



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.07.2019

CORAM

The Honourable Mr.JUSTICE K.K.SASIDHARAN

and

The Honourable Ms.JUSTICE P.T.ASHA

W.P.No.33245 of 2005

K. R. Thanikachalam

...Petitioner

Vs.

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

2. The City Police Commissioner,
Egmore, Chennai-8.

3. The State Human Rights Commission,
Tamil Nadu,
No.35, Thiru.Vi.Ka.Salai,
Chennai-14.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issue a writ of Mandamus or any other appropriate writ or order or direction in the nature of writ, directing the 3rd respondent to conduct an enquiry in Case Nos. 373/005 and 8936/2004 made by the petitioner as per Sec.29 of the Human Rights Act 1993.

For Petitioner : Mr. N. A. Nissar Ahmed

For Respondents: M/s. A. Sri Jayathi,
Special Government Pleader
for R1 & R2
Mr. K.P. Prabhu Raj for
Mr. Srinivas for R3



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O R D E R

(Order of the Court was delivered by P.T.ASHA, J)

The above Writ Petition is filed seeking a Mandamus to the 3rd respondent to conduct an enquiry in case Nos.373 of 2005 and 8936 of 2004 on the basis of the complaint preferred by the petitioner under Section 29 of the Human Rights Act, 1993.

2. The writ petitioner is discharging duties as Home Guard and his father had retired from the Police Service. He would contend that he has been discharging his duties blemishlessly as expected of him. While so, on 11.10.2004, the 4th respondent the Sub Inspector of B-1 Police Station St. Thomas Mount in an inebriated state abused the petitioner in the filthiest language and assaulted him.

3. The petitioner had lodged a complaint which however was not taken on file and no action was initiated against the 4th respondent. Thereafter, the petitioner had approached the 3rd respondent with a complaint dated 25.11.2004 to take action against the 4th respondent. The 3rd respondent instead of adjudicating simply forwarded the complaint to the 2nd respondent. Since there was no response, the petitioner once again filed Case No. 373/2005 STM before the 3rd respondent which also met with the same fate.

4. Since no orders were being passed by the 2nd respondent upon the orders of the 3rd respondent, the petitioner had filed W.P.No.21270 of 2005 for a Mandamus directing the respondents to pass orders on the representations dated 17.01.2005 and 28.03.2005. This Court by order dated 29.06.2005, disposed of the Writ Petition by taking note of the fact that the third respondent had forwarded the complaint to the second respondent by order dated 30.12.2004 in Case No. 8936 of 2004 STM, to consider the representations and pass orders. Since there was no further progress in the matter, the petitioner has come forward with the present Writ Petition.

5. On a perusal of the records, it is seen that the petitioner had moved the 3rd respondent with a complaint that the 4th respondent had abused him in filthiest language and assaulted him and therefore there was a case of Human Rights violation. It is not known as to why the 3rd respondent had abdicated its Authority and forwarded the complaint to the second respondent. It is for the Commission to deal with the issues relating to Human Rights violation and to pass order.



6. The impugned order is set aside. The Commission is directed to consider the complaint dated 25.11.2004 filed by the petitioner on merits and pass orders in accordance with law. The said exercise shall be completed within a period of 3 months from the date of receipt of a copy of this order. The Writ Petition is allowed on the above lines. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To,

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

2. The City Police Commissioner,
Egmore, Chennai-8.

3. The State Human Rights Commission,
Tamil Nadu,
No.35, Thiru.Vi.Ka.Salai,
Chennai-14.

+1cc to Mr.R.Srinivas, Advocate Sr.55592

W.P.No.33245 of 2005

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srg 22/08/2019