



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**

CRL.O.P. (MD)No.3783 of 2015

A.Kannan

: Petitioner

Vs.

The Director of Vigilance and
Anticorruption(DVAC),
NCB 21-28, P.S.Kumarasamy Raja Salai,
(Greenway Road),
Raja Annamalaipuram,
Chennai 600 028.

: Respondent

PRAYER: Petition is filed under Section 482 of the Code of Criminal Procedure to issue an order, direction, directing the respondent herein to register First Information Report based upon the complaint given by the complainant, dated 11.02.2015.

For Petitioner:Mr.Anantha Murugan for
Mr.W.Peter Ramesh Kumar

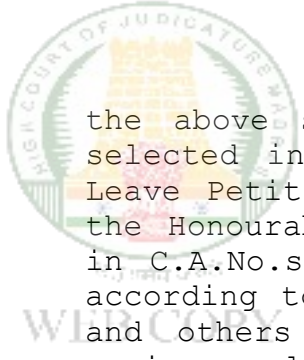
For Respondent:Mr.K.Chellapandian,
Additional Advocate General
Assisted by
Mr.C.Mayil Vahana Rajendran,
Additional Public Prosecutor

O R D E R

The petitioner has come up with this petition seeking a direction to the respondent to register a case on his complaint, dated 11.02.2015.

2. I have heard the learned counsel for the petitioner and the learned Additional Advocate General for the respondent and also perused the records carefully.

3. According to the complaint of the petitioner, dated 11.02.2015, one Mohan, Balaji Saravanan, Aravind, Kumaravel Pandian and Palaneeswari, are all public servants working either in Revenue Department or in Police Department as D.R.Os or A.D.S.Ps. According to the complaint, they were all selected for the post of Deputy Collector/Deputy Superintendent of Police through the Tamil Nadu Public Service Commission. On such selection, they were duly appointed and subsequently they were also promoted. Their selection was challenged by some of the candidates, who did not get selected by filing a Writ Petition before the Principal Bench of this Court. The Principal Bench dismissed the Writ Petition. As ~~services to the Government~~ Writ Appeals were filed in W.A.Nos.1063 and 1287 of 2009 before a Division Bench. The Division Bench of the Principal Bench of this Court allowed the Writ Appeals and set aside the appointments of



the above stated persons and several others, who were also similarly selected in the same selection process. As against the same, Special Leave Petitions were also filed before the Honourable Supreme Court and the Honourable Supreme Court was pleased to dismiss all those petitions in C.A.No.s 5877 - 78 of 2014 batch by order, dated 30.06.2014. Thus according to the petitioner, the appointment of the above stated persons and others stood quashed. Thereafter, according to the petitioner, review applications have been filed seeking to review the order of the Honourable supreme Court and in those review applications, the Honourable Supreme Court has passed interim orders directing the status-quo to be maintained. It is on account of the said interim orders, these officials are continuing in their respective services.

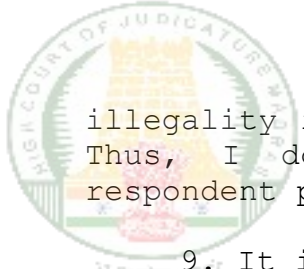
4. To this extent, there is no dispute on facts. The grievance of the petitioner is that for the purpose of the above cases before the Supreme Court, the above stated persons visited New Delhi and stayed in the Tamil Nadu House run by the Government of Tamil Nadu in New Delhi. For staying there, these persons mentioned that they were visiting New Delhi for official purpose and accordingly paid the rent for the stay at the rate of Rs.60/- to 260/- instead of Rs.1050/-. Thus, those persons have gained pecuniary gain illegally to the tune of Rs.800/- to 1000/- per day. This act of these persons amounts to various offences under the Prevention of Corruption Act. With these allegations, the complaint was made by the petitioner to the respondent police on 11.02.2015. Since no action was taken, he has come up with this petition seeking direction.

5. The learned counsel for the petitioner while reiterating the allegations in the complaint would state that the officials stayed in the Tamil Nadu House while their appointments stood quashed. Thus, they were not officials and therefore, their stay in the Tamil Nadu House, should have been purely private and unofficial.

6. The learned Additional Advocate General would however submit that the Honourable Supreme Court in the review applications has passed an interim order of status-quo to be maintained. Thus, in Law, those persons have been in service continuously. He would further submit that so far as the stay in Tamil Nadu House in New Delhi is concerned, as per the Manual, whenever an official of the State Government stays in the Tamil Nadu House, irrespective of the fact whether such visit is official or private, he is entitled for stay at the concessional rate. Here in this case, even assuming that the above stated persons had stayed there when they had come to Delhi for appearing in those cases, since they were officials they were entitled for the above monetary concession. Thus, according to him, there is no offence committed by the persons warranting registration of a case.

7. I have considered the above submissions.

8. The petitioner is a person, who has lost in the competitive examination. It appears that he wants to settle his personal score by filing one petition or the other. It is the fact that those persons against whom allegations are made had stayed in the Tamil Nadu House at the concessional rate. As pointed out by the learned Additional Advocate General, irrespective of the fact whether their private visit or official visit, they are entitled for concessional rate. Thus, there is no



illegality in their using the Tamil Nadu House at the concessional rate. Thus, I do not find any offence warranting investigation by the respondent police.

9. It is also seen from the records that the petitioner has filed yet another Writ Petition also before this Court for similar relief. It shows that the petitioner is trying to have a parallel proceedings before two different Benches of this Court. It cannot be appreciated. In my considered view, the complaint do not make out a prima facie case to direct the respondent to register a case.

In the result, the Criminal Original Petitions fails and accordingly, the same is dismissed.

Sd/-
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

pm
To

1.The Director of Vigilance and
Anticorruption(DVAC),
NCB 21-28, P.S.Kumarasamy Raja Salai,
(Greenway Road),
Raja Annamalaipuram,
Chennai 600 028.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
CRL.O.P. (MD) .No.3783 of 2015
06.04.2015

rg.13.04.2015 3p.3c.