



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2017

CORAM:

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P. (MD) No.6847 of 2017

Thirumurugan

.. Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by the Principal Secretary,
Public Department,
Government of Tamil Nadu,
Fort St.George,
Chennai.
2. The State of Tamil Nadu,
Represented by the Principal Secretary,
Home Department,
Government of Tamil Nadu,
Fort St.George,
Chennai.
3. The Secretary,
State Human Rights Commission,
Thiruvarangam,
143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai 600 028.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 and 2 to take immediate action to appoint members of the Tamil Nadu State Human Rights Commission within the time stipulated by this Court.

For petitioner
For respondents

: Mr.S.Ramesh Kumar
: Mr.B.Pugalandhi
Additional Advocate General
assisted by Mr.M.Govindan,
Special Government Pleader

**O R D E R**

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

The delay on the part of the Government of Tamil Nadu to appoint the members of the Tamil Nadu State Human Rights Commission made the petitioner to file this writ petition in *pro bono publico*.

2. This Court, taking into account the submission made on behalf of the petitioner that the Government has not taken any action for appointment of two members to the State Human Rights Commission and the Commission is presently functioning only with the Chairperson, passed the following order on 27.07.2017.

"The petitioner filed this writ petition in *pro bono publico* for issuance of a writ of mandamus, directing the respondents 1 & 2 to take immediate action to appoint members to the Tamil Nadu State Human Rights Commission, as expeditiously as possible.

2.The learned Special Government Pleader, on instructions, submitted that the Government is in the process of appointing the members to the Tamil Nadu State Human Rights Commission. According to the learned Special Government Pleader, the matter has to be placed before a Committee consisting of the Hon'ble Speaker, the Hon'ble Chief Minister and the Leader of the Opposition.

3.We direct the Secretary to Government, Home Department, to file an affidavit with regard to the outer time limit required for conclusion of the process regarding appointment of members to the Tamil Nadu State Human Rights Commission.

4.Post on 07 August 2017."

3. The following order was passed subsequently, directing the Government to file an affidavit indicating the time required for forwarding the names to the Governor of Tamil Nadu for appointment:

3.When the writ petition was taken up for hearing today, Mr.M.Govindan, the Special Government Pleader produced a status report, filed by the Additional Secretary to Government, Public Works Department, who is presently holding full additional charge of the Secretary to Government, Public Department, indicating that the Government has received the list



of eligible Judges to hold the post of member from the Registrar General, High Court of Madras. Similarly, the Government has received 31 applications upto 31.07.2017 from eminent persons/human rights activists. According to the Additional Secretary to Government, as per Section 22(1) of the Protection of Human Rights Act, 1993, a committee has to be constituted under the Chairmanship of the Chief Minister. The Speaker of the Legislative Assembly, Minister in charge of the Department of Home and the Leader of the Opposition in the Legislative Assembly are the other members of the said Committee. The committee would take appropriate action for appointment of the members of Human Rights Commission by selecting the names and recommending the same to the Governor of Tamil Nadu.

4.The status report does not contain any indication that the process would be completed in the near future.

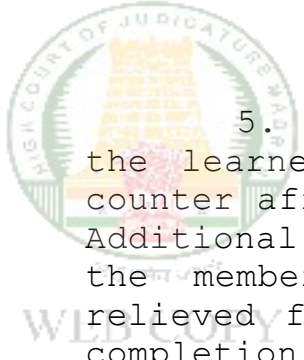
5.We have made a specific direction to the Secretary to Government, Public Department to file an affidavit with regard to the outer time limit required for conclusion of process regarding the appointment of members to the Tamil Nadu Human Rights Commission.

6.It is not proper on the part of the Government to keep the Tamil Nadu Human Rights Commission non-functional. It would not be possible for the Chairman, State Human Rights Commission alone to function as a body, unless the body is constituted with two members, in accordance with the provisions of the Protection of Human Rights Act, 1993.

7. We, therefore, direct the first respondent to file an affidavit before this Court positively by 16 August 2017 indicating the time required for forwarding the names to the Governor of Tamil Nadu for appointment.

8.Post the Writ Petition on 16 August 2017."

4.When the writ petition was taken up for hearing on 16-August-2017, the learned Additional Advocate General, submitted that he is not in a position to intimate the Court with regard to the outer time limit for completion of the process of appointment of members to the State Human Rights Commission. We have therefore adjourned the matter to be posted today (17-August-2017) <https://hcservices.scourtsof.gov.in/hcservices/> the learned Additional Advocate General to take instructions from the Government with regard to the time required for completing the process.



5. When the Writ Petition is taken up for hearing today, the learned Additional Advocate General produced a copy of the counter affidavit filed by the third respondent. According to the Additional Secretary to Government, Public Department, Chennai, the members by name Thiru.K.Baskaran and Tmt.Jayanthi, were relieved from the post on 27.08.2016 and 28.08.2016, due to the completion of five years term of office and at present, only the Chairperson is continuing. According to the Additional Secretary to Government, the Government has already constituted a committee consisting of the Hon'ble Chief Minister as Chairperson, the Speaker of the Legislative Assembly, the Minister in Charge of the Department of Home and the Leader of the Opposition in the Legislative Assembly to select the members to the State Human Rights Commission under Section 22 of the Protection of Human Rights Act. It is further contended that after convening the meeting, the names have to be forwarded to the Governor for appointment.

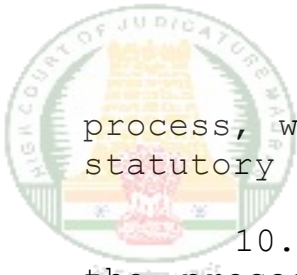
6. The counter affidavit contains a clear indication that the Registrar General, High Court of Madras has forwarded the list of eligible former Judges for appointment to the post of members in the State Human Rights Commission. Similarly, the Government has received 31 applications upto 31.07.2017 from eminent persons/human rights activists for such appointment. Since the Committee meeting was not convened, so far the appointment could not be made.

7. There is a statutory requirement on the part of the Government to fill up the post of Chairperson and members of the State Human Rights Commission. The Protection of Human Rights Act was enacted with a laudable purpose. The Government was expected to constitute a Committee for appointing the Chairperson and the members to the State Human Rights Commission. The State Human Rights Commission is given wide powers to protect the human rights. The Government cannot be heard to say that the meeting is yet to be convened and it would take considerable time for appointment of members to the State Human Rights Commission.

8. The erstwhile members relieved from the post on various dates viz., 27.08.2017 and 28.08.2017. The particulars given by the Additional Secretary clearly indicates that for the last one year, there is only a Chairperson to the Commission. It would not be possible for the Chairperson alone to take decisions, in view of the failure on the part of the Government to fill up the post of two other members. we have shown sufficient indulgence to the Government to come up with a clear proposal for completion of the process of appointment of members to the State Human Rights Commission.

<https://hcservices.ecourts.gov.in/hcservices/>

9. In view of the fact that the counter affidavit itself is evasive with respect to the outer time limit for completing the



process, we deem it fit to direct the Government to discharge its statutory function.

10. We therefore direct the respondents 1 and 2 to complete the process of appointment of the members to the State Human Rights Commission as expeditiously as possible and in any case on or before 13-October-2017. It is made clear that no further extension of time would be given at any cost, as it would not be possible for the State Human Rights Commission to function without the coram.

11. The Writ Petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To:

1. The Principal Secretary,
Public Department,
Government of Tamil Nadu,
Fort St.George,
Chennai.
2. The Principal Secretary,
Home Department,
Government of Tamil Nadu,
Fort St.George,
Chennai.
3. The Secretary,
State Human Rights Commission,
Thiruvaramangam,
143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai 600 028.

+1cc to Mr.R.Alagumani, Advocate Sr.No.72929
+1cc to The Spl.Government Pleader Sr.No.73513

SSL/KM

VB/SKN/RSK/SAR2/31.08.2017/5P/6C

ORDER MADE IN
W.P. (MD) No.6847 of 2017
17.08.2017