



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2016

CORAM:

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THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

AND

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.[MD].Nos.13771 of 2014 and 14823 of 2016
and

W.M.P.(MD).No.10959 of 2016
in W.P.(MD).No.14823 of 2016

W.P. (MD) .No.13771 of 2014

M.Petchimuthu

.. Petitioner

Vs.

1. The Director,
Employment and Training Department,
Guindy, Chennai.
2. The Joint Director,
Employment and Training Department,
Guindy, Chennai.
3. The Regional Joint Director,
Employment and Training,
Vannarapettai, Tirunelveli.
4. The District Collector,
Office of the District Collector,
Tirunelveli District.
5. Muthusamy, Principal,
Ambasamuthiram, Thenkasi,
Veerakeralam Pudhur,
Industrial Training Institutes,
Tirunelveli District.

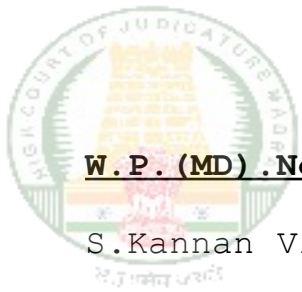
.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents 1 to 4 to initiate necessary action against the respondent No.5 on the basis of the representation dated 28.07.2014 within a stipulated time.

For Petitioner : Mr.M.Subash Babu,
for Mr.S.Sundarapandian

For respondents : Mr.M.Govindan,
1 to 4 Special Government Pleader

For 5th respondent : Mr.J.Jeyakumaran



W.P. (MD) .No.14823 of 2016

S.Kannan Vishwanath

.. Petitioner

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Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Public Works Department,
Secretariat, Fort St. George,
Chennai.
2. The District Collector,
Office of the District Collector,
Thoothukudi District.
3. The Engineer-in-Chief,
Public Works Department,
Chepauk, Chennai.
4. The Chief Engineer,
Public Works Department/
Water Resources Organization,
Madurai Region, Tallakulam,
Madurai -2.
5. The Executive Engineer,
Public Works Department/
Water Resources Organization,
Tamilraparani Basin Division,
Palayamkottai, Tirunelveli.
6. The Superintending Engineer,
Public Works Department/
Water Resources Organization,
Thamiraparani Basin Division,
Palayamkottai,
Tirunelveli.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to conduct detailed enquiry with regard to the irregularity in doing maintenance works at Thamiraparani River, Srivaigundam Anicut, South Main Channel during the period between 2010 to 2012 on the basis of the petitioner's representation dated 28.05.2016 and take necessary action against the erred officials within a stipulated time by this Court.



For Petitioner : Mr.S.Malaikani

For respondents : Mr.M.Govindan,
1 to 6 Special Government Pleader

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COMMON ORDER

[Order of the Court was made by **S.NAGAMUTHU, J.**]

The Petitioner in W.P.(MD).No.13771 of 2014 viz., Mr.M.Petchimuthu, is an Advocate by profession and a member of Tirunelveli Bar Association. The petitioner in W.P.(MD).No.14823 of 2016 viz., Mr.S.Kannan Vishwanath is also an Advocate and a member of Tirunelveli Bar Association.

2. The petitioner in W.P.(MD).No.13771 of 2014 has come up with this Writ Petition under the guise of a Public Interest Litigation seeking a direction to the respondents 1 to 4 therein to initiate necessary action against the respondent No.5, based on his representation dated 28.07.2014 within a time to be stipulated by this Court. In the said representation, the petitioner has alleged that the Central Government had evolved a scheme known as SDIS-MES scheme to give appropriate training to the poor students, who are studying in various Industrial Training Institutes (ITI). Totally, 9006 students were to be benefited under the scheme. The fifth respondent, during the relevant period, was the Principal of the Industrial Training Institute at Tirunelveli, in respect of which a sum of Rs.90 lakhs was allotted under the scheme for the benefit of the students of that institute. According to the petitioner, the fifth respondent had misused the said amount of Rs.90 lakhs. In this regard, the petitioner made a representation to the respondents 1 to 4 on 28.07.2014 and wanted action against the fifth respondent. Since no action was taken, the petitioner has resorted to file the present writ petition.

3.The fifth respondent in W.P.(MD).No.13771 of 2014 in his counter affidavit has denied this allegation. He has stated that a sum of Rs.90 lakhs was allotted for 63 Government ITIs in the State of Tamil Nadu under the said scheme in order to give training to the poor students studying in ITIs. So far as the Government ITIs at Ambasamuthram, Tenkasi and V.K.Pudur are concerned, a sum of Rs.20 lakhs was allotted. He has further stated that he spent the said amount, as per the guidelines issued under the scheme. He has further reiterated that he has not committed any irregularity or illegality in the matter of disbursement of the said amount. He has further stated that the present litigation has been filed not in Public Interest, but it is only to extract money from him. In Paragraph Nos.2 to 8, he has stated as follows:



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"2.I humbly submit that I have gone through the averments in the affidavit filed in support of the Writ petition and I deny all the averments contained therein as false and frivolous, except those that are specifically admitted hereunder. At the outset I submit that the instant writ petition filed under Article 226 of constitution of India is not at all maintainable both in Law and Facts and totally misconceived, suppression of facts and land are deserve to be dismissed. The intention of the writ petitioner- to extract money from the 5th respondent through blackmailing and a complaint regarding that was preferred to the Commissioner of Police, Tirunelveli, and the same was forwarded to the Inspector of Police, High ground police station, and now petition enquiry is pending. Moreover the writ petitioner has no *LOCUS STANDI* to file this Public Interest Litigation, as per the decision rendered by the Hon'ble supreme court in 2010 (8) MU J 405 (SC).

3. I am denying para 5 of the affidavit, as far as SDIS-MES, scheme is concerned the Government has sanctioned Rs.90,00,000/- (rupees ninety lakhs only) in order to give training to the poor students. But the said fund was allotted to the entire state of Tamilnadu and the same was shared by the 63 Government ITI's. As far as Ambasamuthiram, Tenkasi and V.K.Pudhur is concerned nearly Rs.20 lakhs were allotted in every year. I took charge on the office in the year 2010 and for the past three years the above said scheme was established in Tenkasi and Ambasamuthiram ITI's. Nearly 1600 students from Tenkasi and Ambasamuthiram were benefitted from the above said scheme. In respect of V.K.Pudhur, the scheme was not functioned in the said ITI. The total period of the training is nearly 120 hrs, as much as 40-45 days. Since I am the principal of the three I.T.I's, I have properly carried out in the scheme, and the same was monitored by the Joint Director. Hence, the question of irregularities does not arise in the present case. On 17.10.2013 the writ petitioner made a



representation under Section 6 Right to Information Act. The 5th respondent has given a reply on 11.11.2013, in his proceedings in NA.KA.NO.1/ 2013.

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4.I humbly submit that I deny para 6 of the affidavit as false. It is true that the writ petitioner filed an appeal before the 2nd respondent, hence the 2nd respondent directed the 5th respondent to permit the petitioner to inspect the records. Even though it is not warranted, in order to comply the orders of the 2nd respondent, I issued a communication to the writ petitioner on 27.12.2013 and asked him to inspect the records on 10.01.2014, in the office of Tenkasi ITI. The writ petitioner came to the office on 10.01.2014 and verified all records and further he made a request to furnish all the copies to him. Hence I advised him to pay fee and asked him to get the copies on 13.01.2014. on, 13.01.2014, the writ petitioner came to the office. But, I was on leave, hence he quarreled with the junior 'assistant one G.Saraswathi and used filthy language against her and in addition to that he restrained her from discharging her duties. Therefore she prepared to give a complaint to the Tenkasi police station. By knowing the same, the writ petitioner blocked the gate and created panic situation and started fastening in front of the ITI campus. In order to protect him he called the reporters and gave an interview as against me. Immediately the said G.Saraswathi has preferred a complaint to the Inspector of police, Tenkasi police station and petition enquiry against the writ petitioner is still pending in the police station. Then on 31.01.2014, the writ petitioner gave a letter that he will not ask any document regarding the scheme.

5.I humbly submit that I am denying para 7 of the affidavit as false. As far as SDIS-MES scheme is concerned, it was launched by the central government, the 3rd respondent is authorized for the implementation of the scheme. The 3rd respondent deputed a team to



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retire from service. Initially the writ petitioner demanded Rs.5,00,000/-, but, I refused to pay. The writ petitioner knows very well that I have not misappropriated any funds; the repeated threatening forced me to commit suicide. At that time I arranged marriage to my son, hence in order to avoid untoward circumstances in the marriage I paid Rs.1,50,000/- to the writ petitioner. on 20.01.2014 and on 31.01.2014 paid Rs. 1,00,000/- to the writ petitioner and to his friend one S.Kannan viswanath, he is also claimed to be a lawyer. Later I came to know that the writ petitioner and his friend S.Kannan viswanath, having habit of blackmailing the ITI principal's and extracting money from them. The writ petitioner further blackmailed me to pay Rs.10,00,000/- or otherwise he will file a writ petition before this Hon'ble court.

8. I humbly submit that I was unable to tolerate the demand made by the writ petitioner and his friend. Hence, I approached an advocate at Tirunelveli and through his suggestion I recorded the demand made by the writ petitioner and his friend, over phone. On 06.08.2014, night at about 8.05 PM, the writ petitioner called me over phone in a mobile no: 9940889986, and demanded money. The lime duration for this call is 2 minutes and 8 seconds. Then, at 8.27 PM, once again he made a call and blackmailed me, in the very same mobile number. The time duration for this call is 1 minutes and 10 seconds. Then, on the very same day, the writ petitioner's friend S.Kannan viswanath called me at 9.49, PM, through a mobile no: 8098571357. The time duration for this call is 2 minutes and 15 seconds. Both have demanded 10 lakhs from me."

4. Along with the counter affidavit, the fifth respondent has filed transcribed mobile phone conversations held between the petitioner - Mr. Petchimuth and the fifth respondent, on three occasions, which were recorded by him in his mobile phone. The fifth respondent has further stated that on 08.08.2014, he made a complaint to the second respondent, along with compact disc (CD) recorded by him. The second respondent advised him to prefer a



complaint before the Commissioner of Police, Tirunelveli and accordingly, on 13.08.2014 he preferred a complaint before the Commissioner of Police and the same was forwarded to the High Ground Police Station, but no case was registered against the petitioner.

5.This Writ Petition originally came up for admission before a Division Bench on 20.08.2014 and thereafter, the same had been pending. When this matter came up before this Court on 19.09.2016, the learned counsel representing the petitioner made a mention to permit him to withdraw the Writ Petition, without assigning any reason. When we went into the averments in the Writ Petition filed by the petitioner and the counter affidavit, we found that there were serious allegations against the petitioner and therefore, we declined to allow the petitioner's counsel to withdraw the Writ Petition itself. Thereafter, the petitioner's counsel withdrew his appearance. As directed by this Court, the petitioner - Mr.Petchimuthu and the petitioner in the other Writ Petition viz., Mr.Kannan Vishwanath appeared before this Court on 21.09.2016. We heard them and on subsequent hearing, the fifth respondent also appeared. In the hearing which held on 30.09.2016, we recorded as follows;

"The petitioner has made appearance. The 5th respondent herein has also made appearance. The 5th respondent has stated that the petitioner has paid Rs.2,50,000/- to him, which the petitioner received from him under threat and coercion, as detailed in the counter affidavit. One Mr.Murugan, the then Principal of Government Industrial Training Institute, Tiruchendur, also appeared before us today. He submitted that the petitioner Mr.M.Petchimuthu and his friend Mr.Kannan Viswanath received Rs.1,00,000/- under threat and coercion, after getting information under the Right to Information Act. Today, the petitioner and Mr.Kannan Viswanath, according to Mr.Murugan, have paid Rs.1,00,000/-. The said statement is recorded.

2. It is brought to our notice that Mr.Kannan Viswanath has filed yet another writ petition in W.P.(MD).No.14823 of 2016 before this Court, wherein also he has alleged certain irregularities against the Government Officials. Hence, the Registry is directed to list W.P.(MD).No.14823 of 2016 along with this Writ Petition on 07.10.2016."

Again, when the matter came up for hearing on 07.10.2016, we have recorded the proceedings as follows:



revealed that I as well as my friend namely Kannan Viswanath threatened and obtained Rs.2,50,000/- from him. On the particular date one Murugan who is Principal of Industrial Training Institute, Tiruchendur also appeared and submitted- before the court that we also threatened him and received Rs. 1,50,000/- from him.

4. I state that now we ashamed our attitude and realized our mistake. Subsequently we discussed with the 5th respondent as well as the said Murugan and tendered unconditional apologies to them and returned the received amount of Rs.2,50,000/- and Rs.1,50,000/- respectively and we entered into compromise with them. Further I state that I am having 7 previous cases among the 7, 2 case has been ended in acquittal, one case is concern it was closed on the ground of bared by limitation. At present I am having 4 pending criminal cases, except that I am not having any other cases. The details of the pending and disposal criminal cases are hereunder:

i. Crime No.1085/2010 registered in Palayamkottai Police Station for offence under Section 468 of Cr.P.C. (closed on the ground of bared by limitation).

ii. Crime No.91/2010 registered in Taluk Police Station, Tirunelveli for offence under Section 294(b), 323, 506(ii) IPC and the same was acquittal by the learned Judicial Magistrate No.III, Tirunelveli in the year 2014.

iii. A case was registered in the Palayamkottai Police Station that was ended in acquittal by the Judicial Magistrate No.IV, Tirunelveli.

iv. Crime No.311/2016 registered by Palayamkottai Police Station for offence under Section 342, 294(b), 324, 506(ii) of IPC r/w (i)(r)(s) & 3(ii) (va) of SC/ST Act (under investigation).

v. Crime No.1560/2010 registered by the Palayamkottai Police Station for offence



under Section 39(i)(c) of unlawful activities Prevention Act 1967 and Section 2 of Prevention of insults to National Honors Act 1971 (under investigation).

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vi. A case was registered in Perumalpuram Police Station. The case was registered against the 50 advocates, now it is pending before the Mediation Centre before this Hon'ble High Court.

vii. Crime No. 201/2016 registered in Srivaikundam Police Station, Tirunelveli for offence under Section 307 of IPC (under investigation).

These are all the pending and disposed case against me. Now I realized my mistake and by this affidavit I am tenders unconditional apology before this Hon'ble Court and I undertakes that I will not indulge this type of activity in future and I decided to do sincere and regular practice. My repentance is sincere and the regret is honest.

It is therefore prayed that this Hon'ble Court may be pleased to accept my unconditional apology and exonerate from all charges and thus render justice."

7. Referring to the said affidavit, the learned counsel Mr. Subash Babu submitted that this Court may take a lenient view and drop further action against the petitioner. The petitioner also apologized to this Court for his misbehaviors in the past, as brought out to the notice of this Court during the earlier hearings and submitted that he would not indulge any such kind of activity and he would conduct properly as Advocate and also as an individual. The same is recorded.

8. W.P.(MD).No.14823 of 2016 has been filed by Mr. Kannan Viswanath, a friend of Mr. Petchimuthu, that the Writ Petition has been filed seeking a direction to the respondents therein to conduct a detailed enquiry with regard to the irregularities said to have been committed by the respondents 2 to 6 in the matter of maintenance work at Thamirabarani River, Srivaigundam Anicut, South Main Channel, during the period between 2010 - 2012, on the basis of his representation dated 28.05.2016. In his representation dated 28.05.2016, the petitioner has alleged that the Government sanctioned Rs.10 crores to do maintenance and lining works along the said South main channel and that includes reconstruction of sluices and lining up the channel. But, the



said work was not done, as per the prescription and thus, the public money, to the tune of Rs.10 crores, has been swindled.

9. As we have already pointed out, there are allegations against the petitioner - Mr.Kannan Viswanath that he joined hands with Mr.Petchimuthu, the petitioner in the other writ petition and extracted money by blackmailing under the guise of filing Public Interest Litigation. In his affidavit dated 07.11.2016, in paragraph Nos.2 to 4 he has stated as follows;

"I state that I was enrolled as an advocate in the year 2012 and my enrollment No.M.S.No.2537/2012 and I started my practice at Tirunelveli District Court. In the year 2014 my friend namely Petchimuthu had filed a public Interest litigation before this Hon'ble High Court in W.P.No.13771/2014 and I associated with him in which we sought for appropriate action against the 5th respondent namely Muthusamy, Principal of Industrial Training Institute, Tirunelveli on the ground that he misappropriated huge amount using the loan schemes.

3. I state that subsequently the 5th respondent made his appearance and filed a detailed counter in which he pointed out that we filed the above writ petition with intent to grab money from him. Thereafter to find out the truth this Hon'ble High Court postponed the case for our appearance as well as the appearance of 5th respondent. On the date of hearing, the 5th respondent appeared and revealed that I as well as my friend namely Petchimuthu are threatened and obtained Rs.2,50,000/- from him. Further on the particular date one Murugan who is Principal of Industrial Training Institute, Tiruchendur also appeared and submitted before the court that we also threatened him and received Rs.1,50,000/- from him.

4. I state that now we ashamed our attitude and realized our mistake. Subsequently we discussed with the 5th respondent as well as the said Murugan and tendered unconditional apologies to them and returned the received amount of Rs.2,50,000/- and Rs.1,50,000/- respectively and we entered into compromise with them. Further I state that I am having 2 previous



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cases among the 2, one case has been closed on the ground of bared by limitation and the another case is still under investigation. The details of the pending and disposal criminal cases are here under follows:

i. Crime No.1085/2010 registered in Palayamkottai Police Station for offence under section 468 of Cr.P.C. (closed on the ground of bared by limitation).

ii. Crime No.201/2016 registered in Srivaikundam Police Station, Tirunelveli for offence under section 294(b), 323, 307, 506(ii) of IPC and the same is under investigation.

These are all the pending and disposed case against me. Now I realized my mistake and by this affidavit I am tenders unconditional apology before this Hon'ble Court and I undertakes that I will not indulge this type of activity in future and I decided to do sincere and regular practice. My repentance is sincere and the regret is honest.

It is therefore prayed that this Hon'ble Court may be pleased to accept my unconditional apology and exonerate from all charges and thus render justice."

10. As directed by this Court, a status report on the work carried out during the year 2010 - 2012 at a cost of Rs.10 crores in South Main Channel and its tank under Srivaikundam Anicut of Tahmirabarani system, has been filed by the a team of engineers consisting of Er.T.Murugusubramanian, Superintending Engineer, WRD; Er.N.Gnanasekar, Executive Engineer, WRD; Er.S.Jayapalan, Assistant Executive Engineer, WRD; and Er.S.Palanivel, Assistant Executive Engineer, WRD, wherein it is concluded that there is a prima facie allegation as mentioned in the Writ Petition. Thus, it is absolutely necessary for the respondents 1 to 3 to take action on the basis of the said status report filed. But, at the same time, it is crystal clear that the petitioner - Mr.Kannan Viswanath has not come forward with this Public Interest Litigation with any genuine motive. Going by his conduct and going by the admissions made by him in his affidavit, it is crystal clear that he has come up with this Public Interest Litigation with oblique motive and therefore, this Writ Petition deserves to be dismissed. The Writ Petition filed Mr.Petchimuthu in W.P.(MD). No.13771 of 2014 also deserves to be dismissed.



11. From the records available before us, particularly from the affidavit filed by the petitioners - Mr. Petchimuthu and Mr. Kannan Viswanath, who are practicing advocates, it is crystal clear that they have blackmailed the parties as mentioned above and extracted money and now they have returned the same. As spoken by the learned counsel Mr. Subash Babu, at a young age, when they have just entered into the legal profession, without realising the dignity of the profession and the nuances of the profession, they had indulged in these kind of misconducts. But, they have assured this Court that they would conduct themselves properly and they would not involve in any such misconduct in future. Therefore, we wish to take a lenient view in this matter and to admonish these two young advocates viz., Mr. Kannan Viswanath and Mr. Petchimuthu.

12. Further, the petitioners undertake before this Court that they would not initiate any action against the fifth respondent in W.P.(MD).No.13771 of 2014 or Mr. Murugan, the Principal of the another Industrial Training Institute, from whom they had received money by blackmailing them. Now, that the money was fully returned by them immediately. The fifth respondent viz., Mr. Muthusamy and Mr. Murugan also assured this Court that they will not take action against these petitioners. The said statement is also recorded. With the above observations, both the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

13. Before parting with these cases, we would like to record our appreciation for the 5th respondent - Mr. Muthusamy, the then Principal of the Government ITI, at Ambasamuthiram, Tirunelveli and Mr. Murugan, the Principal of the Industrial Training Institute at Pettai, Tirunelveli. In the earlier proceedings of this Court, the fifth respondent - Mr. Muthusamy, the then Principal of the Government ITI at Ambasamuthiram, submitted that he would construct toilets for the students of Swamy Nellaiapper Kanthimathi Ambal Higher Secondary School at Palayamkottai from and out of the amount returned by the petitioners. Today, he has produced photographs to show that he has completed the work. The fine gesture of Mr. Muthusamy in spending a huge amount out of the amount got back from the petitioners is appreciated and the same is recorded. We also appreciate the fine gesture extended by Mr. Murugan, who has spent Rs.30,000/- for renovating the toilets and the overhead tank at Government ITI, Pettai, Tirunelveli, from out of the money he got back from the petitioners. The same is recorded.

Sd/
Assistant Registrar(RTI)



To

1. The Director, Employment and Training Department,
Guindy, Chennai.
 2. The Joint Director, Employment and Training Department,
Guindy, Chennai.
 3. The Regional Joint Director, Employment and Training,
Vannarapettai, Tirunelveli.
 4. The District Collector, Office of the District Collector,
Tirunelveli District.
 5. The Secretary to Government, Public Works Department,
Secretariat, Fort St. George, Chennai.
 6. The District Collector, Office of the District Collector,
Thoothukudi District.
 7. The Engineer-in-Chief, Public Works Department,
Chepauk, Chennai.
 8. The Chief Engineer,
Public Works Department/Water Resources Organization,
Madurai Region, Tallakulam, Madurai -2.
 9. The Executive Engineer,
Public Works Department/ Water Resources Organization,
Tamilraparani Basin Division, Palayamkottai, Tirunelveli.
 10. The Superintending Engineer,
Public Works Department/Water Resources Organization,
Tamilraparani Basin Division, Palayamkottai, Tirunelveli.
- +1cc to M/s.S.Sundara Pandian, Advocate, in SR No.73104.
+1cc to M/s.J.Jeyakumaran, Advocate, in SR No.72839.
+1cc to Special Government Pleader in SR.No.72700

Common Order made in
W.P.[MD].Nos.13771 of 2014
and 14823 of 2016
24.11.2016

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msm-em-mpa/05.01.17/p15/14c