



W.P.No.6632 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.04.2023

PRONOUNCED ON : 28.04.2023

CORAM

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.6632 of 2022

and

W.M.P.No.6714 of 2022

C.Ve.Shanmugam

...

Petitioner

Vs.

1.The Chief Secretary,
State of Tamil Nadu,
Fort St.George,
Chennai – 600 009.

2.The Secretary to Government,
State of Tamil Nadu,
Home Department, Fort St. George,
Chennai – 600 009.

3.The Director General of Police,
State of Tamil Nadu,
Dr.Radhakrishnan Salai,
Chennai – 600 004.

4.The Chairman,
Security Review Committee,
State of Tamil Nadu,
Fort St.George,
Chennai – 600 009.

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Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the respondents to grant police protection to the petitioner taking into consideration the representations dated 19.11.2021 and 25.01.2022.

For Petitioner : Mr.K.S.Dinakaran, Senior Counsel
for Mr.E.Balamurugan

For Respondents : Mr.Babu Muthu Meeran
Additional Public Prosecutor

ORDER

This Writ Petition is filed to issue a Writ of Mandamus directing the respondents to grant police protection to the petitioner taking into consideration the representations dated 19.11.2021 and 25.01.2022.

2.The learned Senior Counsel Mr.K.S.Dinakaran appearing for the petitioner submitted that petitioner was a former Minister of the State of Tamil Nadu. He served as Minister of Education, Commercial Taxes, Sports and Tamil Development, Law, Prisons and Mines and Minerals. He is the District Secretary of All India Anna Dravida Munnetra Kazhagam for the Villupuram North District and a Member of the Steering Committee. In the year 2006, petitioner and his family members were attacked by his political



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rivals even when he was a Minister in the State Cabinet. FIR was filed with regard to the above mentioned incident. Petitioner received security threats even after registration of the FIR. Thus, petitioner was granted police protection by the Government. Protection was given at his residence at Thindivanam, Villupuram and Chennai. Police used to accompany him during his travel wherever he goes within the State of Tamil Nadu. Petitioner was provided with police protection despite the change of Government till November 2021. Thereafter, the security granted to the petitioner was withdrawn by the present Government in November 2021. Petitioner made a representation dated 19.11.2021 to extend the police protection. He did not receive any reply and therefore, he again sent a letter dated 25.01.2022 seeking the reason for withdrawal of security. Petitioner has fire arm license and that license got expired. Application filed by the petitioner to renew the fire arm license was not disposed of within a reasonable period of time. Petitioner is still facing threat from his political rivals. Second respondent forwarded the letter dated 10.02.2022 issued to the third respondent asking the third respondent to inform the petitioner about the decision. This letter dated 10.02.2022 refers to another letter dated 14.12.2021 issued by the second respondent to the third respondent. However, the copy of letter dated



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14.12.2021 was not communicated to the petitioner. Petitioner was not informed the reasons for withdrawal of the security cover given to him. As stated earlier, petitioner is facing threat to his life from his political and personal rivals. Therefore this petition is filed for the aforestated reliefs.

3.In response, the learned Additional Public Prosecutor submitted that S.C.No.284 of 2014 is pending before the Additional District Sessions Court, Tindivanam. Originally this case was investigated by Roshanai Police in Crime No.164 of 2006 and then the investigation was transferred to CBI. The case is pending trial. One Muruganatham a relative of the petitioner was killed in that incident and 20 accused were charge sheeted. This incident had happened in 2006. Admittedly, in 2006 and subsequent years, petitioner had security threats from certain quarters, due to the political enmity. At that point of time, he was given adequate police security and it was extended from time to time. The decision to extend the police protection was taken by the Security Review Committee. Decision of the Security Review Committee is kept as secret since it involves highly sensitive matters touching upon various issues including National Security. He was given police protection till October 2021. The Security Review Committee after assessing the existing



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situation, took a decision to withdraw the security cover given to the petitioner. This decision was taken after gathering inputs from various police agencies. Therefore, no fault could be found on the decision taken by the Security Review Committee. After 2006, no serious complaints of security threats had been preferred by the petitioner against any one. The security cover given at some point of time for the then prevailing situation should not be taken advantage for demanding security cover forever, especially, when there is no security threat. Security Review Committee is an independent body comprising of the following officers.

i)	The Additional Chief Secretary/Principal Secretary to Government, Home Department, Chennai.	Chairman
ii)	The Director General of Police, Tamil Nadu, Chennai.	Member
iii)	The Commissioner of Police, Greater Chennai Police, Chennai.	Member
iv)	The Additional Director General of Police/Inspector General of Police, Intelligence, Chennai.	Member
v)	The Deputy Director, Subsidiary Intelligence Bureau, Chennai.	Member
vi)	The Deputy Commissioner of Police, Security Chennai Police, Chennai.	Member
vii)	The Superintendent of Police, Security Branch CID, Chennai.	Member



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This committee has taken decision based on the inputs available without any external influence. In a meeting held on 04.10.2001, the committee reviewed the security arrangements provided to the persons protected under “X” “Y” and “Z” categories. After analysing the facts and perspectives and the intelligence inputs, the committee came to the conclusion that petitioner is not facing any security threat to his life and withdrew the security provided to him. The decision taken by the security committee cannot be subjected to judicial review. The police protection cannot be sought for as a matter of right. Petitioner cannot claim as a matter of right that the decisions taken by the Security Review Committee should be communicated to him. In support of his submissions, he pressed into service the judgments in the following cases.

1.Ramveer Upadhyay v. R.M. Srivatsava & Others, (2015) 13 SCC 370 & Om Prakash Rai v. State of U.P. 2014 (138)AIC 923, are relied on for the proposition that it is not in the domain of court to decide the factual question as to the threat perception and degree of security cover in favor of a particular person. It is for the concerned agencies of the State to decide.

2.State of West Bengal v. Biswanath Mitra, (2015) 14 SCC 599 is relied on for the proposition that the only recourse open to the court is to call for a report from the concerned authority to



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determine the threat perception to life and liberty and cannot draw its own conclusion.

3.*In the cases of Anil Samaniya v. Union of India, 2022 SCC Online Delhi 2285 & Abishek Tiwari v. State of U.P. & Others, MANU/UP/1282/2021 it was held that when it comes to the question of threat perception, it is the duty of the State to decide on it. The court cannot substitute its own judgement to that of the State Authority's conclusion.*

4.*Ganesh Bank of Kurundwad Ltd. v. Union of India & Others (2006) 10 SCC 645 has been pressed into service for the proposition that there must be judicial restraint while making judicial review in administrative matters. Only in case of illegality, irrationality and procedural impropriety administrative action is subject to control of judicial review.*

5.*State of Haryana v. Naresh Kumar Bali, 1994 (4) SCC 448 is relied on for eliciting the scope of judicial review. The court held that judicial review is directed only against the decision making process and not the decision itself. It's not the court's duty to exercise the power of authorities.*

6.*Oriental Bank of Commerce v. Sunder Lal Jain & Another, 2008(2) SCC 280, for the proposition that writ of mandamus can be granted only in case where there exists failure on the part of an officer in discharging the statutory obligation.*

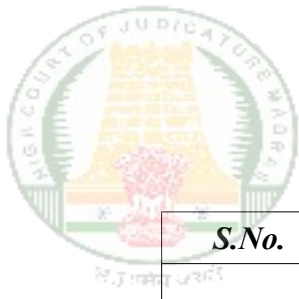


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4. In reply to this submission, the learned Senior Counsel for the petitioner submitted that the submissions of the learned Additional Public Prosecutor that petitioner is not facing any security threat is absolutely not correct. Petitioner is receiving threat calls every now and then. The complaints given by the petitioner, his staff, by his Junior Advocate did not evoke any positive response. The complaints were not properly investigated. Without proper investigation, the complaints had been closed and in some cases, persons who made threats to the life of the petitioner were only warned instead of registering a criminal case against them. In support of this submission, he presented a tabular column giving the details of the complaints given by the petitioner and status of the complaints.

<i>S.No.</i>	<i>Date</i>	<i>Documents</i>
1.	09.05.2006	Crime. Number. 164/2006 before the Roshanai Police Station.
2.	09.06.2021	The compliant given by the Petitioner along with the call history. 09.06.2021
3.	09.06.2021	CSR.No. 287/2021 lodged before the Roshanai Police Station, Tindivanam.
4.	25.06.2021	FIR No. 385/2021 lodged before the Roshanai Police Station, Tindivanam.
5.	19.11.2021	Representation made by the Petitioner to the Respondents.
6.	30.11.2021	CSR.No.620/2021 given to Mr. Rajaram lodged



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S.No.	Date	Documents
		before the Roshanai Police Station, Tindivanam.
7.	10.12.2021	Final Report filed in FIR No. 385/2021 based on the Petitioner's complaint.
8.	25.01.2022	Reminder letter send by the Petitioner to the Respondents.
9.	25.06.2022	The complaint lodged by Mr.E.Balamurugan before the Pattinampakkam Police Station
10.	25.06.2022	CSR.No. 274/2022, before the Pattinampakkam Police Station.
11.	01.10.2022	The complaint lodged by the Mr. E.Balamurugan before the Pattinampakkam Police Station.
12.	01.10.2022	The CSR.No. 413/2022 given to Mr.E.Balamurugan.
13.	10.10.2022	The complaint receipt given by COP to Mr.E. Balamurugan.
14.	10.10.2022	CSR.No. 1184/2022 given to Mr. Seenuvasan before Kallakurunchi Police Station.
15.	11.10.2022	CSR.No. 432/2022 given to Mr. M.Palanivel before the Tynempet Police Station.
16.	08.11.2022	The FIR.No. 387/2022, based on the compliant given by Mr.M.Palanivel.
17.	26.11.2022	The complaint lodged by Mr.E.Balamurugan.
18.	26.11.2022	The complaint given by Mr.G.Rajaram.
19.	29.11.2020	FIR. No. 134/2022, based on the compliant given by Mr.E. Balamurugan.
20.	10.12.2022	Legal Notice sent by Mr. E.Balamurugan.
21.	14.12.2022	CSR.No.864/2022 given to Mr. Rajaram.

5.In reply to this reply, the learned Additional Public Prosecutor submitted that the complaint given by the petitioner, his staff and his Junior Advocate were properly investigated and action was taken. Security Review



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Committee not only consists of officials from the State, but also officials from the Central Intelligence Bureau and Subsidiary Intelligence Bureau, which belong to Central Government of India. Security of all persons including the petitioner would fall within the meaning of expression “affairs of State”. As per Section 123 of Indian Evidence Act, no one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of the State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit. Section 124 when dealing with official communication, requires that no public officer shall be compelled to disclose communications made to him in official capacity, when he considers that the public interests would suffer by the disclosure.

6.Considered the rival submissions and perused the records.

7.From the submissions of the learned counsel appearing for the petitioner and the materials perused, it is seen that on 08.05.2006, at about 8.30 p.m., when petitioner and his two brothers C.Ve. Radhakrishnan and C.Ve. Babu and persons belonging to his political party were sitting under the



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Shamiana put up in front of his residence, a gang of criminal elements who were associated with his political rivals along with henchmen came in two vehicles and indulged in violence against the petitioner and others with deadly weapons. Attempt was made to kill the petitioner with huge knife and somehow petitioner escaped the attempt. One Muruganandham, brother-in-law of petitioner's brother C.Ve.Babu was killed in the incident. Petitioner was a Minister of Education, Commercial Taxes and another portfolios at that point of time. FIR in Crime No.164 of 2006, for the offences under Sections 147, 148, 302, 307, 506(ii), 324, 323, 120 B and 427 IPC was registered against them. FIR was registered against 15 persons including prominent leaders of the major political parties. However, at the time of filing final report, all the names except for one was dropped. Petitioner filed Crl.M.P.No.108 of 2008 in S.C.No.103 of 2008 for further investigation before the Fast Track Court, Villupuram. That petition was dismissed. Against the said order, Crl.R.C.No.939 of 2009 was filed and that was allowed. Despite that investigation was not carried out in a proper manner insisting filing of W.P.No.4183 of 2011 before this Court to transfer the investigation to CBI. The case was ordered to be transferred to CBI considering the fact that the State police has failed to investigate the case in



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proper perspective. Despite there was a change in the Government in 2006, petitioner was granted police protection by the Government till November 2021. The security threat to the petitioner is present and real. However, it is seen from the list of proceedings in the form of tabular column that no proper investigation was conducted by the police to find out the accused, who made threat to the petitioner's life and prosecute them and when the accused are identified, no proper steps were taken for prosecuting them. Rather some of them were simply let off.

8.It is seen from the list of complaints given by the petitioner, his staffs and junior Advocate, a complaint was given by the petitioner on 09.06.2021 alleging that more than 500 persons contacted petitioner through his cell phone and made death threat. The reason is that he made some comment against Mrs.V.K.Sasikala. On the basis of his complaint, FIR in Crime No.385 of 2021 was registered against Mrs.V.K.Sasikala and 500 unidentified persons for the offences under Sections 506 (i), 507 IPC r/w 109 IPC, 67 of the Information Technology Act. After investigation, final report was filed in this case dropping further action as "mistake of fact". It is necessary to extract the relevant portions of the final report.



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மேலும் இவ்வழக்கின் வாதியானவர் முன்னாள் அமைச்சர் மற்றும் தற்போதைய அ.இ.அ.தி.மு.க விழுப்புரம் வடக்கு மாவட்ட செயலாளர் வன்னியர் சமுதாயத்தை சேர்ந்தவர் ஆவார். இவர் ஏற்கனவே 1. வன்னியர்களுக்கு 10.5 சதவீதம் இட ஒதுக்கீட்டை இவர் முயற்சியால் சட்டத்துறை அமைச்சராக இருந்தபோது பெற்று தந்தமைக்கு அ.இ.அ.தி.மு.க மற்றும் இதர கட்சியில் உள்ளவர்களும் இதனை ஏற்றுக்கொண்டு பாராட்டியுள்ளனர். 2. நடந்து முடிந்த சட்டமன்ற தேர்தலில் இருந்து இவர் வன்னியர்களுக்கு சாதகமாகச் பேசி வருவது அ.தி.மு.க கட்சியில் உள்ள ஆதிதிராவிடர் மற்றும் இதர சாதியினர் மத்தியில் சலசலப்பு ஏற்படுத்தியுள்ளது. 3. திண்டிவனம் பகுதியில் இருந்த பாட்டாளி மக்கள் கட்சி முக்கிய நிர்வாகிகளை தனது கட்சியான அ.தி.மு.கவில் சேர்த்துக்கொண்டது. பாட்டாளி மக்கள் கட்சி முக்கிய தலைவர் முதல் தொண்டர்கள் மத்தியில் சலசலப்பு உண்டாக்கியுள்ளது. 4. நடந்து முடிந்த சட்ட மன்ற தேர்தலில் இவர் தோல்வியுற்றதால் ஆளும் கட்சியான தி.மு.க மற்றும் அம்மா மக்கள் முன்னேற்ற கழகம் கட்சியினரை விமர்சித்து பேசி வந்தார் என்பதாலும் மேற்படி கட்சியில் உள்ள தலைவர்கள் முதல் தொண்டர்கள் வரை இவர் மீது மிகவும் அதிருப்தியில் இருப்பதாக எண்ணி மேற்படியான புகாரை கொடுத்துள்ளார். எனவே விசாரணையில் மேற்கண்ட காரணங்களுக்காக இவருக்கு தற்போது எவ்விதமான



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அச்சுறுத்தலோ மிரட்டலோ இருப்பதாக தெரியவில்லை
மேலும் அனைத்து கட்சியினர் மத்தியிலும் நல்ல சமூக
நிலையில் இருந்து வருகிறது. எனவே இவ்வழக்கு
சங்கதியை பொறுத்தமட்டில் பிழை உள்ளதாக கருதி
வாதிக்கு RCS 05.2021 ன்படி சார்வு செய்து MISTAKE
OF FACT என இறுதியறிக்கை தாக்கல்
செய்யப்படுகிறது என்பதை தங்கள் நீதித்துறை நடுவர்
மன்றத்திற்கு பணிந்து தெரிவித்துக்கொள்கிறேன்.

9.This final report shows that (i) the stand taken by the petitioner in favour of Vanniyar community has created buzz among the Adi Dravidar community and other communities among AIADMK. (ii) The fact that he inducted the important party officials of Pattali Makkal Katchi of Dindivanam in AIADMK has created some displeasure among the important leaders and party men of the Pattali Makkal Katchi. These reasons given in the final report show that the Scheduled Caste members and other community persons belong to AIADMK and other important leaders and party men of Pattali Makkal Katchi were aggrieved against the petitioner because of his actions. In the said circumstances, closure of the complaint claiming that it suffers from “mistake of fact”, in the considered view of this Court, is not correct.



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10. One Rajaram, Assistant of the petitioner gave a complaint to the Roshanai police station on 30.11.2021 in Crime No.620 of 2021 alleging that petitioner received a life threat call in his Cell Phone No.9443326779 from Cell Phone No.97455430502. It appears that this complaint was closed stating that no further action is required. Again Rajaram gave a complaint with Roshanai Police Station on 26.11.2022 alleging that petitioner received threat calls to his Cell Phone from Cell Phone Nos.+966572207867 +447506347538 and 0447123474870. This was registered in Crime No.864 of 2022 and this case was closed as no further action required. E.Balamurugan, Junior Advocate of petitioner gave a complaint on 25.06.2022 to the Deputy Inspector General alleging that more than 100 threat calls were received in petitioner's Cell Phone No.9443326779. They even threatened that his head would be cut and tied like a garland. This complaint was enquired in C.S.R.No.274/2022. However, it is claimed that the complaint was closed as the counter petitioner Mr.R.Hariharasiva apologized for his mistake and submitted a written statement on 09.12.2022. E.Balamurugan again gave a complaint on 01.10.2022 to the Inspector of Police, Pattinapakkam Police Station, alleging that petitioner received death threats from +918667243305, +4248590376, +4048590376, +4648590376,



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+4548590376, +4248590376. This complaint was enquired in C.S.R.No.413 of 2022 and after obtaining the written statement from the counter petitioner and apology letter, the complaint was closed. It is pertinent to refer to the closure report of the Inspector of Police, Pattinapakkam Police Station. For better appreciation, the same is extracted hereunder:

திரு.பாலமுருகன் ஆ.வ 47 த/பெ ஏழுமலை
எண்.10/70 2வது தெரு, கற்பகம் அவென்யு, ராஜா
அண்ணாமலைபுரம், சென்னை -28 ஆகிய தாங்கள்
25.06.2022ம் தேதி தங்கள் சீனியர் வழக்கறிஞர்
முன்னாள் அமைச்சர் திரு.சி.வி.சண்முகம் அவர்களை
வாட்ஸ் அப் மூலமாக அசிங்கமாக பேசியும். மிரட்டியது
தொடர்பாக இ5 பட்டினப்பாக்கம் காவல் நிலையத்தில்
கொடுத்த புகாரின் பேரில் CSR No.274/2022 ன்படி பதிவு
செய்தும். அதன் பின்னர் 01.10.2022ம் தேதி மேலும்
வெவ்வேறு எண்களில் இருந்து மிரட்டல் விடுப்பதாக
கொடுத்த புகாரின் பேரில் CSR No.413/2022 ன்படி பதிவு
செய்தும், மிரட்டிய நபர்கள் கண்டுபிடிக்கப்பட்டு
அவர்களிடம் எழுத்து மூலமாக மன்னிப்பு கடிதம்
பெறப்பட்டு இந்த மனு மீதான நடவடிக்கை
கைவிடப்பட்டது என்பதை தங்களுக்கு
தெரிவித்துக்கொள்ளப்படுகிறது,

11.This closure report shows that petitioner had infact received threat calls from several phone numbers, persons who threatened the petitioner were



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identified and further action was dropped after getting apology letter from them. It is not known as to how the persons who made life threat to the petitioner could be let off by simply getting the apology letter from them. On the other hand, the fact that some persons had made death threat to the petitioner is really established from this report.

12.Mr.P.Seenivasan, District legal Wing Secretary of AIADMK, Kallakurichi, gave a complaint on 10.10.2022 in the Kallakurichi Police Station alleging that the respondent in the complaint had abused the petitioner and made death threat. This complaint was enquired in C.S.R.No.1164 of 2022 and the same was closed as there was no law and order problem and no protest in the District and the complainant was advised to take action under Section 199 Cr.P.C.

13.On 11.10.2022, the Car driver of the petitioner, namely, Palanivel gave a complaint to the Teynampet police station alleging that on 10.10.2022, he parked the Car at about 11.55 p.m. On the morning of 11.10.2022, at about 4.30 a.m.,he found that his cellphone, car keys and two wheeler keys, purse,



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ATM card, Adhar card, Pan card, Voter Id, driving license and cash Rs.5000/-

were missing. On the basis of the complaint, FIR in Crime No.387 of 2022 was registered and it is pending investigation.

14.On 26.11.2022, petitioner's junior Advocate E.Balamurugan again gave a complaint to the Commissioner of police making allegations that several persons are making death threat to the petitioner from the following phonenumbers 9789826278, 6382174821, 9360762209, 9710130100, 9789307818, +60173294567, 8248362760, +6520969674, 9865155579, 9474515610, +447537977645, +447993538750, +966572207857, +44 7666247113, 8682820858, 9345816305, 8825925481, 97516855588, 9892842369, 8429173287, 7384238744, 8842248078. On the basis of this complaint, FIR in crime No.134/2022 was registered by the Cyber Crime Police for the offences under Sections 506 (i) & 507 IPC.

15.From the complaints given, investigation conducted, it cannot be said that petitioner has no threat to his life at all. As discussed above, certain sections of his own party men and other party leaders and men are not happy



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with the petitioner's political statement and actions and they are inimical towards the petitioner. The report of the Inspector of Police, Pattinapakkam Police Station makes it clear that persons making threat to the petitioner were identified and let off with just warning, instead of punishing them for the offences committed by them. May be that petitioner is not facing threat to his life to the extent, he faced it in 2006, but we cannot definitely say that he has no threat to his life at all. In the said circumstances, whether withdrawal of security cover, namely, the police protection given to the petitioner is justified is the point to be considered now.

16.As already stated, the learned Additional Public Prosecutor vehemently argued that the decision taken by the Security Review Committee cannot be subjected to judicial review. In support of his submission, he placed reliance on the decisions reported in ***MANU/TN/9756/2006 in N.Jothi Vs. The Home Secretary Government of Tamil Nadu and Ors., MANU/TN/1391/2012 in N.Jothi Vs. The Secretary, Department of Home and MANU/TN/5169/2011 in S.Girinivasa Prasad vs. State of Tamil Nadu and Ors.*** He also placed reliance on the judgment in ***N.Jothi Vs. The***



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Secretary, Department of Home, for the proposition that petitioner is not entitled to privileged documents, which is unpublished official record relating to the affairs of the State.

17. So far as the claim that various documents which is unpublished official records relating to the affairs of the State cannot be claimed, the learned Senior Counsel for the petitioner accepted this proposition. However, he submitted that he does not want the copy of the privileged unpublished records relating to the affairs of the State. What he wanted is the reason for the withdrawal of the police protection. That was not forthcoming. That apart, the main relief the petitioner sought is to provide police protection to him in view of the continuous threat to his life. In the said circumstances, this Court is of the view that the judgments relied by the learned Additional Public Prosecutor reported in *MANU/TN/9756/2006 in N.Jothi Vs. The Home Secretary Government of Tamil Nadu and Ors.*, *MANU/TN/1391/2012 in N.Jothi Vs. The Secretary, Department of Home* are not relevant for the purpose of considering the issue involved in this petition.



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18. Reading of judgment reported in ***MANU/TN/9756/2006 in N.Jothi Vs. The Home Secretary Government of Tamil Nadu and Ors.***, shows that the petitioner therein filed a Writ of Mandamus claiming that as a member of Rajya Sabha and as an Advocate rendering legal services to his leader, he was provided with security. After change of Government, the Government was taking steps for withdrawing the security. Therefore, he filed the petition seeking the continuation of police protection. The following questions are framed for consideration during the hearing:

a) Whether the petitioner is entitled for the documents sought for in W.P.M.P.No.17754 of 2006;

b) Whether the privilege claimed by the State with reference to the minutes of Security Review Committee can be sustained;

c) Whether the petitioner has a valid and enforceable right to continue the existing security level provided to him and the scope of judicial review, which is available to the Courts in a matter of this nature; and



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d) If not, to what relief the petitioner is entitled?

19. We are not concerned about the questions (a) to (d) for the reason that the petitioner does not require the copy of the documents. With regard to the powers of the Court for judicial review, it is held in the decision of the Hon'ble Supreme Court reported in **(2006) 10 SC 645, Ganesh Bank of Kurundwad Ltd., Vs. Union of India & Others** that judicial review over the State actions is possible only under the following grounds: (i) illegality (ii) irrationality (iii) procedural impropriety in administrative action. If it is established that the decision taken was irrational or outrageous, the Court can interfere in such matters. In the said case, the Court came to the conclusion that in the light of the materials furnished, there is no illegality or irregularity in the decision taken by the State for withdrawal of security for the petitioner and thus, dismissed the petition. It is seen from the order that the file containing the minutes of the various security committee starting from 01.01.2005 till 31.08.2006 was circulated for the perusal of the Court with a request not to discuss it to others. The reason is that it is a privileged document. The Court also sustained the claim of privilege in respect of the file produced by the State, for the perusal of the Court. However, in the case



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before hand, it is claimed that the Security Review Committee meeting was held on 04.10.2021, but the finding of the Committee is not produced for the perusal of this Court. Thus, this Court is deprived of knowing the reasons forming basis for arriving at the decision of withdrawal of the police protection given to the petitioner.

20.As discussed above, this Court finds from the records produced that there is life threat, present and real, exist against the petitioner from his political and personal adversaries. The report of the Inspector of Police, Pattinapakkam Police Station, confirms this. Final report filed in Crime No.385 of 2021 affirms that certain sections of his party men and leaders of rival political party are inimical towards the petitioner. Evidence shows that the petitioner received life threat calls to his cell phone from several persons. It is not known whether these factors and threats are seriously taken into consideration. When there is a present and real threat to petitioner's life exists, withdrawal of police protection of the petitioner is not appropriate and legal. Therefore, the decision taken by the Security Review Committee on 04.10.2021 to withdraw the police protection given to the petitioner is set



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aside. The respondents are directed to reconsider the petitioner's representations dated 19.11.2021 and 25.01.2022 and take appropriate decisions in the light of the life threat to the petitioner.

21. Before concluding, this Court likes to reproduce the classic observation made by the Hon'ble Mr. Justice V. Ramasubramanian, the then Judge of High Court of Madras in the judgment in ***S. Girinivasa Prasad Vs. State of Tamil Nadu and Ors.*** It is observed in the judgment that,

Before parting, I should also state that in the philosophical sense, no one can protect anyone. History is replete with instances where persons who had the highest degree of security cover, succumbed to terrorist attacks. There are also instances of persons who survived innumerable attacks on their lives, by sheer providence, as was projected by Channel 4 Documentary Film telecast in United Kingdom on 28.11.2006 with title “683 Ways to Kill Castro”, referring to innumerable attempts to assassinate Fidel Castro, none of which could materialize. Therefore, it is a misconception to think that one can be protected by a few uniformed men accompanying him with weapons. That is why it is said from ancient times that Dharma



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(righteousness) protects one who protects it (Dharmo Rakshathi Rakshitah). In his classic “Ramayana, Kamban says that when Rama left Ayodhya to the forest, he was led by his fate, but was followed by his righteous conduct.

22.In fine, this Court set asides the decision taken by the Security Review Committee in its meeting held on 04.10.2021 to withdraw the police protection to the petitioner. This Court directs the respondents to reconsider the petitioner's representations dated 19.11.2021 and 25.01.2022 in the light of the several threat calls received by him, complaints given and FIRs registered and pass appropriate orders within a period eight weeks from the date of receipt of a copy of this order.

23.In the result, this Writ Petition is allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

sli

28.04.2023

Internet: Yes

Index: Yes/No

Speaking/Non speaking order



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To:

1.The Chief Secretary,
State of Tamil Nadu,
Fort St.George,
Chennai – 600 009.

2.The Secretary to Government,
State of Tamil Nadu,
Home Department, Fort St. George,
Chennai – 600 009.

3.The Director General of Police,
State of Tamil Nadu,
Dr.Radhakrishnan Salai,
Chennai – 600 004.

4.The Chairman,
Security Review Committee,
State of Tamil Nadu, Fort St.George,
Chennai – 600 009.

5.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.
sli

Pre-delivery Order in
W.P.No.6632 of 2022

28.04.2023