



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.5921 of 2019

and

W.M.P. (MD)Nos.4747 and 4748 of 2019

A.Femina Sweety babitha

... Petitioner

Vs

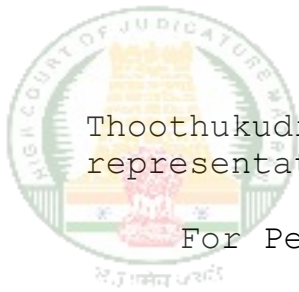
- 1.Government of Tamilnadu,
represented by its Home Secretary
Fort St.George, Chennai- 600 009
2. The Secretary,
Law Department,
Government of Tamilnadu,
Fort St. George, Chennai - 600 009.
3. The Director General of Police,
Government of Tamilnadu,
Fort St.George,
Chennai - 600 009.
4. The District Collector,
Thoothukudi District,
Thoothukudi.
5. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
6. Revenue Divisional Officer,
Tiruchendur,
Thoothukudi District.

7.D.Andrewmani

8.Srikumar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus calling for the records of the fourth respondent in his proceedings in ROC No.C2/32865/2017 dated 28.02.2019 and quash the same and consequently directing the first respondent to appoint any one of the Advocate as Special Public Prosecutor for handling the case in S.C.No.125 of 2008 on the file of Principal District and Sessions Court/ Human Rights Court,



Thoothukudi District, Thoothukudi based on the petitioners representation dated 27.02.2019.

For Petitioners

: Mr.L.Shaji Chellan

For R1 to R6

: Mr.M.Rajarajan

Government Advocate

ORDER

The petitioner is the sister of one Arun Bharath. He said to have died in police custody. In this regard, a criminal prosecution was initiated and it is pending in S.C.No.125 of 2008 on the file of the Human Rights Court, Thoothukudi District, Thoothukudi. What is under challenge in this writ petition is the appointment of the seventh respondent as the Public Prosecutor for conducting the said case. The impugned appointment is questioned solely on the ground of jurisdiction.

2.It is seen that the District Collector, Thoothukudi District has appointed the seventh respondent herein as the Special Public Prosecutor of the Human Rights Court, Thoothukudi. Ofcourse, the impugned order reads that it is only a temporary arrangement, till the regular appointment is made by the Government.

3.As rightly contended by the learned counsel for the writ petitioner, as per Section 31 of Protection of Human Rights Act, 1993, it is the State Government which shall specify an advocate to be appointed as a Special Public Prosecutor for conducting cases in the Human Rights Court. In this case, the District Collector, Thoothukudi made the appointment.

4.Therefore, on the very face of it the order impugned in this writ petition is lacking in jurisdiction. On this sole ground, the order impugned in this writ petition is quashed. Accordingly, this writ petition is allowed.

5.It is made clear that this Court has not gone into any other aspect. The impugned order is quashed solely on the ground of want of jurisdiction.

6.The writ petitioner has given a representation dated 27.02.2019 indicating her preference for two counsel who are said to be having sufficient experience in conducting Human Rights related cases. The first respondent shall consider the said representation while issuing the order of appointment. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

/True Copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar



To

1. The Home Secretary,
Government of Tamilnadu,
Fort St.George,
Chennai- 600 009
2. The Secretary,
Law Department,
Government of Tamilnadu,
Fort St. George,
Chennai - 600 009.
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Thoothukudi.
5. The Superintendent of Police,
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Thoothukudi.
6. Revenue Divisional Officer,
Tiruchendur,
Thoothukudi District.

+1 CC to M/s.SPECIAL GOVERNMENT PLEADER, SR.NO.53989

W.P. (MD) No.5921 of 2019

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