

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 03.07.2019

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.OP.No.10264/2019

V.Anbazhagan

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Petitioner

Vs

- 1.The Chief Secretary
The Government of Tamil Nadu
Fort St George, Chennai 600 009.
 - 2.The Director of Vigilance & Anti Corruption
No.293, MKN Road, Alandur,
Chennai 600 016.
 - 3.The Director
Directorate of School Education
DPI Complex College Road
Chennai.
 - 4.Mr.K.S.Kandasamy, IAS
District Collector
O/o.The District Collector
Tiruvannamalai District.
 - 5.Mr.V.Jeyakumar
Chief Educational Officer
O/o.The Chief Educational Officer
Tiruvannamalai District.
- Respondents

Prayer:- Petition filed under section 482 Cr.P.C., to direct the first respondent to send the decision by virtue of petitioner's complaint dated 08.10.2018 to the 2nd respondent as per section 17[A][1] of the Prevention of Corruption [Amendment] Act, 2018, within the stipulated time to be fixed by this Court.

For Petitioner : Mr.S.Kumara Devan

For Respondents : Mr.K.Prabakar, APP

ORDER

The above petition has been filed seeking to direct the first respondent to send the decision by virtue of petitioner's complaint dated 08.10.2018 to the 2nd respondent as per section 17[A][1] of the Prevention of Corruption [Amendment] Act, 2018, within the stipulated time to be fixed by this Court.

2 The learned counsel for the petitioner would submit that the petitioner had sent a complaint to the 2nd respondent with regard to the illegality committed by the respondents 4 and 5 by collecting a sum of Rs.2.40 Crores from the Government School Teachers compulsorily, in the name of the Trust formed by them, viz., 'My child My Care'. It is the averment of the petitioner that the School teachers were made to contribute amount ranging from Rs.2000/- to Rs.5000/- per month, for which, no receipt was issued to them. Further, on 16.07.2018, one Mr.T.Senthilkumar, President, Keelpennathur Teachers/Workers Cooperative Thrift Society, had also given a complaint to the 3rd respondent as against the respondents 4 and 5 with regard to payment of Rs.20,000/- to the said Trust and the non-issuance of the receipt towards such payment. The 2nd respondent had sent a letter dated 16.10.2018 under Petition No.10100/2018/PUB/TVM, stating that the petition had been sent in original to the 1st respondent for necessary action as per section 17[A][1] of the Prevention of Corruption [Amendment] Act, 2018. Since no action has been taken by the 1st respondent, the petitioner had approached this Court, seeking for a direction to the 1st respondent to send a decision by virtue of section 17[A][1] of the Prevention of Corruption [Amendment] Act, 2018. सत्यमेव जयते

3 Mr.K.Prabakar, learned Additional Public Prosecutor appearing for the respondents, by drawing the attention of this Court to paragraphs No.6 and 7 of the counter affidavit filed by the 1st respondent, would submit that the respondents deny the allegations leveled against them by the petitioner. He would further submit that the 1st respondent, by accepting the remarks of the 4th respondent dated 20.11.2018, had found that there was no irregularity in the matter and dropped further action in the matter and thereby, did not take any action on the complaint of the petitioner dated 08.10.2018 and hence, there was no necessity for the 1st respondent to refer the case to the 2nd respondent herein as per section 17[A][1] of the Prevention of Corruption [Amendment] Act, 2018.

4 The learned counsel for the petitioner would submit that the petitioner has filed a reply to the counter statement refuting the contentions raised in the counter.

5 I have considered the rival submissions and also perused the materials.

6 It is relevant to extract paragraphs No.6 and 7 of the counter affidavit dated 25.06.2019 filed by the 1st respondent:-

'6 It is submitted that as per Rule 13[2][d] of All India Services [Conduct] Rules, 1968, a member shall take part in the registration, promotion [not holding of an elective office] of a literary, scientific or charitable society, or of a club, or similar organisation, the aims or objectives of which relate to promotion of sports, cultural or recreation activities, registered under the Societies Registration Act, 1860. The said Society, 'My Child My Care' was formed for the purpose of developing education standard in Tiruvannamalai District and to help the poor children for their higher education and it has been registered under the Societies Registration Act, 1860 and no irregularity has been noticed under 'MY CHILD MY CARE' scheme. Further, it is pertinent to mention that bank account for collecting the donation is under the name of 'District Collector My Child My Care Education' Society, Tiruvannamalai. Since further action does not seem necessary in this issue, the Government have accepted the remarks of the fourth respondent dated 20.11.2018 and dropped further action in the matter.

7 It is humbly submitted that the Government have examined the complaint petition of the petitioner dated 08.10.2018 along with the factual report of fourth respondent dated 20.11.2018 and as no irregularity has been found, dropped further action in the matter. Therefore, the first respondent herein did not take any action on the complaint petition of the petitioner herein dated 08.10.2018 is not correct. Hence, there is no need to refer

the case to the second respondent herein as per section 17[A][1] of the Prevention of Corruption [Amendment] Act, 2018.''

7 It is the stand of the 1st respondent that there is no irregularity and thereby, there was no need to refer the case to the 2nd respondent as per section 17[A][1] of the Prevention of Corruption [Amendment] Act, 2018.

8 Recording the same, the criminal original petition stands closed, granting liberty to the petitioner to proceed in accordance with law before the appropriate Forum.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

AP
To

- 1.The Chief Secretary
The Government of Tamil Nadu
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No.293, MKN Road, Alandur,
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- 3.The Director
Directorate of School Education
DPI Complex College Road
Chennai.
- 4 The Public Prosecutor
High Court, Chennai.

+1cc to Mr.S.Kumara Devan , Advocate SR.No. 55341

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A.SK(22/08/2019)