



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.06.2018
CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
AND
THE HONOURABLE Mrs.JUSTICE T.KRISHNAVALLI

W.P. (MD) No.11839 of 2018
and
W.M.P. (MD) No.10776 of 2018

C.Thangapandi

... Petitioner

Vs.

1.The Chief Secretary,
State of Tamil Nadu,
St. George Fort,
Chennai - 9.

2.The Additional Chief Secretary,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Chennai - 9.

3.The Director General of Police,
Dr.Radhakrishnan Road,
Mhylapore,
Chennai - 4.

4.The Inspector General of Police,
South Zone,
Madurai - 7.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the respondents to instruct all the police personnels not to harass any individual in the name of investigation in the cases registered by the Tuticorin Police in respect of Sterlite Copper Unit.

For Petitioner

: Mr.M.Rajendran

For Respondents

: Mr.K.Chellapandian

Additional Advocate General
assisted by

Mr.M.Rajarajan, Govt. Advocate

ORDER

(Order of the Court was made by M.V.MURALIDARAN,J.)

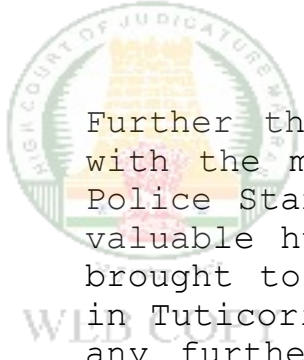
the Police officials, especially in Tuticorin and Tirunelveli Districts and Southern part of Tamil Nadu not to harass the residents of Tuticorin and Tirunelveli Districts.

2. Though pursuant to the out break caused in the procession against Sterlite Copper Unit at Tuticorin, the petitioner claims himself as the District Secretary of "Makkalathikaram", he is lamented that not only himself but his members of the organisation and common public also. He has stated in his affidavit that in Poovanthi Village, Manamadurai Taluk of Sivagangai District and also Usilampatti Taluk in Madurai District, apart from other part of Tirunelveli District, the members of his association are being harassed physically and mentally by the Police under the guise of enquiry. He has specifically made allegations against the Police personnels attached with C-1, Palayamkottai Police Station as his wife was threatened by the aforesaid Police by trespassed into his residence of the night hours. Further, the act of the Police has created panic upon the minds of the residence of Tuticorin and Tirunelveli Districts and also the rest of the States. So he was constrained to sent a representation on 31.05.2018 and unavoidably and inevitably rushed to this Court immediately. Considering the urgency of the inhuman act of the Police personnels, hence, he sought for a Mandamus from this Court, as against the respondents to direct them to give suitable instructions to all the Police Personnels of Southern Part of the State.

3. Per contra, the learned Additional Advocate General Mr. Chellapandian, on instructions would submit that none of the residence are harassed by the Police Personnels and also he rebutted the allegations levelled against the Police Personnels of C-1, Palayamkottai Police Station. He also recollected that the respondents have complied with all the directions given by this Court, subsequent to the police firing then and there. Hence, he prays for the dismissal of the writ petition.

4. We heard Mr. M. Thirunavukkarasu, learned counsel for the petitioner and Mr. Chellapandian, learned Additional Advocate General assisted by Mr. M. Rajarajan, learned Government Advocate for the respondents. We have carefully considered the rival submission on either side.

5. It is the specific case of the Petitioner that neither himself nor his family members or not any of the residents of the Tuticorin and Tirunelveli District are harassed under the guise of either enquiry or investigation. He also brought to the notice of this Hon'ble Court about the death toll out of police firing. This court put its anxious consideration in the guide lines given by the Hon'ble Supreme Court in D.K. Basu's case, wherein it is held that no one shall be harassed under the guise of investigation. The police ought to have conducted enquiry and investigation in the manner known to law especially as contemplated under the Code of Criminal Procedure and as per the Police Standing Orders.



Further there cannot be any decision by the police in complying with the mandatory procedures as per Criminal Procedure Code and Police Standing Order. This Court also concerns about the loss of valuable human life in the police firing at Tuticorin. Now, it is brought to the notice of this Court that the Sterlite Copper Unit in Tuticorin is closed by the State Government. So there cannot be any further agitation or procession from any premise. Under the prevailing circumstances the police shall refrain themselves from harassing any family members of the accused in any of the cases registered by the police in connection with sterlite unit, the police must avoid such allegations raised against them in the affidavit.

6. In this regard, it is also brought to the notice of this Court that the enquiry and investigation in the cases registered in this connection are nothing but harassing the persons concerned. As these allegations are serious in nature, the Respondents are liable to looking into the same as per law.

7. Considering the facts and circumstances of the case and in view of the discussion made above, we are inclined to pass the following directions:

(a) the respondents are hereby directed to ensure that the enquiry and investigation conducted by the Police in the cases registered relating to the Sterlite Copper Unit as per the procedures contemplated under the guidelines issued by the Hon'ble Supreme Court in the case of D.K.Basu's case. In case, if any violation is found the authorities concerned should initiate legal action against the erred officers;

(b) the respondents are further directed to ensure that the residence of Tuticorin and Tirunelveli are not subjected for harassment under the guise of enquiry and investigation. Further, the inmates and family members of the named accused in any of the cases registered in this regard shall not be disturbed or harassed by the Police under the investigation.

8. Accordingly, the writ petition stands disposed of. Consequently, connected WMP(MD)No.10776 of 2018 is closed. No costs.

Sd/
Vacation officer/
Assistant Registrar(AD-II)

/True copy/



To

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+1cc to Mr.M.RAJENDRAN, Advocate, SR.No. 66500

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