officer, Bhanjanagar.
 - (iii) After due inquiry, the Opposite Party No.3/ Collector and District Magistrate, Ganjam has sanctioned a sum of Rs.2,00,000/- (Rupees Two Lakhs) only for payment of ex- gratia grant in favour of Smt. Runu



Pradhan mother of Late Kunal Pradhan towards accidental relief for students from Students Welfare Fund as per Government Notification No.V- SME(P)-12/2015-6224, dated 25.03.2015 issued by the School and Mass Education Department, Odisha, Bhubaneswar. The payment shall be made on receipt of allotment from the Director, Secondary Education, Odisha, Bhubaneswar.

- (iv) After sanction of the ex-gratia grant by the Opposite Party No.3/ Collector and District Magistrate, Ganjam, the Opposite Party No.4/ District Education Officer, Ganjam, Berhampur has submitted the proposal to the Director, Secondary Education, Odisha, Bhubaneswar for placement of allotment of Rs.2,00,000/- for payment of ex-gratia grant in favour of Smt. Runu Pradhan vide letter No.7717 dated 18.08.2017.
- (v) All possible steps have been taken by the Opposite Party No.4/ State for payment of ex-gratia grant in favour of the mother of the deceased child. Soon after receipt of the allotment from the Director, Secondary Education, Odisha, Bhubaneswar steps for payment of ex- gratia grant will be taken.
- (vi) In such premises, it was contended that the claim of the Petitioners for payment of Rs.5,00,000/- (Rupees Five Lakh only) towards compensation deserves no merit for consideration and the prayer of the Petitioners is liable to be dismissed.

IV. COURT'S REASONING AND ANALYSIS:



5. Perused the materials available on records and considered the rival submissions made by the learned counsel for the Petitioner and the learned counsel for the State.
6. Admittedly, eight year old boy named Kunal Pradhan, who was the only son of the Petitioners, died inside the campus of the Project Upper Primary School, Ranikiari in the district of Ganjam by falling of an old toilet wall of the School. Initially, he was admitted in Bhanjanagar Sub-Divisional Medical Centre for treatment. But, due to his critical condition, he was referred to M.K.C.G. Medical College and Hospital, Berhampur. On the way to Berhampur, the deceased child Kunal Pradhan died on 24.09.2016.
7. Thus, it is evident that the collapse of the toilet building wall on the fateful day was due to sheer negligence on the part of the Opposite Parties/ State, who are duty bound to maintain the Project Upper Primary School, Ranikiari building and its surrounding in a proper manner. The safety of the children cannot be taken so lightly by the School authority.
8. It is contended by the Opposite Party No.4/ State that all possible steps have been taken for payment of ex-gratia grant in favour of the mother of the deceased child. Soon after receipt of the allotment from the Director, Secondary Education, Odisha, Bhubaneswar steps for payment of ex- gratia grant would be taken. No amount of compensation could wipe out the tear of the parents, yet the Department has realized that it has done a lien of a benevolent job.



9. On the other hand, the Petitioners in this case has sought for a direction to the Opposite Parties/ State to disburse an amount of Rs.5,00,000/- (Rupees Five Lakh only) towards compensation for the death of their son. To that effect, the Petitioners also placed reliance on the judgment dated 30.01.2024 passed by the learned Division Bench of this Court in W.A. No.1677 of 2022 as stated supra.

As it appears, learned Division Bench while deciding the W.A. No.1677 of 2022 had taken into account the judgment dated 13.12.2023 passed by this Court in W.P.(C) No.21267 of 2014 wherein numerous judicial pronouncements have been referred to in order to decide the issue i.e. *“whether the respondent is entitled to compensation or not and under what circumstances compensation can be awarded”* and directed the State functionary to pay Rs.10,00,000/- (Rupees Ten Lakhs) to the respondent therein.”

10. In this case, though the State functionaries have taken the prompt steps for payment of ex-gratia grant in favour of the mother of the deceased child, but they did not take any precautionary step to avoid such untoward incident. Therefore, a clear case for grant of a decent compensation is made out instead of ex-gratia grant. The Compensatory Jurisprudence aims at providing compensation to victims of harm-typically due to wrongly acts such as negligence, breach of contract or criminal offences seeking restoration of the original position before the harm occurred by awarding monetary damages or other forms of restitution. Though in the present case the original position cannot be restored. However, the victim’s right to be compensated for losses-



including physical injury, emotional distress and financial damages can at least be awarded. The evolution of human rights law and the recognition of victims' rights have further propelled the development of compensatory jurisprudence, making it an integral part of the justice delivery system. By ensuring that victims receive adequate compensation, we can move towards a more just and compassionate legal system that truly addresses the needs of those who have suffered harm like the parents in the present case.

11. In such view of the matter, this Court is inclined to entertain the prayer of the Petitioners. Accordingly, the State authority is directed to pay compensation of Rs.8,00,000/- (Rupees Eight Lakhs) in addition to the ex-gratia amount of Rs.2,00,000/- (Rupees Two Lakhs) already declared by the District Education Officer.
12. However, in order to ensure the safety of the students in Primary Schools, Upper Primary Schools and High Schools, it is ordered that:
 - (i) A District Education Infrastructure Safety Audit Committee has to be formed in each district headed by the District Magistrate and Collector along with the members like District Education Officer and Block Education Officer (s), Executive Engineer of Works Department and/or R.D. and P.W.D. Departments, Executive Officer of Municipality and/ or NAC, Block Development Officer(s) and some of the selected members/ Headmasters of some High Schools and Head Pandits of some of the Primary Schools and Upper Primary Schools.



- (ii) Such Committee shall ensure the safety audit of each and every Schools of the district and issue Safety Certificate to the School Authority every year in the month of June.
- (iii) The District Education Infrastructure Safety Audit Committee shall meet at least twice a year. The Committee will form Sub-Committee of Engineers pertaining to the Departments of R.D and P.W.D. and ensure safety audit of the school infrastructures which shall recommend for issuance of Safety Certificate to the School Authority. There shall be a grievance redressal mechanism under the aegis of District Education Infrastructure Safety Audit Committee at every block level.
- (iv) It is the duty of the School Headmaster of every School to report to the concerned B.D.O. regarding unsafe wall and scrub up any school building and the B.D.O. shall immediately take up the issue before the District Education Infrastructure Safety Audit Committee so that the issue can be resolved at the earliest possible. The District Magistrate and Collector shall be the monitoring authority for the safety of the children to prevent such kind of mishap in School Campuses.
- (v) The School Headmaster and the Block Education Officer will be held responsible for any kind of mishap due to falling of wall or roof.
- (vi) The School and Mass Education Department shall have a Disaster Management Team to mitigate any kind of disaster in the form of



falling of wall, fire or any other kind of calamity faced by the Schools.

13. The Government has the liberty to improvise the guidelines issued above or issue a detailed guidelines incorporating some more points since the aforesaid guidelines are only indicative for mitigating the future mishap. A comprehensive affidavit to be filed by the Secretary, Department of School and Mass Education, Government of Odisha after notifying the aforementioned directives to all the districts of the State. The said exercise shall be completed within three months from today.
14. Accordingly, this Writ Petition is disposed of being allowed.
15. Urgent certified copy of this judgment be issued to the Petitioner and a free copy of the same be handed over to the learned counsel for the State.

(Dr. S.K. Panigrahi)
Judge

Orissa High Court, Cuttack,
Dated the 25th June, 2024/ B. Jhankar