

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2020

CORAM :

The Hon'ble Mr.AMRESHWAR PRATAP SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.A.No.3196 Of 2019

Shri.S. Nambirajan

.. Appellant/Petitioner

-vs-

1. The Management World Vision of India,
rep by S.G. Priya,
Livingston, No.16, V.O.C.Main Road,
Kodambakkam,
Chennai - 600 024.

2.M. Palanisamy

.. Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.M.P.No.2551 of 2017 in W.P.No.36694 of 2016 dated 23.01.2019.

W.M.P.No.2551 of 2017:

Petition filed to expunge the remarks made against the Petitioner in para 13 of the order pronounced on 24.10.2016 in W.M.P.No.31539/2016 in W.P.No.36694/2016 and direct the administrative side of this Hon'ble Court to given up the proceedings bearing ref No. 4473/2016-RG-B2, initiated against the Petitioner as per the above said order and issue such further or other appropriate orders or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Prayer in W.P.No.36694 of 2016:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari Calling for the records relating to I.D. No.276 of 2012 on the file of the 2nd Respondent - I Additional Labour Court Chennai- 600 104 and quash the award dated 28.06.2016 made in I.D. No. 276 of 2012.

For appellant : Mr.V. Prakash
Senior Counsel for
Mr.P. Ganeshram

For R.1 : Mr.V. Vijayan for
M/s King and Patridge

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard learned counsel for the appellant and learned counsel for the first respondent.

2. The appeal has been filed for a limited purpose viz., for deleting the observations made by the learned Single Judge while passing an interim order on 24.10.2016. The contention raised is that the observations were made to the effect that the Court has got every reason to believe that the learned Judge, for some other unknown reason, has given such a finding by deliberately over looking the 105 pages enquiry report relating to the subject matter in dispute.

3. The appellant moved an application contending that the observations made amount to strictures passed against him and that would adversely affect his career and therefore, a prayer was made to expunge the remarks made in paragraph 13 of the said order.

4. On a consideration of the said application, the learned Single Judge has passed a detailed order on 23.01.2019 rejecting the same and holding that in the instant case, the Court had suspected the bonafides of the officer and therefore, gave a prima facie finding, directing the Registry to place the matter before the High Court on the administrative side for its consideration to take appropriate disciplinary action.

5. It was held by the learned Single Judge that the same was in conformity with the law laid down by the Apex Court as indicated in the order.

6. Learned counsel for the appellant has cited the latest decision of Surendra Prasad Mishra vs Smt. Ramawati and Others reported in 2019 (11) Scale 692 to urge that inspite of repeated directions of the Apex Court, the procedure to be followed in such matters was not undertaken by the learned Single Judge and therefore, the impugned order dated 23.01.2019 be set aside and the remarks made against the appellant in the order dated 24.10.2016 be expunged.

7. We have considered the submissions.

8. The legal position is no longer res integra. The Apex Court has held that before passing any adverse remarks or strictures against any Judicial Officer, he has to be put to notice. In the instant case, admittedly, before passing of remarks on 24.10.2016, no notice was issued by the Court. The appellant, on his own, after passing of the order, has moved an application for expunging the remarks, which application has been rejected on the ground that the Court had already suspected the bonafides of the officer and was therefore justified in passing of the remarks, which the Court has described as a prima facie finding for issuing a direction to the High Court to take appropriate action.

9. This procedure, in our opinion, is not justified in view of the decision that has been cited by the learned counsel for the appellant in the case of Surendra Prasad Mishra vs Smt. Ramawati and Others reported in 2019 (11) Scale 692 and it is admitted on facts that the learned Single Judge had not issued any notice to the appellant prior to passing of the adverse observations against him as contained in the order dated 24.10.2016.

10. In that view of the matter, the rejection of the application for expunging the remarks by the impugned order dated 23.01.2019 in WMP No.2551 of 2017 in W.P.No.36694 of 2016 is not justified. We, therefore, allow this appeal and set aside the order dated 23.01.2019 but so far as the observations made in the order dated 24.10.2016 are concerned, the same shall not bind the High Court on the administrative side for taking any action, leaving it open to the High Court to take appropriate action on the administrative side, in case, there is material to that effect. No costs.

-s/d-

Assistant Registrar (CS-IV)

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Sub-Assistant Registrar

sr

To

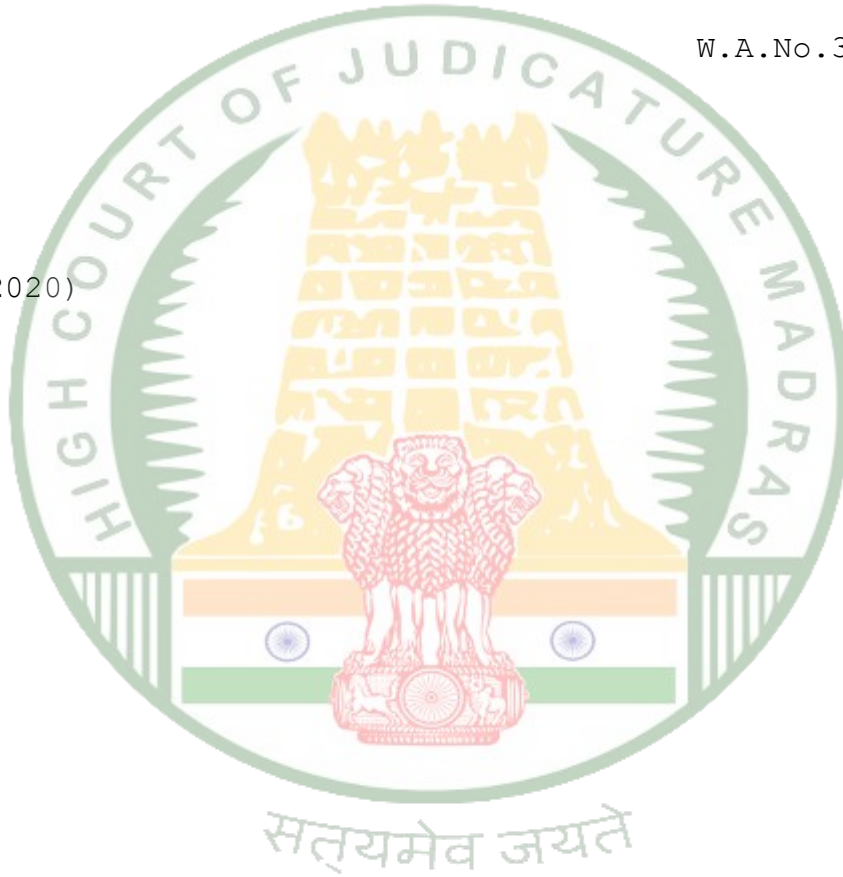
The Registrar General
High Court, Madras 104.

+1 CC to Mr.P. Ganeshram, Advocate sr 14357

+1 CC to M/s. King and Patridge, Advocate sr 14528.

W.A.No.3196 of 2019

GJ(CO)
SP(28/02/2020)



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