

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2015

C O R A M :

THE HONOURABLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Review Application (Writ) No.294 of 2015
against WP.No.35394 2015

R.Muthukrishnan

..Applicant/Petitioner

versus

1. The Chief Secretary,
Government of Tamil Nadu
Secretariat,
Chennai 600 009.

2.Principal Secretary (Home)
Government of Tamil Nadu
Secretariat, Chennai 600 009.

3.The Secretary,
Home (Transport V) Department,
Government of Tamil Nadu,
Chennai 600009.

4.The Director General of Police
Government of Tamil Nadu,
Mylapore, Chennai 600004.

5.Public Information Officer/
Under Secretary to Government
Home (Tr.V) Department,
Government of Tamil Nadu
Secretariat, Chennai 600 009.

..Respondents/Respondents

PRAYER : Application filed under Order 47 Rule 1 r/w Section 114
of CPC against the WP.No.35394 of 2015 dated 03.11.2015.

For petitioner : Mr.R.Muthukrishnan (Party-in-Person)

ORDER

(Order of the Court was made by the Hon'ble The Chief Justice)

The petitioner has filed this present review application seeking review of our order dated 03.11.2015. The writ petition, as apparent from the order, sought to assail the public notice issued by the second respondent/Principal Secretary (Home), qua wearing of

helmets by two wheeler driver and rider as compulsory from 01.07.2015 failing which, certain consequences would follow. The order speaks for itself.

2. In the review application filed by the petitioner, we may notice it begins with making averments in the nature as if the order is passed only by one of us (The Chief Justice). The fact is that the order was passed by the Division Bench. We brought this to the notice of the petitioner at the inception itself, but he stated that since the Chief Justice dictated the order, he thought a review should be filed in this manner. We may notice that the petitioner is an Advocate and claims to be well-versed in law having number of years' practice.

3. The petitioner refers to the orders as reflection of "anger" and "irksome". He refers to the error apparent on the face of the record alleging that what he had assailed was a public notice, while the same has been stated to be a Government Order along with G.Os

dated 22.02.2007 and 13.08.2007. In respect of the aforesaid, it may be noticed that in the first paragraph itself, it has been clearly mentioned that the petitioner seeks to assail the public notice. In paragraph-2, a reference may have been made to the public notice as Government Order, but it is quite clear from the first paragraph what is taken notice of is a public notice. We had noticed that the petition had dealt with the issue of wearing helmet in the Judgment dated 08.06.2015 in CMA.No.3235 of 2014. The petitioner takes objection to the same being called "Judicial Order" as he submits that according to him, that Judgment suffers from mistake and error apparent, qua which he filed review application as third party who has been affected, having been used to driving a scooter for a period of time. The petitioner, thus, alleges that this is a judicial over reach by the Chief Justice, who has narrated this fact.

4. What we have pointed out in our order was that the petitioner was quite aware of the directions passed by the learned

Single Judge which had resulted in various actions being taken by the authorities concerned and that appears to have been the reason why the petitioner had filed this review application. The petitioner claims that since he did not know when the review would be decided, he had approached this Court by filing a Public Interest Litigation.

5. The petitioner also makes a grievance again and again as to "anger", "irksome" and "misunderstanding" of the situation on account of two other writ petitions being referred to in our order dated 03.11.2015. However, we had not observed that those writ petitions have been filed by the petitioners. What we have said is that those petitions have been dismissed as there were endeavours to stall the ruling coming into force as passed by the learned single Judge referred to aforesaid.

6. The petitioner thereafter proceeds to label the order, of which review is sought as "demonstration of unwarranted judicial

activism", when we had referred to the learned single Judge saying that the order remained unassailed and still, that Judgment stood and it has to be followed. The petitioner alleges, what he claims as bias saying, that the observation that the petition was a publicity stunt was a harsh language.

7. A party-in-person who is unfamiliar with the intricacies of law stands on a different footing as compared to a lawyer. A lawyer is aware both as to what is the nature of the proceedings to be filed and also the requirement of temperate language. Both are absent. The Hon'ble Supreme Court has often observed that Public Interest Litigation should not be converted into Publicity Interest Litigation. It is in that context, we had made our observations especially considering that the petitioner is an Advocate who had already invoked the review jurisdiction before the learned single Judge, which order had resulted in the Government action, and the petitioner claimed to be an affected third party.

8. The petitioner also seeks to assail the imposition of costs of Rs.10,000/- for wastage of judicial time, stating that the same was unknown to the Indian legal system. We may note that the imposition of costs would be a natural sequitur when the petition is dismissed. Normally, it is used as a tool to compensate the other party for the costs incurred. However, where no opposite party exists, still if the court finds the writ petition frivolous, there can be imposition of costs. It is in that jurisprudential context that the cost was imposed. We fail to appreciate the plea that how the imposition of cost is in violation of the principles of natural justice and also the principle that no man should be a Judge of his own cause. It is not as if the petitioner has to be issued notice first as to why cost is not to be imposed and then a decision taken. Imposition or non-imposition of costs is a sequitur to the findings of the Court.

9. The petitioner seeks to raise the issue of impossibility of performance claiming that the copy of the order was made available

on 17.11.2015 and delivered on 20.11.2015 and thus, the deposit of the same within 15 days was impossible. The order was passed on 03.11.2015. The copy of the order was not really needed to deposit costs. Be that as it may, within 15 days from 03.11.2015, the copy was ready on 17.11.2015. As to when the petitioner collects the copy of the order is a different matter.

10. The language of the pleadings are offensive in character and in our view, reflection of the disrespect of the petitioner towards the judicial system. That it comes from a Lawyer is all the more unfortunate, albeit appearing in person. The petitioner seeks to adopt an approach as if he alone can be right and even if there are judicial orders contrary to his view, they are no orders in the eyes of law. In this behalf, not only the approach to the order and review, but even his approach to the order of the learned Single Judge where his review is pending makes it obvious.

11. We would have still left the matter at that stage as a misadventure of the petitioner, but we can not do so in view of the further averments of the petitioner alleging that dismissal of the petition amounted to this Court working as a "Katta Panchayat". The said expression is used for illegal courts working to subvert the legal system, i.e., Kangaroo Courts. The petitioner thereafter states that there is breach of the Oath of Office taken. We are thus unequivocally of the view that the petitioner is deliberately trying to scandalise the court and taking advantage of his age, to get away from the consequences of the misadventure. Despite this, we do think it worth our while to go into this issue further, but we do believe that such conduct by Lawyers as officers of the Court, is completely unbecoming of their profession and unacceptable as norm of conduct.

12. Instead of taking proceedings for contempt, we are of view that we should refer the matter to the Bar Council of Tamil

Nadu and Puducherry, with a copy marked to the Bar Council of India, to examine the conduct of the petitioner in this context whether he should continue on the rolls as Member of the Bar or his membership ought to be cancelled/suspended.

13. A copy of this order be accordingly issued to the said authorities along with the copy of the review application, order in W.P.No.35394 of 2015 and other relevant papers.

14. As far as the review application is concerned, there is no error apparent on the face of the record and we reiterate that judicial time cannot be wasted and thus impose a further cost of Rs.10,000/- on the petitioner with the same condition as contained in paragraph-12 of our order dated 03.11.2015 to be deposited in addition, within a period of 15 days from the date of receipt of this order. We may note that the petitioner has not complied with the earlier order as to costs and the Registry to take note of our directions contained in that order qua filing of any Public Interest Litigation by the petitioner.

The review application accordingly stands dismissed.

ksr

(S.KK.,CJ.) (P.S.N.,J.)
22.12.2015

**THE HON'BLE THE CHIEF JUSTICE
AND
PUSHPA SATHYANARAYANA, J.**

ksr

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