

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:03.08.2017

Coram

THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE P.D.AUDIKESAVALU

W.P.No.8879 of 2014

Mr.E.Saravanan

.. Petitioner

Vs.

1. The State Human Rights Commission,
Represented by its President,
Thiruvaramangam,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai-600 028.

2. Mr.Muniappan,
Deputy Superintendent of Police,
ALGSC, DCB,
Salem.

3. Mr.Gunasekaran,
Presently Inspector of Police,
Velagoundampatti,
Namakkal District.

4. Mrs.Indira,
Sub Inspector of Police,
ALGSC, DCB,
Salem.

5. Mr.Easwaramoorthy,
Sub Inspector of Police,
ALGSC, DCB,
Salem.

6. Mr.Inbaraj @ Padmanaban,
Sub Inspector of Police,
ALGSC, DCB,
Salem.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying for issuance of Writ of

Certiorarified Mandamus calling for the records in respect of the impugned order dated 12.02.2014 in SHRC Case No.731/2014 on the file of the 1st Respondent and quash the same and consequently, direct the 1st Respondent to conduct an enquiry.

For Petitioner : Mr.A.Thirumaran

For Respondents : Mr.M.Narayanasamy for R1

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]
Heard both sides.

2.The Petitioner has filed the instant Writ Petition praying for passing of an order by this Court in calling for the records in respect of the impugned order dated 12.02.2014 in SHRC Case No.731/2014 on the file of the 1st Respondent and quash the same and consequently, direct the 1st Respondent to conduct an enquiry.

3.It is represented on behalf of the Petitioner that the First Respondent/Commission has committed a patent error in passing of the impugned order dated 12.02.2014 in SHRC Case No.731/2014 and closing the complaint.

4.Aggrieved over the closure of the complaint and also the order passed by the First Respondent/Commission dated 12.02.2014, the Learned Counsel for the Petitioner submits that the impugned order dated 12.02.2014, passed by the First Respondent/Commission, suffers from vice or legal infirmities because of the latent and patent reasons that the procedure in Chapter IV Sections 17 and 18 of the Protection of Human Rights Act under the caption 'Inquiry into complaints' and 'steps to be taken during and after enquiry' were not adhered to by the First Respondent/Commission in true letter and spirit.

5.Advancing his arguments, the Learned Counsel for the Petitioner proceeds to contend that inasmuch as the complaint of the Petitioner dated 31.01.2014 was not looked into by the First Respondent/Commission in a proper and real perspective, there has been a miscarriage of justice by the First Respondent / Commission in passing of the impugned order dated 12.02.2014 in SHRC case No.731 of 2014 as aforesaid and the same is liable to be set aside to the interest of justice and to prevent an aberration of Justice.

6.This Court has looked into the contents of the complaint of the Petitioner dated 31.01.2014, addressed to the First

Respondent/Human Rights Commission and is of the considered view that the impugned order passed by the First Respondent/Commission dated 12.02.2014 in SHRC case No.731 of 2014, needs to be set aside for the simple reason that the procedures envisaged in Chapter IV under Sections 17 and 18 of the Protection of Human Rights Act, 1993 under the caption 'Inquiry into complaints' and 'steps to be taken during and after enquiry' were not adhered to by the First Respondent/Commission, at the time of passing the impugned order.

7. In view of the foregoing and also this Court taking note of the entire facts and circumstances of the instant case in an encircling manner, simpliciter, without delving deep into the merits of the complaint and also not expressing any opinion in one way or other about the complaint dated 31.01.2014, sets aside the impugned order dated 12.02.2014 by the First Respondent/Commission and remits back the entire subject matter in issue to the First Respondent/Human Rights Commission, which shall look into the complaint of the Petitioner dated 31.01.2014, afresh with an open, free, just, fair, impartial mind and that too in an unbiased and dispassionate manner and to pass a reasoned speaking order on merits by assigning qualitative and quantitative reasons, [of course after following Chapter IV Procedure under Sections 17 and 18 of the Protection of Human Rights Act, 1993] within a period of six weeks from the date of receipt of a copy of this order. It cannot be gainsaid that the First Respondent/Commission, shall provide adequate opportunity to the Petitioner and all other concerned, at the time of passing fresh order of course by adhering to the Principles of Natural Justice. It is open to the Petitioner to raise all factual and legal pleas before the First Respondent/Human Rights Commission and also to file necessary supporting documents, if any, in support of her case and also examine the witnesses. Liberty is granted to the Petitioner to lead oral and documentary evidence and also examine the witnesses on her side. The First Respondent/Commission shall issue notice to the petitioner the date of hearing to the petitioner and others concerned.

8. With the aforesaid observations and directions, the Writ Petition stands disposed of. No costs.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

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To

1. The President,
State Human Rights Commission,
Thiruvaramangam,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai-600 028.

+1cc to Mr.A.Thirumaran, Advocate Sr. 56376
+1cc to Mr.M.Narayanaswamy, Advocate Sr. 55851
+1cc to the Government Pleader, Sr. 56266

W.P.No.8879 of 2014

VGI (CO)
VR(31/8/2017)



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