

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No. 26401 of 2019

D.Sakthivel

...Petitioner

Vs

1. The Commissioner of Police,
Salem City,
Salem.

2. Superintendent of Police,
Salem District,
Salem.

3. Asst. Commissioner of Police (Traffic),
Salem City,
Salem.

4. Mr.A.Asokan
Head Constable No. 787,
Salem (South) Traffic Division,
Salem City,
Salem.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Mandamus, directing the Respondents 1 and 2 to forthwith initiate departmental/disciplinary proceedings against the 4th respondent based on the enquiry report dated 30.07.2018 submitted by the 3rd respondent.

For Petitioner : Mr.R.Neelakandan

For Respondents: Mr.R.S.Selvam
Government Advocate.

O R D E R

The prayer sought for in this Writ Petition is for issuance of a Writ of Mandamus, directing the Respondents 1 and 2 to forthwith initiate departmental/disciplinary proceedings against the 4th respondent based on the Enquiry Report dated 30.07.2018 submitted by the 3rd respondent.

2. The case of the petitioner is that the 4th respondent proposed to sell his Ashok Leyland Brand Tipper Lorry bearing Registration No. TN 77 C, 3778, in the name of his wife, to the petitioner for a total sum of Rs.7,90,000/- to which the petitioner agreed. The petitioner has paid Rs.2,90,000/- by cash and Rs.5,00,000/- by cheque to the 4th respondent on 07.03.2017. On receipt of the same, he handed over the said vehicle to the petitioner. The 4th respondent purchased the said vehicle in his wife's name by borrowing vehicle loan from a private financial institution viz. HDB Financial Services and the loan was not cleared by him.

3. On receipt of the above said sale consideration from the petitioner, he assured to clear the said loan and to get No Objection Certificate (NOC) enabling the petitioner to get the name transferred in his name as owner. But, he was deliberately delaying the same. Hence, the petitioner could not use the said vehicle for more than 15 months by getting Fitness Certificate (FC), without name transfer and without Insurance Policy in his name.

4. The petitioner was constrained to make a complaint on 14.05.2018 to his superior officials explaining the entire facts. On receipt of his complaint against the 4th respondent, an enquiry was conducted by the 3rd respondent. The 4th respondent and other witnesses including a bank official were examined by the Enquiry Officer in this regard.

5. The learned counsel for the petitioner submits that after completing the enquiry, the 3rd respondent/Enquiry Officer found that the 4th respondent was guilty of selling the above said vehicle in a fraudulent manner to him. The 3rd respondent/Enquiry Officer submitted in his Enquiry Report dated 30.07.2018 to the 1st respondent, recommending the Salem District Police to initiate disciplinary proceedings against the 4th respondent for having violated the Tamil Nadu Police Subordinate Service Rules, by purchasing a vehicle in his wife's name on borrowing loan from a finance institution, without the permission of the department and also for selling the same even during the loan was in due, thereby, creating a bad name to the Police Department.

6. The learned counsel for the petitioner further submits that despite the Enquiry Report recommending to initiate departmental proceedings against the 4th respondent, no action is taken. Hence, the petitioner made an application on 09.08.2018 under Right to Information Act, seeking to provide a copy of the Enquiry Report. Accordingly, the same was furnished on 05.09.2018 by the Public Information Officer cum Deputy

Commissioner of Police, Crime & Traffic, Salem City. Even after a period of one year from the date of submission of Enquiry Report by the 3rd respondent, no departmental/disciplinary proceedings is initiated against the 4th respondent and thereby the respondents 1 and 2 deliberately failed to discharge their duty by ignoring the enquiry officer's report.

7. The learned counsel appearing for the petitioner would now submit that it would be suffice to direct the first and second respondent to forthwith initiate Departmental/Disciplinary Proceedings against the 4th Respondent based on the Enquiry Report dated 30.07.2018, submitted by the third respondent.

8. In view of the above, this Court hereby directs the 1st and the 2nd respondent to initiate Departmental/Disciplinary Proceedings based on the Enquiry Report dated 30.07.2018 submitted by the 3rd Respondent within a period of eight weeks from the date of receipt of a copy of this order.

9. In view of the above submissions, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Police,
Salem City,
Salem.
2. Superintendent of Police,
Salem District,
Salem.
3. Asst. Commissioner of Police (Traffic),
Salem City,
Salem.

+1cc to Mr.R.Neelakandan, Advocate Sr.78096
+1cc to the Government Pleader Sr.78485

W.P.No. 26401 of 2019

sj[co]
srg 11/12/2019