



WP (MD) No.4587 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on 25.10.2024	Delivered on 02.12.2024
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CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**
and
THE HONOURABLE MRS.JUSTICE **L.VICTORIA GOWRI**

Writ Petition (MD) No.4587 of 2023
and WMP (MD) Nos.4291 & 4302 of 2023

1. Balasundaram
Inspector of Police,
Annavasal Police Station,
Pudukottai District.

2. Somasundaram
Sub-Inspector of Police,
Annavasal Police Station,
Pudukottai District.

..Petitioners

Vs.

1. The Registrar,
State Human Rights Commission,
Greeways Road,
Chennai 600 028.

2. The Additional Chief Secretary to the Government
Home, Prohibition and Excise Deapartment,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.

3. Palanisamy

4. Rajarathinam



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5. Dr.A.R.Royappankumar
Medical Officer,
Government Hospital,
Pudukottai.

6. The Principal Secretary to Government,
Health and Family Welfare Department,
Government of Tamil Nadu, Secretariat,
Chennai 600 009.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari, to call for the records pertaining to the Impugned Order in SHRC No.6589 connected with SHRC No.6590 of 2015 dated 14.10.2022 on the file of the first respondent and quash the same as illegal and contrary to law.

For Petitioners : Mr.K.Gurunathan
for Mr.B.Chandra Mohan

For Respondents : Mr. F.Deepak, for R1

Mr.S.RA. Rama Chandaran,
Additional Government Pleader,
for RR2 & 6

Mr. T.Sundaravadanam, for RR3 & 4

No appearance for R5

ORDER



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(Order of the Court was delivered by R.SUBRAMANIAN, J.)

Challenge in this Writ Petition is to the order of the State Human Rights Commission dated 14.10.2022, on a complaint by the respondents 3 and 4 dated 25.08.2015.

2. The brief averments in the said complaint are as follows:

2.1. The first complainant, who is a resident of Veerapatty Village, Illupur Taluk of Pudukkottai District, was informed by one Rajadurai, son of Palanisamy at about 7 p.m. on 18.08.2015 that his brother Rajarathinam (fourth respondent) and his son Sureshkumar and few others were beaten up by the Police. When they rushed to the spot they found a Tata Sumo Car belonging to the Police in which his son Sureshkumar and one Mookkaiah were lying with the injuries. The second complainant/fourth respondent Rajarathinam was lying in an unconscious stage and there were injuries all over his body. When he attempted to make an enquiry with the petitioner herein, he was abused and assaulted with lathi.

2.2. It was also claimed that the second petitioner held the son of the third respondent Manoharan by his hair and pushed him to the ground



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and assaulted him. Two constables tied Manoharan's hands from behind and said Manoharan was assaulted by the second petitioner, the Sub Inspector of Police. They were taken to the Pudukkottai Government Hospital for treatment and the petitioner was treated for six days. On the sixth day around 10 p.m. the respondents came to the hospital and persuaded the duty Doctors to discharge the petitioner. He was discharged at around 12.45 a.m. even though he required further treatment.

2.3. The second complainant viz. the fourth respondent had claimed that he was sitting on the compound wall and taking with his friends at about 6.45 p.m. on 18.08.2015 viz. the son of the first complainant and Mookkaiah. The Police came in a Tata Sumo Car and beat them up calling them rowdies. It was claimed that the Police Men, who are the respondents 1 and 2 before the Commission, and other identifiable four constables continuously assaulted them, resulting in injuries all over the body. They got admitted in the Government Hospital, Pudukkottai and while he was undergoing treatment, the respondents visited the Hospital on 19.08.2015 at around 10 p.m. and persuaded the Doctors to discharge him. It was claimed that he was discharged at 12.45 mid night. He was, however, admitted again at



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around 11.45 a.m. the next day and he was given treatment on 24.08.2015. Both the complaints were taken up together by the Commission.

3. The first respondent filed a counter denying the allegations levelled against him. It was claimed by the respondents that an accident occurred at 8.00 a.m. within the Annavasal Police Station limits and where one Kumarasamy had died on the spot, for which a case was registered. At about 5 p.m. on the same day, when the second respondent was on patrol duty, he received information that group of people including the complainants were sitting in dharna and obstructing flow of traffic near the bus stand and they are causing trouble to the general public. Hence the second respondent went to the spot with policemen and found that the son of the first complainant and the second complainant formed a group of persons, who were obstructing the traffic. Though the second respondent required them to disperse, they did not heed to the same but indulged in abusing the public and police in filthy language. They restrained the police men for performing their duty.

4. When an attempt was made to arrest the trouble makers, they resisted the attempt. However, the son of the first complainant, the



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second complainant along with this accomplishes Mookkaiah and Manohar were arrested and a case in Crime No.97 of 2015 was registered under Sections 143 and 294(b) of IPC which was later altered to Sections 149, 294(b), 188, 353 and 506(i) of IPC. It was also claimed that the complainant Palanisamy's son Sureshkumar was involved in other two cases in Crime No.8 of 2015 and Crime No.17 of 2015 and the History Sheet has been opened as per the Police Standing Orders on orders from the Revenue Divisional Officer.

5. The third respondent filed a separate counter statement and he has stated that the complainants were admitted on 19.08.2015 at about 11.40 hours and based on the request of the complainant and based on the injuries they were discharged.

6. On the above pleadings, the State Human Rights Commission framed the following points for determination:

1) Whether the 1st and 2nd respondents have assaulted the complainants and others and whether the 3rd respondent had discharged the complainants though they required treatment and as such whether they had committed any violation of human rights against the



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complainants;

2) If so, what is the relief the complainants are entitled to.

7. Before the Commission, oral evidence was let in and documents were also marked. The complainants were examined as P.W.s 1 and 2, one Bharathiraja and one Mayazhagu were examined as P.Ws. 3 and 4 and Exhibits P.1 to P.42 were marked by them. The third respondent Doctor was examined as R.W.1 and the first petitioner was examined as R.W.2 and no documents were marked on their side.

8. The Commission took note of the fact that the first complainant was admitted in the Hospital on 19.08.2015 at around 11.25 a.m. and he was discharged at around 9.45 p.m. It faulted the hospital for discharging a person after 6 p.m. The Commission felt that this discharge at 9.45 p.m. strengthens the version of the complainants that they were forcibly discharged the instigation of the respondents 1 and 2. It also took note of the fact that the second discharge summary that was issued shows that he was readmitted on 20.08.2015 and discharged on 24.08.2015 at 1.00 p.m. The second discharged summary, an entry was



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made to the effect that there were multiple injuries which was missing in the first discharged summary.

9. The Commission found that the Doctor has not offered any explanation for the readmission and had maintained silence. The Commission also took note of photographs Exs.P31 and 32, which are photographs showing injuries on one Sureshkumar, who was not a party to the proceedings and concluded that the respondents 1 and 2 have assaulted the complainants and have got them discharged using their influence.

10. On point No.2, the Commission concluded that the respondents had assaulted the complainants and therefore, they are violated the Human Rights and they are liable to be punished. The Commission also imposed a compensation of Rs.5,00,000/- to be paid to the petitioners as well as Sureshkumar, Mookkaiah and Manoharan, who were not parties to the complaint or the proceedings before the Commission. The Commission also directed that the money to be recovered from the Police men at Rs.2,00,000/- each and Rs.1,00,000/- from the Doctor.

Aggrieved, the respondents 1 and 2, before the Commission, have come



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up with this Writ Petition.

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11. We have heard Mr.Gurunathan, learned counsel appearing for Mr.B.Chandra Mohan, for the petitioners, Mr.F.Deepak, learned counsel appearing for the first respondent, Mr.S.R.A.Ramachandran, learned Additional Government Pleader appearing for respondents 2 and 6 and Mr.T.Sundaravadanam, learned counsel appearing for respondents 3 and 4. The fifth respondent though served is not appearing either in person or through counsel duly instructed.

12. Mr.Gurunathan, learned counsel appearing for the petitioners would vehemently contend that the Commission has not looked into the evidence in full. The learned counsel would point out that the complainants were readmitted into the Hospital only under threat by a political party to conduct protest meetings throughout the District. The learned counsel would draw our attention to the cross-examination of the complainants, wherein they are specifically admitted that their readmission was made only on the basis of a threat of protest made by a political party. The learned counsel would also point out that the second complainant has admitted that the Doctors started treatment, immediately



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on his arrival in the Hospital on 19.08.2015. He has also admitted that there was no bleeding injury or any fracture when he went to the Hospital.

13. The learned counsel would also fault the Commission for having relied upon the photographs produced which do not relate to either of the complainants, before the Commission. The learned counsel would contend that the Commission ought not to have presumed that the injuries were caused by the Policemen merely based on the evidence of P.Ws. 1 and 2 and the difference in the two discharge summaries that were produced by the complainants.

14. The learned counsel would also point out that P.W.1/the first complainant in his evidence before the Commission has admitted that in Ex.P7, there is nothing to show that the complainants and their accomplices were attacked by the Police. According to the learned counsel, the Commission completely over looked the evidence in cross-examination of P.W.1 and P.W.2. He would draw our attention to the evidence of P.W.1 and cross-examination which reads as follows:



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மறுநாள்தான் அரசு மருத்துமனைக்கு சிகிச்சைக்கு சென்றதாக எனது பிரமாண வாக்குமூலத்தில் கூறியுள்ளேன் என்றால் சரிதான். நான் அரசு மருத்துமனைக்கு செல்வதற்கு முன்பு, தனியார் மருத்துவமனை எதிலும் சிகிச்சை எடுத்துக் கொண்டதாக எந்த ஒரு ஆவணத்தையும், அரசு மருத்துவமனையின் பரிசோதனை சமயத்தில் தாக்கல் செய்யவில்லை என்றால் சரிதான். எனக்கு ஏற்பட்டதாக சொல்லப்படும் காயங்களில் எலும்பு முறிவோ அல்லது இரத்த காயங்களோ எதுவும் இல்லை என்றால் சரிதான். நான் ஆணையத்திற்கு நேரடியாக முதலில் அனுப்பிய புகாரில், என்னை அரசு மருத்துவமனையிருந்து வலுகட்டாயமாக டிச்சார்ஜ் செய்ததாக எதுவும் குறிப்பிட்டு சொல்லவில்லை என்றால் அது சரியல்ல, எனது புகாரில் குறிப்பிட்டுள்ளேன். 3ஆம் எதிர்மனுதரரான அரசு மருத்துவர், போலீசாருக்கு சாதகமாக செயல்பட்டதாக எனது பிரமாண வாக்குமூலத்தில் கூறியுள்ள சங்கதிகள் எனக்கு நேரடியாக தெரியும், அதனை நான் பார்த்தேன், எப்படி தெரியும் என்றால், நான் அரசு மருத்துவமனையில் இருந்தபோது, மருத்துவமனையை விட்டு வெளியே 12 வாங்க சென்ற சமயத்தில், இரவு 8.30 மணியளவில் பார்த்தேன். நான் மீண்டும் மறுமறை அரசு மருத்துவமனையில் அனுமதிக்கப்பட்ட சமயத்தில் எனக்கு அறுவை சிகிச்சை போன்ற எந்த சிகிச்சையும் செய்யவில்லை என்றால் சரிதான்.



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19.8.15 அன்று, நான் அரசு
மருத்துவமனையிலிருந்து டிச்சார்ஜ் செய்யப்படும்
சமயத்தில், நான் தீவிர சிகிச்சை பிரிவு அல்லது
நடக்க முடியாத நிலையில்
சிகிச்சையில் இருந்தேனா என்றால்,
அதுபோன்று இல்லை.”

15. Heavily relying upon the above evidence, the learned counsel would submit that there is no evidence to show that the complainants were beaten up by the Police, in fact there were no injuries. Both the complainants would admit that their readmission in the hospital was under a threat of protest by a political party. Therefore, according to the learned counsel, the Commission ought not to have gone by the entries made in the Discharge Summaries alone without looking into the oral evidence particularly in cross-examination of P.Ws. 1 and 2. Adverting to the evidence of P.W.2, the learned counsel would draw our attention to the following evidence in cross-examination of P.W.2:

“இரவு 10 மணிக்கு போலீசார் அதுபோன்று
மருத்துவரை கட்டாயப்படுத்தினார்கள். 19.8.15
அன்று அரசு மருத்துவமனைக்கு சிகிச்சைக்கு
சென்றதும், எனக்கு எந்தவித கால
தாமதமும் இன்றி நான் சொன்ன விவரங்களை
பதிவு செய்து கொண்டு அரசு மருத்துவர்கள்



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சிகிச்சையை ஆரம்பித்தார்கள் என்றால் சரிதான். நான் மருத்துவமனைக்கு சிகிச்சைக்கு சென்ற சமயம் என்னை அரசு மருத்துவர்களோ, ஊழியர்களோ அலைகழிப்பு எதுவும் செய்யவில்லை என்றால் சரிதான். நான் சிகிச்சைக்கு சென்ற சமயத்தில் எனக்கு வெளிப்படையான இரத்த காயமோ அல்லது எலும்பு முறிவு காயத்துடனோ செல்லவில்லை என்றால் சரிதான். எனது ஆணைய புகாரில், 19.8.15 அன்று என்னை டிச்சார்ஜ் செய்தவுடன், காயத்தின் தன்மை மற்றும் எனது உறவினார்கள், நண்பர்கள் கேட்டுக் கொண்டதற்கிணங்க என்னை 24.8.15 வரை சிகிச்சை அளித்ததாக சொல்லியுள்ளது சரிதான்.”

16. Drawing our attention to the above admissions in cross-examination, the learned counsel would contend that the Commission had completely over looked the said cross-examination and had gone by the entries made in the discharge summaries at the Hospital which were made admittedly under threat of protest. No doubt, while testing the correctness of the orders of the Commission under Article 226 of the Constitution of India, we will not normally enter upon the factual matrix unless it is shown that the Authority viz. the State Human Rights Commission, had overlooked certain material evidence which ought to have been taken into account and the effect of such overlooking would



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result in the findings being termed as perverse.

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17. In the case on hand, admittedly the photographs that are relied upon by the Commission are not that of the first or the second complainant. They were photographs, alleged to have been, of one Sureshkumar, who was not examined before the Commission. Therefore, the reliability or the credibility of the said documents is under great cloud. If the photographs are ignored, the basis of the Commission's order is only the entries in the discharged summaries. Both P.Ws.1 and 2 viz. the complainants would admit that though they were discharged by the Doctors at the Government Hospital on 19.08.2015, they were readmitted under threat of protest by a political party. This renders, the second discharged summary which was issued after about six days highly doubtful.

18. The first discharged summary which was issued immediately after the accident when there was no interference by any political element does not show any injury to the complainants. But the second discharged summary which was issued after a few days that too at the intervention of a political party shows there were some injuries. The credibility of the



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second discharged summary becomes questionable particularly when it is seen in the light of the evidence of P.Ws.1 and 2. Both of them have admitted that they did not have any bleeding injury or any fracture, when they were admitted in the Hospital.

19. As we have already stated the photographs do not relate to the complainants and they have not been proved in accordance with law. No doubt, strict rules of evidence may not be applicable to the proceeding before the Commission, but at the same time, the Commission cannot also rely upon a document which is nothing to do with the persons, who are complainants before it. From the oral evidence, it is clear that both the complainants have not suffered any serious injuries.

20. From the documents produced, it is seen that the complainants had certain issues with other residents of the Village and they have been making complaints to the Commission as well as the other Authorities. Therefore, they are well acquainted with the procedure and the conduct of proceedings before the commission. The conduct of the complainants lead us to believe that the entire episode where they were arrested for obstructing traffic and were charged with various offences under the



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Indian Penal Code was taken advantage of and diverted as if there had been an attack on them by the Police.

21. We find that the findings of the State Human Rights Commission, are indeed perverse, as they run completely contrary to the evidence on record. The Commission had presumed an attack by the Police on the basis of certain entries in the discharged summary overlooking vital admissions made in cross-examination by the complainants themselves. We are therefore, unable to sustain the order of the Commission imposing a penalty on the respondents 1 and 2. Since the first and the second respondents have filed the Writ Petition, we set aside the order of the Commission, insofar as it is against the first and the second respondents, the fine imposed on the first and the second respondents are set aside. We make it clear that the fine imposed on the other respondent, who has not challenged the order of the Commission can still be collected from him.

22. We conclude that the petitioners are not guilty of any human right violation as held by the State Human Rights Commission. The Writ Petition will stand allowed. We direct the parties to bear their own costs



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in the circumstances. Consequently, the connected miscellaneous petitions are closed.

(R.SUBRAMANIAN, J.) (L.VICTORIA GOWRI, J.)
02.12.2024

jv

Index: No

Internet: Yes

Speaking order

Neutral Citation: No

To

1. The Registrar,
State Human Rights Commission,
Greeways Road,
Chennai 600 028.
2. The Additional Chief Secretary to the Government
Home, Prohibition and Excise Deapartment,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.
3. The Principal Secretary to Government,
Health and Family Welfare Department,
Government of Tamil Nadu, Secretariat,
Chennai 600 009.



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R.SUBRAMANIAN, J.

and

L.VICTORIA GOWRI, J.

(jv)

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