

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.17414 of 2009

&

M.P.No.1 of 2009

V.Tamilarasi

.. Petitioner

Vs.

1. The Secretary,
Tamil Nadu State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Street,
Green Ways Road, Chennai-600 028.

2. The Commissioner of Police,
Office of the Commissioner of Police,
Egmore,
Chennai-600 008.

..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 relating to the order passed in Case No.8740 of 2008 dated 07.10.2008 on the file of the State Human Rights Commission, Chennai, the 1st Respondent herein, quash the same and direct the 1st Respondent to conduct inquiry into the complaint dated 24.09.2008 lodged by the petitioner before the 1st Respondent as per the provisions of the Protection of Human Rights Act-1993 as amended by Act 43 of 2006.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.R.Srinivas for R1
Mr.M.Elumalai
Government Advocate for R2

O R D E R

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

Heard the Learned Counsel for the Petitioner, the Learned Counsel for the 1st Respondent and the Learned Government Advocate for the 2nd Respondent.

2.By consent of parties the main Writ Petition itself is taken up for final disposal.

3.At the outset, it is to be pointed out that the Petitioner has filed the instant Writ Petition praying for passing of an order by this Court in calling for the records pertaining to the order passed in case No.8740/2008 dated 07.10.2008 on the file of the First Respondent/Tamil Nadu State Human Rights Commission, Chennai and to quash the same. Further, the Petitioner has sought for passing of an order by this Court in directing the First Respondent/Commission, to conduct inquiry in the complaint dated 24.09.2008 lodged by her before the First Respondent, as per the provisions of the Protection of Human Rights Act, 1993 (as amended Act 43 of 2006).

4. Pursuant to the Orders passed by this Court on 27.08.2009, 14.09.2009 and 27.07.2017, Ms.S.Divyadharshini, I.A.S., Secretary (FAC) of the 1st Respondent / Commission is present at 2.15 P.M. before this Court and filed a Report dated 02.08.2017 among other things mentioning that Dr.S.Paramasivan, Hon'ble Member of the 1st Respondent / Commission closed the 'Complaint' but had chosen to forward the same to the 2nd Respondent / Commissioner of Police, Chennai -8 for taking necessary action etc.,

5.The Petitioner in the present Writ Petition has assailing the impugned order dated 07.10.2008 in case No.8740 of 2008, whereby and whereunder, the First Respondent/Commission had forwarded the complaint of the Writ Petitioner to the Second Respondent/Commissioner of Police, Chennai City, to look into the matter and to do the needful. That apart, the First Respondent had closed the complaint.

6.Aggrieved over the closure of the complaint and also the order passed by the First Respondent/Commission dated 07.10.2008, in forwarding the complaint of the Petitioner to the Second Respondent / Commissioner of Police, Chennai City, the Learned Counsel for the Petitioner submits that the impugned order dated 07.10.2008, passed by the First Respondent/Commission dealt with all necessary qualitative and quantitative details and in short, the impugned order 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.

7. Advancing his arguments, the Learned Counsel for the Petitioner proceeds to contend that inasmuch as the complaint of the Petitioner dated 24.09.2008 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 07.10.2008 in case No.8740 of 2008 as aforesaid and the same is liable to be set aside to the interest of justice and to prevent an aberration of Justice.

8. This Court has looked into the contents of the complaint of the Petitioner dated 24.09.2008, addressed to the Secretary of the First Respondent/Human Rights Commission and is of the considered view that the impugned order passed by the First Respondent/Commission dated 07.10.2008 in case No.8740 of 2008 in forwarding to the 2nd Respondent / Commissioner of Police, Chennai to look into the matter and do the needful and closed the complaint, needs to be set aside for a 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.

9. In view of the foregoings and also this Court taking note of the entire facts and circumstances of the instant case in an integral manner, simpliciter, without delving deep into the merits of the complaint and also not expressing any opinion one way or other about the complaint dated 24.09.2008, sets aside the impugned order dated 07.10.2008 by the First Respondent/Commission and remits back the entire subject matter in issue to the First Respondent/Human Rights Commission, who shall look into the complaint of the Petitioner dated 24.09.2008, once again with an open, free, just, fair 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 and the Regulations] 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.

10. With the aforesaid observations and directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar (CS III)

/true copy/

Sub Asst. Registrar

kal/ssd

To

1. The Secretary,
Tamil Nadu State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Street,
Green Ways Road,
Chennai-600 028.
 2. The Commissioner of Police,
Office of the Commissioner of Police,
Egmore,
Chennai-600 008.
- + 1 cc to Mr.R.Sankarasubbu, Advocate, SR.55560
+ 1 cc to The Govt.Pleader, SR.56264

W.P.No.17414 of 2009
&
M.P.No.1 of 2009

RJ(CO)
NR 29/08/2017

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