

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.30544 of 2019

and

WMP.No.30592 of 2019

K.P.Hasim

... Petitioner

Versus

1.Union of India,
The Government of Puducherry,
Rep.by its Chief Secretary, Puducherry.

2.Police Complaints Authority,
Rep.by its Chairman,
Chief Secretariat, Puducherry.

3.The Director General of Police,
Police-Head Quarters,
Puducherry, Puducherry Union Territory.

4.Mrs.Reena Marie David,
The Sub-Inspector of Police,
Policing of Police, SSP C & I complex,
Puducherry.

(formerly at Mahe Police Station) ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the third respondent herein to comply with the order of the second respondent, dated 28.11.2018 in Complaint No.81/PCA/2018 in initiating appropriate action against the fourth respondent herein and direct the respondents 1, 3 & 4 in awarding compensation of Rs.10,00,000/- to the petitioner within a time frame.

For Petitioner : Mr. S. Xavier Felix
For Respondents : Mr.A.V.Ramalingam, (for R1 & R2)
Additional Government Pleader.
: Mr.D.Bharathachakravarthi (for R3)

ORDER

This Writ petition has been filed seeking to direct the third respondent herein to comply with the order of the second respondent, dated 28.11.2018 in Complaint No.81/PCA/2018 in initiating appropriate action against the fourth respondent herein and direct the respondents 1, 3 & 4 to award compensation of Rs.10,00,000/- to the petitioner within a time frame.

2.The case of the petitioner is that based on the complaint lodged by the petitioner's wife during the first week of the October, 2017, the petitioner called for an enquiry by the fourth respondent/Police on 11.10.2017. Accordingly, on 12.10.2017 at 11.30 am, the petitioner was enquired by the fourth respondent/Police. At that time, the petitioner was assaulted and tortured by the fourth respondent/Police in her custody, thereby he sustained injuries. The petitioner was therefore admitted to the Hospital and took treatment for the injuries he sustained at the hands of the fourth respondent/Police. The petitioner also undergone surgery at Kerala. Finally, the petitioner lost his hearing capacity on his right ear due to the injuries caused by the fourth respondent. As on date, the petitioner incurred medical expenses to the tune of more than Rs.6 lakhs. The petitioner also lodged a complaint against the fourth respondent/Police before the third respondent/the Director General of Police, Puducherry and to take action against the fourth respondent for having caused injuries during the course of enquiry. Since no action has been initiated against the fourth respondent/Police, the petitioner lodged a complaint before the second respondent and the same was taken on file in Case No.81/PCA/2018. The second respondent found the allegations leveled by the petitioner are true and thereby recommended to the third respondent/ the Director General of Police to initiate the disciplinary proceedings against the fourth respondent/Police. In spite of the same, the third respondent/the Director General of Police did not take any action with a view to safeguard the fourth respondent/Police and did not comply with the order passed by the second respondent on 28.11.2018 in Complaint No.81/PCA/2018. The petitioner was therefore constrained to send representations to the Her Excellency the Lieutenant Governor, Puducherry and the third respondent/the Director General of Police for initiating action against the fourth respondent/Police. However, the representations were neither considered nor disposed of. Having

no other option, the petitioner has come up with the present writ petition before this Court.

3.The learned counsel for the petitioner would submit that it would suffice if a direction is issued to the third respondent to pass appropriate orders on his representation in accordance with law in the light of the recommendation made by the second respondent in Complaint No.81/PCA/2018, within a time frame that may be stipulated by this Court.

4.Heard both sides and perused the materials available on record.

5.Keeping the submissions made by the learned counsel for the petitioner, it is seen that on the basis of the complaint given by the petitioner to the second respondent, a recommendation has been made to the third respondent to take appropriate action. According to the learned Government Pleader (Puducherry), the third respondent is actively considering such recommendation made by the second respondent, while so, no direction is necessary at the instance of the petitioner. Having regard to the above submission of the learned Government Pleader (Puducherry), when the recommendation made by the second respondent is being considered by the third respondent, this Court is of the view that no further order is required to be issued by this Court. Therefore, the Writ petition is dismissed. No costs. Liberty is granted to the petitioner to work out his remedy in accordance with law as and when any order is passed by the third respondent. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (J)

// True Copy//

सत्यमेव जयते Sub Assistant Registrar

klt

To

1.The Chief Secretary,
Union of India,
The Government of Puducherry,
Puducherry.

WEB COPY

2.The Chairman,
Police Complaints Authority,
Chief Secretariat,
Puducherry.

3.The Director General of Police,
Police-Head Quarters,
Puducherry,
Puducherry Union Territory.

+1cc to Mr.S.Xavier Felix, Advocate, SR.No.96150.

+2cc to P.P, SR.Nos.95998, 96718.

(CO)
CSR(26/11/2019)

W.P.No.30544 of 2019
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