



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2017

CORAM:

THE HONOURABLE MS.INDIRA BANERJEE, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P (MD) No.11254 of 2014
and M.P. (MD) No.1 of 2014

Vasanthha

... Petitioner

Vs.

1.The Principal Secretary to Government,
Home Department,
Secretariat,
Fort St. George,
Chennai - 9.

2.The State Human Rights Commission,
Tamilnadu, Rayapet,
Chennai.

3.P.L.Durairaj

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for records pursuant to the order passed by the 2nd respondent in SHRC.No.5946/2006 dated 21.10.2013 and quash the same.

For Petitioner : Mr.Subash Babu

For 1st Respondent : Mr.VR.Shanmuganathan,
Special Government Pleader

For 2nd Respondent : Mr.C.Arul Vadivel @ Sekar

For 3rd Respondent : Mr.V.Vinayagamoorthy

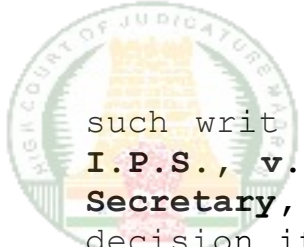
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ORDER

(Order of the Court was made by T.S.SIVAGNANAM, J.)

This petition challenges the order passed by the State Human Rights Commission in SHRC No.5946/2006 dated 21.10.2013, by which recommendation has been made by the State Human Rights Commission to take certain action against the petitioner.

2.When similar Writ Petitions were filed by those aggrieved by the recommendations made by the State Human Rights Commission, this Court has taken a view that such recommendations made will not give cause of action for the persons to file writ petition and



such writ petition is premature. One such decision is **Rajesh Das, I.P.S., v. Tamil Nadu State Human Rights Commission, rep. by its Secretary, Chennai - 600 014 [2010 (5) CTC 589]**. In the said decision it was held as follows:

41. To Sum Up:

(i) What is made under Section 18 of the Protection of Human Rights Act by the State Human Rights Commission is only a recommendation and it is neither an order nor an adjudication.

(ii) Such a recommendation made by the State Human Rights Commission is not binding on the parties to the proceeding, including the Government.

(iii) But, the Government has an obligation to consider the recommendation of the Commission and to act upon the same to take forward the objects of the Human Rights Act, the International Covenants and conventions in the back drop of fundamental rights guaranteed under the Indian Constitution within a reasonable time.

(iv) In the event of the Government tentatively deciding to accept the recommendation of the State Human Rights commission holding any public servant guilty of human rights violation, the Government shall furnish a copy of the report of the Commission to the public servant concerned calling upon him to make his explanation, if any, and then pass an appropriate order either accepting or rejecting the recommendation of the Commission.

(v) Until the final order is passed by the Government on the recommendation of the Commission, neither the Complainant(s) nor the Respondent(s) in the human rights cases can challenge the recommendation of the Commission as it would be premature except in exceptional circumstances.

(vi) On the recommendation of the Human Rights Commission, if the Government decides to launch prosecution, the Government have to order for investigation by police which will culminate in a final report under Section 173 of the Code of Criminal Procedure.

(vii) On the recommendation of the Human Rights Commission, if the Government decides to pay compensation to the victims of human rights violation, the Government may do so. But, if the Government proposes to recover the said amount from the public servant concerned, it can do so only by initiating appropriate Disciplinary proceeding against him under the relevant service rules, if it so empowers the Government."

3. The learned counsel appearing for the petitioner agrees with the above legal position and therefore, while holding the Writ Petition is premature and closing the same, we grant liberty to the petitioner to raise all contentions available to her both factual and legal, as and when the Government either accept or



initiate any proceedings against the petitioner in furtherance to the recommendations of the Human Rights Commission in SHRC.No.5946 of 2006 dated 21.10.2013. No costs. Consequently connected Miscellaneous Petition is also dismissed.

WEB COPY

Sd/-
Assistant Registrar(P&A)

/ True Copy /

Sub Assistant Registrar(C.S.)

To

1.The Principal Secretary to Government,
Home Department,
Secretariat,
Fort St. George,
Chennai - 9.

2.The State Human Rights Commission,
Tamilnadu, Rayapet,
Chennai.

+1cc to M/S.V.VINAYAGA MOORTHY, Advocate SR.No.61287
+1cc to M/S.C.ARUL VADIVEL @ SEKAR , Advocate SR.No.61403
+1cc to Special Government Pleader, SR.No.61879

sj
MAS/JC/SAR2:04.07.2017:3P-6C

ORDER MADE IN
W.P(MD)No.11254 of 2014
and M.P.(MD) No.1 of 2014
21.06.2017