

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.AUDIKESSAVALU

W.P.No.17849 of 2013

&

M.P.No.1 of 2013

G.Sairam

.. Petitioner

Vs.

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

2. The Superintendent of Police,
Cuddalore, Cuddalore-607 001.

3. Mr.Ravi,
Inspector of Police,
Thirupathiripuliyur,
Cuddalore District.

...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 Case No.2069 of 2013 on the file of the 1st respondent dated 28.03.2013 and quash the same and consequently, direct the 1st respondent to conduct enquiry in Case No.2069 of 2013 and pass orders of merits within the time frame frame fixed by this Court.

For Petitioner : Mr.S.Arokia Maniraj

For Respondents : Mr.M.Nagoor Meeran 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 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 pertaining to the order passed in case No.2069/2013 dated 28.03.2013 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 enquiry in Case No.2069 of 2013 in the complaint dated 14.03.2013 lodged by him before the First Respondent.

3.It is represented on behalf of the Petitioner that the First Respondent/Commission without summoning the parties and without conducting any enquiry, as envisaged under the Provisions of Human Rights Act, 1993, had simply directed the Second Respondent/the Superintendent of Police, Cuddalore, to enquire into the matter and to take further action and apart from that had closed the case. Moreover, the Second Respondent/the Superintendent of Police, Cuddalore, had directed the Third Respondent-Ravi/Inspector of Police, Thirupathiripuliyur, Cuddalore District, to file the report.

4.Advancing his arguments, the Learned Counsel for the Petitioner strenuously contends that when it is a specific case of the Petitioner that the Third Respondent-Ravi/Inspector of Police, Thirupathiripuliyur, Cuddalore District, had ill-treated him as per the direction of his superiors etc., then, it is not proper for the Second Respondent to issue necessary directions to the Third Respondent to file the report. This Court finds force in the arguments of the Learned Counsel for the Petitioner that the Second Respondent had committed an error in issuing necessary directions to the Third Respondent, to file the report in respect of the Petitioner's complaint.

5.The Learned Counsel for the Petitioner proceeds to contend that inasmuch as the complaint of the Petitioner dated 14.03.2013 was not looked into by the First Respondent/Commission in a proper and real perspective and that there has been a miscarriage of justice by the First Respondent / Commission in passing of the impugned order dated 28.03.2013 in case No.2069 of 2013 as aforesaid and the same is liable to be set aside to the interest of justice and to prevent an aberration of Justice.

6.Also that, on perusal of the order passed by the First

Respondent/Human Rights Commission in case No.2069 of 2013 wherein the Second Respondent had directed by the First Respondent to enquire the matter, and take necessary action and further closed the complaint, is not correct and proper, in the eye of Law. As such, this Court without traversing upon the merits of the complaint of the Petitioner dated 14.03.2013 and also not expressing any opinion on the merits of the complaint of the Petitioner one way or other, simpliciter, sets aside the order of the First Respondent/Human Rights Commission dated 28.03.2013 in Case No.2069 of 2013 because of the simple reason that the same suffers from 'legal infirmities' and 'material irregularities' in the eye of Law.

7. At this stage, this Court has looked into the contents of the complaint of the Petitioner dated 14.03.2013, addressed to the Registrar of the First Respondent/Human Rights Commission and is of the considered view that the impugned order passed by the First Respondent/Commission dated 28.03.2013 in case No.2069 of 2013, 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.

8. In view of the foregoing and also this Court taking note of the entire facts and circumstances of the instant case in an unerring 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 14.03.2013, sets aside the impugned order dated 28.03.2013 by the First Respondent/Commission and remits back the entire subject matter in issue to the First Respondent/Human Rights Commission, shall look into the complaint of the Petitioner dated 14.03.2013, 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] 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 and others` about the date of hearing etc., as per

Regulations.

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

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The Registrar,
The State Human Rights Commission,
Tamilnadu, Thiruvaramam,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai-600 028.
2. The Superintendent of Police,
Cuddalore, Cuddalore-607 001.

+1cc to M/s.AROKIA MANIRAJ, Advocate SR.No.55868

+1cc to Government Pleader SR.No.56265

W.P.No.17849 of 2013
&
M.P.No.1 of 2013

SDR 01.09.2017

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