

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2019

CORAM :

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.26979 of 2019

S.Gandeeban .. Petitioner

Vs

1 The Chairman
State Human Rights Commission
Thiruvaramangam
No.143, P.S.Kumarasamy Raja Salai
Greenways Road
Chennai - 600028.

2 Chandru
Inspector of Police (Law and Order)
R.8, Vadapalani Police Station
Chennai - 600026.

3 Radhakrishnan
Sub Inspector of Police
R.8, Vadapalani Police Station
Chennai - 600 026.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issue of writ of certiorarified mandamus to call for the records made in Impugned Order SHRC Case No.8124/2017, dated 03.07.2019 passed by the 1st Respondent herein and quash the same as illegal and direct the 1st Respondent to HOLD ENQUIRY in the complaint of the petitioner dated 10.10.2017 on the file of the 1st Respondent herein in accordance with law to secure the ends of justice.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.V.Jayaprakash
Narayanan
Government Pleader
for 1st respondent

ORDER

(Order of the Court was made by DR.VINEET KOTHARI,J.)

The complaint made by the petitioner in this petition is that the first respondent/State Human Rights Commission has passed the impugned order dated 3.7.2019 in SHRC Case No.8124 of 2017, without giving an opportunity of hearing to the petitioner/complainant, Mr.S.Gandeeban, merely on the basis of the report furnished by the Joint Commissioner of Police, South Zone, Greater Chennai Police, Chennai. The relevant portion of the order passed by the learned Member of the State Human Rights Commission is quoted below for ready reference:

"3. Pursuant thereto the Joint Commissioner of Police, South Zone, Greater Chennai Police, Chennai sent the inquiry report of the Deputy Commissioner of Police, Theyagaraya Nagar District, Greater Chennai Police, Chennai. The report reveals that there was a family dispute and property dispute prevailing between the complainant Tr.Kandeeban and his elder brother Tr.Lakshmikanthan. The report also reveals that the complainant has always been behaving vehemently with all his elder brothers. At this stage, on 31.08.2017, which was the day of occurrence, the Sub Inspector of Police Tr.Radhakrishanan inquired both the parties properly. Even though the complainant did not cooperate with the investigation, had given false allegation against the police before this Commission. The inquiry report also reveals that since the complainant's desire was to prevent the police from taking action against him on the petition given by his brother, he had made false allegations against the police officials.

4. In view of the above report and coupled with other attending aspects, this Commission

is of the opinion that no further enquiry is required on this complaint under Section 17(i) (b) of the Protection of Human Rights Act, 1993 and this complaint can be closed."

2. Having heard the learned counsel for the parties and the officials, namely, respondents 2 and 3, who are present before this Court, we are of the opinion that such an ex-parte order could not have been passed by the learned Member of the State Human Rights Commission merely on the basis of the report given by the Joint Commissioner of Police. The petitioner ought to have been confronted with the said report and provided an opportunity of hearing by the Commission. There has been a breach of principles of natural justice.

3. In such view of the matter, we set aside the order dated 3.7.2019 passed by the learned Member of the State Human Rights Commission and we remand the matter to the State Human Rights Commission to provide an opportunity of hearing to both sides and thereafter pass fresh orders in accordance with law within a period of three months from today.

The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sasi

To:

The Assistant Registrar (Law)
State Human Rights Commission
Thiruvaramam
No.143, P.S.Kumarasamy Raja Salai
Greenways Road
Chennai - 600028.

+1 cc to Government Pleader Sr.No. 80703

+1cc to Mr.R.Sankarasubbu , Advocate SR.No. 80277

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A.SK(22/10/2019)