



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **24.04.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

AND

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.P.[MD].No.13736 of 2013

and

M.P(MD)No.1 of 2013

T.Manoharan

: Petitioner

Vs.

1.The Registrar,
State Human Rights Commission,
Tamil Nadu, Thiruvarangam,
No.143, P.S.Kumaraswamy Raja Salai,
(Greenways Road),
Chennai-600 028.

2.The Principal Secretary to Government,
Home Department,
Government of Tamil Nadu,
Secretariat, Chennai-600 009.

3.The Director General of Police,
Law and Order, Chennai-4.

4.The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli District.

5.C.Dharmaraj,
President,
Tamil Nadu Temple Executive Officers Federation,
Chennai-34.

6.S.Kailash

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relates to the Order, dated 02.07.2013, passed in SHRC Case No.6930 of 2006/C2 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.John Jeyakumar
For R1 : Mr.C.Arul Vadivel @ Sekar
For R2 to R4 : Mr.V.Muruganantham
Addl. Govt. Pleader
For R5 & R6 : No appearance

O R D E R



Tamil Nadu, vide its order dated 02.07.2013.

2.The first issue to be considered is as to whether the writ petition is maintainable as against such recommendation as no decision has been taken by the Government.

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3.An identical issue came up for consideration before this Court in the case of **Rajesh Das, I.P.S., -vs-. Tamil Nadu State Human Rights Commission, rep. By its Secretary, Chennai 600 014 2010(5) CTC 589**. This Court after elaborately considering the scheme of the Act, held that the writ petition challenging the recommendation of the State Human Rights Commission, is premature. Paragraph 41 of the judgment reads 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."

4.The learned counsel for the petitioner agrees with the above legal position. Thus, we are of the clear view that the writ petition, at this stage, is premature and therefore, not maintainable. Accordingly, the writ petition is closed and liberty is given to the petitioner to raise all contentions available to him 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. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

- 1.The Registrar,
State Human Rights Commission,
Tamil Nadu, Thiruvarangam,
No.143, P.S.Kumaraswamy Raja Salai,
(Greenways Road), Chennai-600 28.
- 2.The Principal Secretary to Government,
Home Department,
Government of Tamil Nadu,
Secretariat, Chennai-600 009.
- 3.The Director General of Police,
Law and Order, Chennai-4.
- 4.The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli District.

+1cc to SPECIAL GOVERNMENT PLEADER in SR. No.53979

+1cc to M/s. **C.ARUL VADIVEL at SEKAR** Advocate in SR. No.53569

+1cc to M/s.C.JOHN JAYAKUMAR Advocate in SR. No.53815

Am/tsg

JS/RSK/19.05.2017/3P-8C

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