

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
W.A.No.311 of 2018

Dr.Saravanan Karuppasaamy
Chairman cum Editor-in-Chief
World Human Rights Commission &
Rescue Center (WHRC)

Akila Ulaga Manitha Urimaikal

Padhu kappu Aanaiyam (AUMUPA)

No. A-61, Palam Extn, Sector 7,
Dwarka, New Delhi 110 077

... Appellant/Petitioner
in WP.No.32041/14

versus

State Government of Tamil Nadu,
Through Its Chief Secretary,
Secretariat, Chennai 600 009.

... Respondent/Respondent
in WP.No.32041/14

Appeal filed against the order passed by this Court dated
18.01.2018 passed in W.P.No.32041 of 2014 and WP No.16491 of
2011.

Writ petitions under Article 226 of the Constitution of India
praying that in these circumstances stated therein and in the
respective affidavit filed therewith the High Court will be
pleased to

i)issue writ in the nature of writ of mandamus or any other
appropriate writ of direction directing the respondent to pay
compensation of Rs.15 000/- as awarded by the National Human
Rights Commission and to take Criminal action against the
delinquent police officials who were instrumental in harassing
and torturing the petitioner.(WP.No.32041/14)

ii)to pass a writ of mandamus or any order in the nature of writ
directing the respondent to provide protection to the petitioner
life and property with the aid and assistance of the Central
Authority(in WP.No.16491/11)

For appellant : Mr.Saravanakaruppasaamy, party in person

For Respondent : Mr.M.Karthikeyan, Addl. Govt. Pleader

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

This Intra Court Appeal has been filed by the petitioner in WP No.32041 of 2014, challenging the order of the learned Single Judge dated 18.01.2018, in and by which, the learned Single Judge directed the Registry, to post the Writ Petition, after disposal of the Criminal Original Petition that had been filed by the petitioner, challenging initiation of certain criminal proceedings against the petitioner.

2. The prayer in the Writ Petition is as follows:

"Issue writ in the nature of Writ of Mandamus or any other appropriate writ or direction, directing the respondent to pay compensation of Rs.15,000/- as awarded by the National Human Rights Commission and to take Criminal action against the delinquent police officials who were instrumental in harassing and torturing the petitioner."

When this Writ Petition in WP No.32041 of 2014 was listed along with other Writ Petition in WP No.16491 of 2011 for hearing, the learned Single Judge had directed the Writ Petitions to be posted for hearing after the disposal of the Criminal Original Petition filed by the petitioner. The Writ Petition in WP No.32041 of 2014 seeks implementation of the order of the National Human Rights Commission, apart from seeking protection to the life and property of the petitioner.

3. The facts that led to the filing of the Writ Petition No.32041 of 2014 are as follows:

Claiming that he was tortured by the police, the petitioner moved the National Human Rights Commission seeking redressal for violation of human rights. The National Human Rights Commission took up the matter for enquiry and by proceedings dated 26.02.2013, the National Human Rights Commission had observed that the complainant was tortured during police custody and a case of breach of Human Rights was made out. Thereafter, vide its proceedings dated 09.09.2013, the National Human Rights Commission had directed the State of Tamil Nadu represented, by its Chief Secretary, to pay compensation of Rs.15,000/- to the complainant/petitioner herein. On 17.02.2014, the National Human Rights Commission again reiterated its order dated 09.09.2013 and also further directed action to be taken against the delinquent police officials. From the proceedings of the National Human Rights Commission dated 02.06.2014, it is seen that the National Human Rights Commission had reiterated that breach of Human Rights has been made out and had required the Chief Secretary, Government of Tamil Nadu, to submit the proof of payment, along with action taken report, within 6 weeks positively. The following observation of the National Human Rights Commission, in its proceedings dated 02.06.2014 are relevant:

"After considering all the facts and circumstances of the case, the Commission is still of the opinion that a case of breach of human rights is made out. The Chief Secretary, Government of Tamil Nadu, is expected to submit the proof of payment along with action taken report (as directed vide proceedings dated 17.02.2014) within six weeks positively."

Since the order of the National Human Rights Commission has not been complied with, the petitioner has come forward with the above Writ Petition seeking implementation of the order of the National Human Rights Commission

4. This Writ Petition was resisted by the respondents by contending that there are other Criminal proceedings pending against the petitioner and hence the Writ Petition should await the disposal of the criminal cases. Accepting the contention of the respondents, the learned Single Judge had directed the Writ Petitions to be listed, after the disposal of the Criminal Original Petitions.

5. Aggrieved, the Writ petitioner has come forward with this appeal.

6. We have heard the appellant appearing in person and Mr.M.Karthikeyan, Additional Government Pleader, appearing for the respondent.

7. Considering the limited relief that is sought for in the Writ Petition No.32041 of 2014, we do not think that we need to go into the factual aspects of the matter. The relief sought for in the Writ Petition No.32041 of 2014, is limited to issuing direction to comply with the order of the National Human Rights Commission. Whether the State is bound to comply with the said order or not, is the only question that has to be gone into the Writ Petition.

8. The fact that some Criminal case has been filed against the petitioner and the petitioner had invoked the jurisdiction of this Court under Section 482 of Criminal Procedure Code, seeking to quash those proceedings and the pendency of those proceedings will not, in our considered opinion, in any manner stand in the way of this Court, considering as to whether the orders of the National Human Rights Commission should be complied with or not. The pendency of the criminal proceedings, which are for a totally different offence, cannot stand in the way of this Court considering the Writ Petition seeking implementation of the orders of the National Human Rights Commission in its letter and spirit.

9. The Criminal case, that is said to be pending have nothing to do with the violation of Human Rights found to have been committed on the person of the petitioner by the Police officials. We are, therefore, of the opinion that the order

passed by the learned Single Judge directing listing of the Writ Petitions, after the disposal of the Criminal Original Proceedings cannot be sustained.

10. We, accordingly, set aside the order of the learned Single Judge impugned in the Writ Appeal. The learned Single Judge is requested to hear the Writ Petition in W.P.No.32041 of 2014 only on merits, and dispose of the same. Insofar as W.P.No.16491 of 2011 is concerned, the petitioner has sought for protection to his life and property with the aid and assistance of central authority. Insofar as the said Writ petition is concerned, the learned Single Judge has not passed any order. He has only directed the Registry to obtain necessary orders for posting WP No.16491 of 2011, along with Writ Petition 32041 of 2014.

11. The Writ Appeal stands disposed of with the above direction. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

jv
To

1.The Chief Secretary
Government of Tamil Nadu,
Secretariat, Chennai 600 009.

2.The Union Home Secretary to Government
Government of India/Bharat Sarkar
Home Department, Ministry of Home Affairs
No.113, North Block, New Delhi 110 001.

3.The Secretary to Government of Tamil Nadu
State of Tamil Nadu, Home Department,
Secretariat, Chennai-9.

4.The Section Officer,
Writ Section, High Court, Madras

+lcc to Dr.Saravanan Kuppusamy, Party in person, SR.No.26899
+lcc to Government Pleader SR.No.27310

SKV(CO)
sm:17.4.2018

W.A.No.311 of 2018