

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH  
and  
THE HONOURABLE MR.JUSTICE V. PARTHIBAN

Writ Appeal No.1412 of 2016  
and  
C.M.P. No.18002 of 2016

VMI Videomail Infotech (P) Ltd.,  
rep. by its Proprietor  
Mr. Aswin Kumar ... Appellant

Vs.

1. Union of India rep. by its  
Secretary to Government  
Ministry of Finance  
New Delhi - 110 001.
2. The State of Tamilnadu  
rep. by its Secretary to Govt.  
Home Department  
Fort St. George  
Chennai - 600 009.
3. The Commissioner of Police  
Vepery, Chennai - 7.
4. The Inspector of Police  
K-8 Arumbakkam Police Station  
Arumbakkam, Chennai-106. ... Respondents

PRAYER : Writ Appeal under Clause 15 of the Letters Patent to set aside the order dated 25.10.2016 passed in W.P No.37368 of 2016 on the file of this Court. Writ petition filed under Article 226 of the Consitution of India praying for issuance of a writ of mandamus forbearing the respondents 2 to 4 from interfering with the petitioner carrying on his business activities.

For Appellant : Fr. Dr. A. Xavier Arul Raj  
Senior Counsel for  
M/s. Selvi George

For Respondents : Mr. R. Prathap Kumar, AGP  
for R2 to R4

J U D G M E N T

(Judgment of the Court was made by HULUVADI G. RAMESH, J.)

With the consent of learned counsel appearing for the parties, this Writ Appeal is taken up for final disposal.

2. Heard learned counsel for the appellant and the learned Additional Government Pleader for respondents 2 to 4, with regard to maintainability of this appeal.

3. This Writ Appeal is preferred seeking to set aside the order dated 25.10.2016 passed by the learned Single Judge in W.P No.37368 of 2016.

4. Brief facts of the case is that the appellant is a private company, carrying on business of human resource development by providing job opportunity and also give training to them. Based on a complaint received from the authorities, C.S.R No.255 of 2015 has been registered by the respondents and investigation is being conducted. Apprehending threat of closing down the company by the 2<sup>nd</sup> respondent and since the respondents interfered with their business activities, the appellant company filed a petition in W.P. No. 37368 of 2016. This Court by order dated 25.10.2016 disposed of the writ petition, directing the third and fourth respondents to conduct investigation in C.S.R No.255 of 2015, in accordance with law, with a further direction to the appellant company to co-operate with the enquiry proceedings. Challenging the same, the appellant company has come on appeal.

5. Learned senior counsel appearing the appellant submitted that the appellant company was incorporated in the year 2011 and registered with the Registrar of Companies as per the provisions of Companies Act, with an object to provide employment opportunity to the unemployed youth. The appellant company is also providing reasonable stipend to the unemployed youths, during the training period. It is stated that there is absolutely no complaint against the company and that the 4<sup>th</sup> respondent is interfering with the affairs of the company activities without any reasonable cause, by misusing the provisions of law. The appellant company has come on appeal on the ground that the learned Single Judge has considered none of the valid points raised, instead, has directed the 4<sup>th</sup> respondent to investigate the alleged CSR No.255 of 2015.

6. Per contra, it is the submission of the learned counsel for the respondents that the appellant company is not co-operating with the investigation, enabling the authorities to conduct enquiry regarding the business activities of the appellant company and take a decision on the complaint received by them.

7. As per the arguments advanced by the appellant, we have found two pleas, viz., apprehension and threat, in carrying on their lawful business of human resource development. However, they have not come out with any specific instance caused by the respondents. The police authorities are liable to maintain law and order and has no right to abuse the fundamental right of anybody. Every individual has got the right to file complaints before the police. On a complaint of harassment, stated to have been made by an officer of the police department, it is not that no remedy is available. Under Article 21 of the Constitution of India, no person shall be deprived of his life or personal liberty, except according to procedure established by law. More so, there are various sources open to the appellant company to file a case for damages, before the Civil Court. However, by a mere apprehension that the police authorities are interfering with their business, the appellant company cannot take cognizance of the provisions under Article 19(1) of the Constitution of India.

8. Further, issuance of Mandamus by this Court, under Article 226 of the Constitution of India, should not be utilised for other type of activities by the appellant company. In that view of the matter, if at all there is any illegal activities caused by the police authorities, while discharging their official duties or if it otherwise affects the fundamental or lawful rights, there is every scope for the appellant company, to invoke the power of Courts. It is also open to the appellant company, to work out their remedy under Article 226 of the Constitution of India, if there is any specific violation of the fundamental duties. Based on an apprehension made, about the excess act of the police or harassment, while no specific instance has been brought to the notice, leaving all the other options available, the appellant company can always exercise his right to protect his lawful right and freedom, by filing a private complaint against those persons, whoever acts against the fundamental rights or make any deviation. Unless there is a prima facie case made out, issuance of a direction would, in all probability would lead to misuse of such direction. And that, in the absence of such specific violation on the part of the police, the writ petition of the petitioner itself, should not have been entertained. Therefore, on the question of maintainability, this appeal is disposed of, for want of cause

of action.

9. In view of the above, the Writ Appeal is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government  
Union of India, Ministry of Finance  
New Delhi - 110 001.
2. The Secretary to Government  
State of Tamilnadu  
Home Department  
Fort St. George, Chennai - 9.
3. The Commissioner of Police  
Vepery, Chennai - 7.
4. The Inspector of Police  
K-8 Arumbakkam Police Station  
Arumbakkam, Chennai-106.

+1cc to Mr.Selvi George, Advocate, S.R.No.65738

ssk(CO)  
md(02/12/2016)

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