

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.25196 of 2011

and

M.P.No.1 of 2011 & W.M.P.No.20671 of 2017

K.Malarvizhi

... Petitioner

vs.

1.The Director General of Police,
Law and Order,
Chennai.

2.The Superintendent of Police,
Dharmapuri District,
Dharmapuri.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records on the file of the 2nd respondent in D.O.No.784/2010 Rc.No. F1/302/23805/2010 and quash the order dated 20.09.2010.

For Petitioner : Mr.K.Govi Ganesan

For Respondents: Mr.K.Magesh,
Special Government Pleader

O R D E R

Petitioner has come up with this Writ Petition challenging the order dated 20.09.2010 passed by the 2nd Respondent vide proceedings in D.O.No.784/2010 Rc.No. F1/302/23805/2010.

2. According to the Petitioner, while he was working as a Sub-Inspector of Police in Pennagaram Police Station, he went on a prohibition raid on 12.02.2007. During the raid, three accused were arrested for possession of arrack. As one of the accused, viz. Murugan suffered fits and seizures at the time of admission into the Prison and eventually died on 16.02.2007 without responding to surgical treatment at Government Hospital, treating the case as custodial death, a case was registered under Section 174 Cr.P.C. and an enquiry was conducted against

the Petitioner and another Head Constable 1748 viz. P.Siddeswaran under Rule 3(b) of the Tamil Nadu Police Subordinate Services (Discipline & Appeal) Rules.

3. Based on the medical records, the Deputy Inspector General of Police, Salem Range, came to the conclusion that, the deceased developed the condition of fits and seizures after admission to the Hospital and held that, both the Petitioner and one P.Siddeswaran are responsible for the death of the deceased, and imposed a punishment of reduction in the time scale of pay by five stages for five years with cumulative effect on the Petitioner.

4. The grievance of the Petitioner is that, when he is already suffering a deduction of Rs.6,750/- per month from his salary due to the above punishment, the 2nd Respondent has passed the impugned order directing recovery of another sum of Rs.60,000/- towards compensation paid to the family of the deceased, without any notice or opportunity of hearing, which is in gross violation of the principles of natural justice.

5. Learned Special Government Pleader appearing for the Respondents drew the attention of this Court to paragraphs 4 and 5 of the Counter Affidavit, wherein, it is stated that, challenging the very same recovery proceedings issued by the 2nd Respondent herein, the Petitioner had earlier filed W.P.No.27144 of 2010 and the said Writ Petition came to be dismissed, as the Petitioner has approached the Court without challenging the Government Order. Thus, according to the learned Special Government Pleader, the present Writ Petition is liable to be dismissed in limine, as the Petitioner had indulged in suppression of material fact by deliberately withholding the vital and mandatory information as to the dismissal of the earlier Writ Petition in W.P.No.27144 of 2010.

6. In reply, learned counsel for the Petitioner submitted that, he is not aware of the dismissal of the earlier proceedings in W.P.No.27144 of 2010.

7. Heard the learned counsel on either side and perused the material documents available on record.

8. In view of the fact that, the Petitioner has approached this Court with unclean hands by suppressing the material fact as to the dismissal of the earlier Writ Petition in W.P.No.27144 of 2010, this Writ Petition is liable to be dismissed. Also, it has to be noted that, the learned counsel for the Petitioner cannot be blamed for the act of suppression of fact by the Petitioner.

Accordingly, this Writ Petition stands dismissed. No costs.
Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

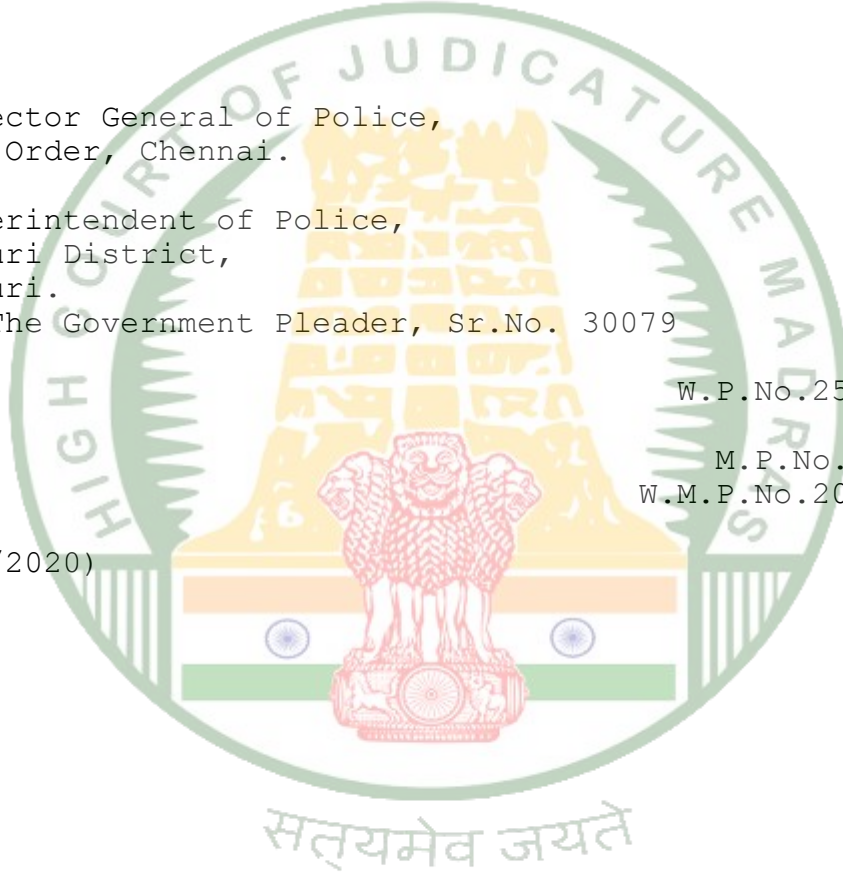
(aeb/jas)

To:

- 1.The Director General of Police,
Law and Order, Chennai.
 - 2.The Superintendent of Police,
Dharmapuri District,
Dharmapuri.
- +1 cc to The Government Pleader, Sr.No. 30079

W.P.No.25196 of 2011
and
M.P.No.1 of 2011 &
W.M.P.No.20671 of 2017

RSV(CO)
RMP(06/10/2020)



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