

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2019

CORAM:

THE HON'BLE MR. JUSTICE N. ANAND VENKATESH

WP.No.1128 of 2019

S.Devi

... Petitioner

Vs.

1. The District Collector,
O/o.The District Collector,
Tiruppur District.

2. The District Adi Dravidar and Tribal Welfare Officer,
Adi Dravidar & Tribal Welfare Department,
Tiruppur,
Tiruppur District.

3. State Rep. by
The Inspector of Police,
Kangeyam Police Station,
Kangeyam, Tiruppur District.
(Crime No.78 of 2018)

... Respondents

PRAYER: Writ petition filed under article 226 of Constitution of India praying to issue a writ of certiorarified mandamus or any other appropriate writ or order of direction in the nature of writ directing the 1st respondent to appoint one A.Pandian (Enrol.No.1585 / 2008), Advocate as Special Public Prosecutor in

Special S.C.No.3/2018 on the file of the Principal District and Sessions Court, Tiruppur based on my representation dated 21.12.2018 within the stipulated time.

For Petitioner : Mr.S.Kumara Devan

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor for R3

ORDER

This petition has been filed seeking for appointment of one Mr.A.Pandian (Enrol.No.1585/2008), Advocate as the Special Public Prosecutor to conduct the case in SC No.3 of 2018 on the file of the Principal District and Sessions Court, Tiruppur.

2. The learned counsel for the petitioner would submit that the petitioner is the defacto complainant and his son and daughter are the victims who were alleged to be threatened and harassed in the name of "Katta Panchayat" said to have been conducted by the accused persons. The complaint was given before the respondent police and an FIR in Crime No.78 of 2018 against five accused persons for an offence under Sections 294(b), 323 IPC r/w Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (Prevention of Atrocities) Amendment Act, 2015. The respondent police

have completed the investigation and filed a final report before the Court below and the same has been taken on file in SC No.3 of 2018.

3. In the meantime, the petitioner as a victim made a representation to the District Collector on 21.12.2018, to appoint one Mr.A.Pandian, Advocate as the Special Public Prosecutor, inspite of the receipt of the representation, the 1st respondent has not taken any steps to appoint the Special Public Prosecutor as requested by the petitioner.

4. The learned counsel for the petitioner also brought to the notice of this Court, a consent letter given by the Advocate Mr.A.Pandian on 21.12.2018, agreeing to appear in this case as a Special Public Prosecutor.

5. As per the Rule 4 (5) of the SC/ST (Prevention of Atrocities Rules), a victim is entitled to engage any eminent Senior Advocate for conducting cases before the Special Court as a Special Public Prosecutor. This position has been confirmed by various judgments given by this Court. The learned counsel relied upon the judgment of this Court reported in 2014(4) MLJ 339 (R.Kandasamy Vs.The District Collector). Therefore, the learned counsel would further submit that the first respondent has to proceed further and appoint the above said Mr.A.Pandian, Advocate as the

Special Public Prosecutor to conduct the case in SC No.3 of 2018.

6. In view of the settled position of law, there shall be a direction to the 1st respondent to appoint Mr.A.Pandian, Advocate as the Special Public Prosecutor to conduct the case in SC No.3 of 2018 on the file of the Principal District and Sessions Court, Tiruppur. This process shall be completed by the 1st respondent within a period of three weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition stands allowed. No costs.

21.01.2019

Index : Yes / No
Internet: Yes / No

rka

सत्यमेव जयते

WEB COPY

To

1. The District Collector,
O/o.The District Collector,
Tiruppur District.
2. The District Adi Dravidar and Tribal Welfare Officer,
Adi Dravidar & Tribal Welfare Department,
Tiruppur,
Tiruppur District.
3. State Rep. by
The Inspector of Police,
Kangeyam Police Station,
Kangeyam, Tiruppur District.
(Crime No.78 of 2018)



WEB COPY

N.ANAND VENKATESH.,J
rka



Crl.OP No.1128 of 2019

WEB COPY

21.01.2019