

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2019

CORUM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Petition No.21343 of 2019
and
W.M.P.No.20566 of 2019

Mayavan

.... Petitioner

Vs

1. Tamil Nadu State Human Rights Commission,
rep. by its Registrar,
143, P.S.Kumarasamy Raja Salai,
Greenways Road, Adyar,
Chennai - 600 028.

2. Govarthanan
S/o Duraisamy

3. Singaravelu
S/o Pandurangan

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call or the impugned order dated 13.12.2018 issued by the 1st respondent in SHRC Case No.8745 o 2013 and quash the same and consequently directing the 1st respondent to permit the petitioner to be represented by his elder brother Mr.J.Ramalingam in SHRC No.8745 o 2013 pending on the file o the 1st respondent.

For Petitioner : No appearance

For Respondents : No appearance.

O R D E R

(Order of the Court was delivered by K.K.SASIDHARAN, J.,)

None appears on behalf of the petitioner. None appears on behalf of the respondents also. The respondents are absent inspite of printing their names in the cause list after service.

2. The challenge in this writ petition is to the order dated 13.12.2018 in SHRC Case No.8745 of 2013 rejecting the request made by the petitioner to permit his brother to represent him in the proceedings initiated by him against the respondent Nos.2 and 3.

3. The petitioner preferred a complaint against the respondents Nos.2 and 3 alleging violation of human rights. The application was taken on file in SHRC Case No.8745 of 2013. The petitioner submitted an application before the Tribunal on 18.08.2018 to allow his power agent who is none other than his brother to represent the case on his behalf. The petitioner in the affidavit filed in support of the miscellaneous petition submitted that he is an illiterate and as such, he cannot appear as party in person. The petitioner, therefore appointed his brother as a special power agent and requested the Tribunal to permit him to conduct the proceedings on his behalf. The Tribunal, dismissed the application by quoting Regulation 39 of the State Human Rights Commission, Tamil Nadu (Procedure) Regulation, 1997.

4. Regulation 39 reads thus:

39. Representative - Parties before the commission shall appear either in person or through authorized representative, unless personal attendance is required by the commission. Such a representative may be Member of the Bar or such other person authorized by the Commission to represent the parties.

5. The above quoted Regulation permits the parties to appear before the Commission through authorised representative, exception being the order passed by the Commission for personal appearance of the petitioner.

6. The State Human rights Commission invented a very strange reason that the elder brother of the complainant cannot be an authorised person as he is not an advocate or authorised person. The question of rejecting the application on the ground that the power agent is not an advocate, does not arise for the simple reason that there is no such indication in Regulation 39 that only an advocate can be an authorised agent of the petitioner. Similarly, the other reason that the agent is not an authorised person also would not hold good for the simple reason that it is only after approving the appointment of the agent that a person would become an authorised person. Therefore, both the reasons given by the State Human Rights Commission for rejecting the application has no legal basis. We are therefore,

of the view that the Tribunal, without any rhyme or reason, dismissed the application filed by the petitioner.

7. The order dated 13.12.2018 is set aside. We make it clear that the agent nominated by the petitioner is eligible to be appointed as the authorised person in accordance with Regulation 39 of the State Human Rights Commission.

8. We therefore direct the State Human Rights Commission to consider the application submitted by the petitioner in accordance with Regulation 39 of the State Human Rights Commission Tamil Nadu (Procedure) Regulation, 1997. Such exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order.

9. The Writ Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Registrar,
Tamil Nadu State Human Rights Commission,
143, P.S.Kumarasamy Raja Salai,
Greenways Road, Adyar,
Chennai - 600 028.

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BS(CO)
srg 27/09/2019