

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-04-2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9703 of 2019

D.Asaithambi

.. Petitioner

Vs.

1.The Director General of Police,
Office of the Director General of Police,
No.1, Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600 004.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Thaiyar Kulam,
Kanchipuram-631 501.

3.Mr.Rajeshkannan

.. Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent herein to consider the representation of the petitioner dated 6.3.2019.

For Petitioner : Ms.M.V.Kalai Chithram

For Respondents

No.1 & 2 : Mr.A.N.Thambidurai,
Special Government Pleader.

O R D E R

The relief sought for in the present writ petition is for a direction to direct the first respondent to consider the representation submitted by the writ petitioner on 6.3.2019.

2. The grievance of the writ petitioner is that he was working as a Conductor in Metropolitan Transport Corporation (Chennai) Limited. In respect of a complaint of a missing child, the writ petitioner was taken to police custody by the third respondent and he was tortured.

3. In this regard, the writ petitioner submitted a complaint to the respondents 1 and 2. The second respondent conducted an enquiry. However, the writ petitioner has not received any reply in respect of the enquiry conducted by the second respondent. Thus, the writ petitioner is constrained to move the present writ petition.

4. In respect of the allegation of custodial torture, the writ petitioner has to establish the incidence by producing documents and by adducing evidences. Such an exercise cannot be done in a writ proceeding under Article 226 of the Constitution of India.

5. This apart, in respect of Human Right violations, the writ petitioner has to approach the Human Rights Commission for the purpose of conducting a trial and adjudication to ascertain the truth regarding the incident.

6. Contrarily, this Court cannot come to a conclusion that the allegations set out by the writ petitioner regarding the custodial torture is a fact or not.

7. Under these circumstances, the writ petitioner is at liberty to approach the appropriate Forum for the purpose of establishing his case by producing documents and by adducing evidences. Even to direct the respondents to consider the representation, the grievance of the writ petitioner cannot be redressed. Such a direction can be issued only in the event of establishing the legal right. In the absence of any legal right to establish, directions can be issued by this Court. The right will accrue only if the writ petitioner has to establish the allegations of custodial torture set out against the third respondent.

8. This being the fact, it is left open to the writ petitioner to approach the competent authority for redressing his grievances.

9. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Svn

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Director General of Police,
Office of the Director General of Police,
No.1, Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600 004.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Thaiyar Kulam,
Kanchipuram-631 501.

+1cc to the Govt.Pleader, Vide Sr.No.36355

W.P.No. 9703 of 2019

Kak(15/05/2019)



11-04-2019

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