

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2018

CORAM

The HON'BLE MS.INDIRA BANERJEE, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.7523 of 2017

S.Doraisamy

.. Petitioner

vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai- 600 009.

2.The Commissioner of Police,
No.132, Commissioner Office Building,
EVK Sampath Road,
Veperi, Periyamet,
Chennai - 600 007.

3.The Deputy Commissioner of Traffic,
South Chennai,
Anna Salai,
St. Thomas Mount,
Chennai - 600 016.

4.The Deputy Commissioner of Traffic,
North Chennai,
No.2, Jermiah Road,
Vepery, Periyamet,
Chennai - 600 007.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of directing the first respondent to take appropriate action against the respondents 2 to 4 for the misconduct of dereliction of duty and for wrongfully restraining and wrongfully confining the petitioner from 5.30 P.M. to 6.40 P.M. on

22.03.2017 at N.S.C. Bose Road, Esplanade, Chennai.

For Petitioner : Mr.V.Elangovan

For Respondents : Mr.T.N.Rajagopalan
Government Pleader

ORDER

(Made by Ms.Indira Banerjee, Chief Justice)

In this writ petition, the petitioner has sought a writ of mandamus directing the first respondent to take appropriate action against the respondents 2 to 4 for the misconduct of dereliction of duty and for wrongfully restraining and wrongfully confining the petitioner from 5.30 P.M. to 6.40 P.M. at N.S.C. Bose Road, Esplanade, Chennai on 22.03.2017.

2. In the affidavit in support of the writ petition, it is stated that the petitioner had an appointment with a Doctor at Neelankarai on 22.3.2017 at 7.00 P.M. He had, therefore, closed his office at N.S.C.Bose Road, Esplanade, Chennai at 5.30 P.M., to go to Neelankarai. After driving for about fifty metres from his office, the petitioner found a traffic jam near Parrys Corner Signal. The petitioner thought that the jam would be cleared in a few minutes, but, in another ten minutes, there was a complete traffic jam from Broadway Junction to Parrys Corner. Hundreds of two wheelers and cars were lined up in the traffic jam. It is further alleged that the traffic police did not permit vehicles to go beyond Parrys Corner Signal till 6.40 P.M. causing inconvenience to those who were stuck in their respective vehicles.

3. According to the petitioner, he could not meet the Doctor. It is further alleged that on an enquiry with the police, the petitioner came to know that the Hon'ble Chief Minister was supposed to go to R.K. Nagar in North Chennai for a political meeting, but the meeting had got delayed for some reason.

4. There can be no doubt that the traffic police have a duty to regulate the flow of traffic. It, however, appears that in this case there was a traffic jam, which certain

traffic policemen could not control. This is stated in paragraph 2 of the affidavit in support of the writ petition. The petitioner, who was stuck in his car, could not possibly have had direct first hand knowledge of the cause of the traffic jam.

5. No case has been made out in the writ petition for penal action against the Commissioner of Police or the Deputy Commissioners of Police, impleaded as respondents. It is nobody's case that they were present at the spot or were even aware of the traffic dislocation. In any case, no case of misconduct has been made out against them.

6. The allegations in the writ petition with regard to the cause of traffic dislocation are also unsubstantiated. May be a meeting was scheduled, a high dignitary was to attend the meeting, and the meeting had got delayed for some reason. That, in itself, cannot lead to the conclusion that the entire traffic jam for over an hour from 5.30 P.M. or so to 6.40 P.M. was only on account of the movement of the dignitary named. Ordinarily, in such cases, the traffic is stopped for about 5 to 10 minutes to let the convoy pass.

7. It is also doubtful whether a writ petition in public interest can be filed seeking penal action against the Commissioner of Police and Deputy Commissioners of Police and that too for traffic dislocation.

8. It is impossible to ascertain on affidavits in a writ petition, whether the entire traffic jam for over an hour from 5.30 P.M. or so to 6.40 P.M. was only on account of the movement of the dignitary named. Even assuming that the dislocation was for the reason alleged, in our view, the attention of the dignitary concerned could have been drawn to the inconvenience to enable him to give necessary instructions to ensure that such dislocation is not caused in the future.

9. It is, however, made clear that the observation made above is not to be construed as any finding of this Court that the traffic jam and/or the alleged dislocation of traffic for about an hour and ten minutes actually took place for the reasons alleged in the writ petition. It is reiterated that it is not possible for this Court exercising jurisdiction under Article 226 of the Constitution of India to adjudicate such disputed questions of fact.

10. The writ petition pertains to an incident of a

single day. No action is warranted. The writ petition is disposed of by directing the respondent police authorities to ensure proper traffic regulation and free flow of traffic to the extent possible. As far as possible, traffic should not be stopped for more than 5 to 10 minutes or so for the purpose of movement of vehicles of high dignitaries, be it the Governor, the Chief Minister, the Chief Justice (for whom the traffic need not at all be kept awaiting) or anyone else. Exceptions may only be made in the case of visits of high level dignitaries such as the President of India, who occasionally visit and whose visits are intimated and publicised in advance. These directions will not prevent the police authorities from diverting traffic from certain roads in case of visit to the city of high dignitaries such as the President and the Prime Minister of India or in other exigencies.

The writ petition is disposed of. No costs.
Consequently, W.M.P.No.8209 of 2017 is closed.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To:

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The Commissioner of Police,
No.132, Commissioner Office Building,
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Veperi, Periyamet, Chennai - 600 007.
- 3.The Deputy Commissioner of Traffic,
South Chennai, Anna Salai,
St. Thomas Mount, Chennai - 600 016.

4.The Deputy Commissioner of Traffic,
North Chennai,
No.2, Jermiah Road, Vepery, Periyamet,
Chennai - 600 007.

5. The Director General of police,
Chennai 4

6. The Inspector General of police,
Chennai 4

7. The Chief Secretary to Government
Fort St George, Chennai 9

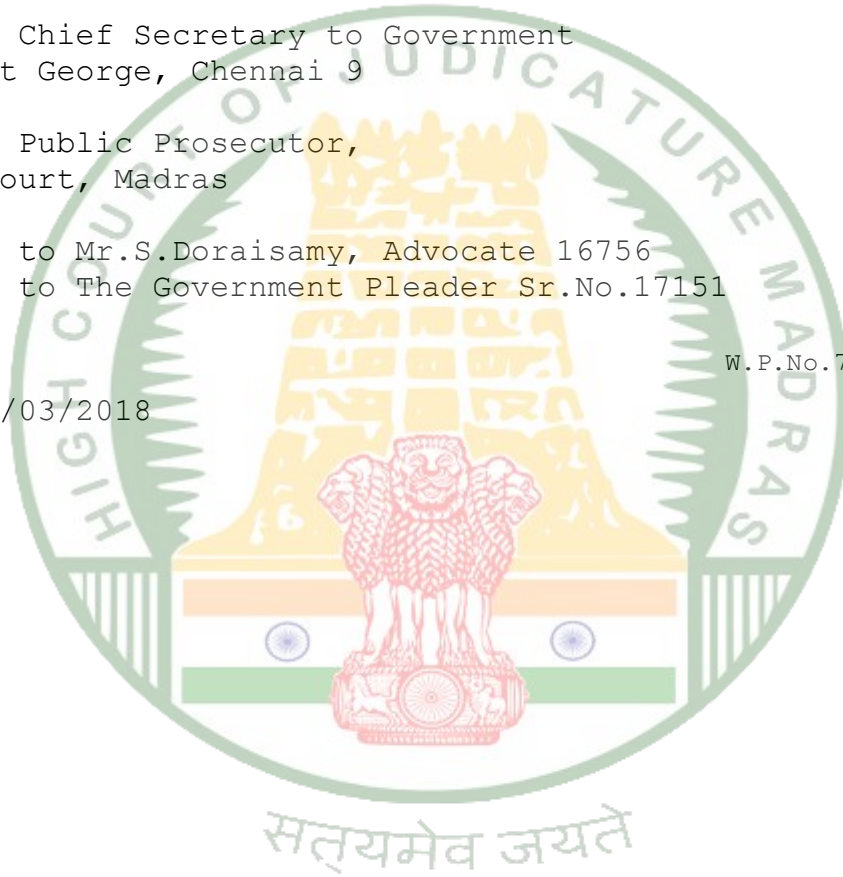
8. The Public Prosecutor,
High Court, Madras

+ 1 cc to Mr.S.Doraisamy, Advocate 16756

+ 1 cc to The Government Pleader Sr.No.17151

W.P.No.7523 of 2017

RRI 15/03/2018



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