



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2019

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P. (MD)No.25598 of 2019

and

W.M.P. (MD) Nos.22169 and 22170 of 2019

WEB COPY

P.Kumarasamy

... Petitioner

Vs.

1.The Director,
Vigilance and Anti Corruption Department,
No.293, M.K.N.Road, Alanthur,
Chennai - 16.

2.The District Collector,
Trichy.

3.The Deputy Superintendent of Police,
Vigilance & Anti Corruption Wing,
Trichy.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, calling for the records pertaining to the orders passed by the 2d respondent in his proceedings in Na.Ka.No.235/2019/A4 dated 30.07.2019 and consequently direct the 3rd respondent to initiate and conduct preliminary enquiry upon the representation of the petitioner dated 10.12.2018 and proceed in accordance with law.

For Petitioner : Mr.N.Sankar Ganesh

For Respondents : Mr.M.Chandrasekaran, APP

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the orders passed by the 2d respondent in his proceedings in Na.Ka.No.235/2019/A4 dated 30.07.2019 and consequently direct the 3rd respondent to initiate and conduct preliminary enquiry upon the representation of the petitioner dated 10.12.2018 and proceed in accordance with law.

2. Heard the learned Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the



3. The petitioner earlier moved writ petition in W.P.(MD) No.5122 of 2019 making financial allegations as against one Sivakumar, erstwhile President of Pachamalai village. During the financial year 2012-13 and 2013-2014, he had committed various malpractice in laying roads, construction of ponds and free subsidized houses. This Court, by order dated 07.03.2019, issued direction to the respondents 1 and 3 to consider the representation of the petitioner dated 10.12.2018, after receipt of the report from the 2nd respondent, and pass appropriate orders on merits and in accordance with law. Thereafter, the 2nd respondent vide his proceedings dated 30.07.2019 Na.Ka.235/2019/A4 conducted enquiry and found that the allegations are not sustainable. Against which, this writ petition has been filed.

4.The learned Additional Public Prosecutor submits that on receipt of the complaint from the petitioner, it has been forwarded to the District Collector, 2nd respondent, who conducted a detailed enquiry and thereafter submitted a report. From the report, it is seen that the contention of the petitioner found to be false. Accordingly, on receipt of the report from the 2nd respondent, the 1st respondent closed the complaint dated 10.12.2018 stating that no further action need be taken.

5.Admittedly, this Court, in W.P.(MD) No.5122 of 2019, the respondents herein were directed to consider the representation of the petitioner dated 10.12.2018, after receipt of the report from the 2nd respondent, and pass appropriate orders on merits and in accordance with law. Accordingly, the complaint was forwarded to the second respondent, who in turn, conducted a detailed enquiry and after receipt of the report from the 2nd respondent, 1st respondent closed the complaint. Therefore, this Court is of the view that nothing survives in this petition.

6.At this juncture, the learned counsel appearing for the petitioner submitted that the District Collector, had not conducted the enquiry in a proper manner and no proper reason is given in rejecting the complaint of the petitioner.

7.It is relevant to extract Section 7 and 11 of the Tamil Nadu Local Bodies Ombudsman Act, 2014, which reads as follows:

"7.The Ombudsman shall perform all or any of the following functions, namely:-

(i)enquire into any written complaint from the Government or that has come to the notice of the Ombudsman in which corruption or maladministration of a public servant or a local body is alleged;

(ii)pass an order on on the proved allegation in



the following manner, namely:-

(a)where the irregularity involves a criminal offence committed by a public servant, the matter shall be referred to the appropriate investigating agency for necessary action;

(b)where the irregularity involves loss of the fund of the local body, order recovery of such loss from those who are responsible for such irregularity;

(c)where the irregularity is due to wilful negligence or dereliction of duty of any other officer or employee of the local body, recommend for departmental action by the appropriate authority under the relevant rules.

11.(1) If, after an enquiry, the Ombudsman finds that there is a prima facie case against a public servant involving a criminal offence, the Ombudsman may refer the complaint and the findings with recommendation to the appropriate investigating agency.

(2) The appropriate investigating agency, on completion of investigation, shall initiate prosecution after obtaining sanction from the competent authority."

8.As per Tamil Nadu Local Bodies Ombudsman Act, 2014, the Ombudsman is vested with the power of enquiry and on the enquiry, if prima facie case is made against the public servant involving criminal offence, the Ombudsman may refer the complaint with recommendation to the appropriate investigating agency. Accordingly, the petitioner is given liberty to approach the Ombudsman for appropriate remedy and raise all his contentions including the order of the District Collector, Trichy, the second respondent herein dated 30.07.2019 made in Na.Ka.235/2019/A4.

9.With the above observation and direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RECORDS)

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/ /2020

Sub Assistant Registrar(CS)



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To

1.The Director,
Vigilance and Anti Corruption Department,
No.293, M.K.N.Road, Alanthur,
Chennai - 16.

2.The District Collector,
Trichy.

3.The Deputy Superintendent of Police,
Vigilance & Anti Corruption Wing,
Trichy.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to MR.N.SHANKAR GANESH, Advocate (SR-104425[F] dated
11/12/2019)

W.P. (MD) No.25598 of 2019

11.12.2019

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