

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.06.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.16525 of 2008

B.Purusothaman

..Petitioner

vs

1. Union of India,
Rep. by the Secretary to Government,
Home Department,
New Delhi.

2. The State of Tamil Nadu,
Rep. by the Secretary to the Government,
Home Department,
Fort St. George, Chennai - 9.

3. The State of Tamil Nadu,
Rep. by Secretary to Government,
Department of Law,
Fort St. George, Chennai 9.

4. The Director General of Police,
Chennai 9.

..Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India seeking for a Writ of Mandamus, directing the respondents 1 to 3 to take necessary steps to amend the Preventive Detention Act 14 of 1982 by incorporating the following I. To prevent illegal detention of the person, the detaining authority has to verify the identify of the person going to be detained by way of enquiry or by directing the recommending authority to produce relevant documents to that effect to prevent the illegal detention of the person, II. The detaining authority has to direct the recommending authority or produce the person going to be detained before him and must record his statement before passing detention order, III. The detaining authority should give opportunity to the person produced before him by the recommending authority to show cause as to why he should not be detained and, IV. and if any person is illegally and highhandedly detained by way of detained detention order, the Act should necessarily be provided with the clause for claiming compensation as well as for the Departmental

action against the authorities who had passed the detention order as well as recommended the case for preventive detention based on the petitioner's representation dated 15.02.2008.

For Petitioner : Mr.B.Prahalad Ravi

For Respondents : Mr.J.Madanagopal, CGSC, for R1
Mr.A.N.Thambidurai, Spl.G.P.,
for RR2 to 4

ORDER

Heard the learned counsel for the petitioner, learned Central Government Standing Counsel appearing for the first respondent and the learned Special Government Pleader appearing for the respondents 2 to 4.

2. According to the petitioner, he has been engaged in Transport Agency business and in the year 2007, the fourth respondent police illegally detained him under Act 14 of 1982. However, the Advisory Board, Chennai set aside the said detention order.

3. It is alleged by the petitioner that whenever the police arrests any accused, they themselves write a confession statement and by adopting third degree method obtain signature from the accused. When this was represented to a Magistrate at the time of remand, it is not taken on record and hence, Section 161 of the Criminal Procedure Code has to be amended.

4. On a perusal of the affidavit and representation, it is seen that the petitioner has only given a general statement and no specific incident has been given either in the affidavit or in the representation. Further, it is seen that there is no acknowledgment for sending the representation dated 15.02.2008 to the respondents.

5. Taking note of the above facts, in the considered opinion of this Court, the petitioner is not entitled for the relief sought for in this Writ Petition.

6. In that view of the matter, this Writ Petition fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Union of India,
Home Department,
New Delhi.
2. The Secretary to Government,
The State of Tamil Nadu,
Home Department,
Fort St. George, Chennai - 9.
3. The Secretary to Government,
The State of Tamil Nadu,
Department of Law,
Fort St. George, Chennai 9.
4. The Director General of Police,
Chennai 9.

+1cc to the Government Pleader Sr.45833

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jp[col]
srg 30/07/2019