

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2020

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.33947 of 2019

1. Udaya kumar
2. Senthilvel
3. Udayashankar
4. Udayavani .. Petitioners

vs

- 1.The Secretary to Government of India,
Ministry of External Affairs/South Block
Cabinet Secretariat, Raisina Hall,
New Delhi-110 011.
- 2.The Secretary to Government of India,
Ministry of Home Affairs/Grih Mantralaya,
(Co-ordination Division) North Block,
New Delhi, New Delhi - 110054, India.
- 3.The Ambassador,
Thailand Embassy in New Delhi,
D-1/3, Vasant Vihar, New Delhi-110057, India.
4. The Ambassador
China Embassy in New Delhi,
50-D, Shantipath, Chanakyapuri,
New Delhi-110 021, India.
- 5.The Chief Secretary,
Government of Tamilnadu, St. George Fort,
Chennai 600 009.
6. The Director of CBI
CBI Head Office, Flat No.5-B, CGO complex, Lodhi Road,
New Delhi - 110 003.
- 7.The Joint director of CBI and Head of South Zone,
3rd Floor, E.V.K.Sampath Building.
College Road, Chennai-600 006.

8. The Director General of Police (L&O)
Tamil Nadu Government,
No.100, Radhakrishnan Salai,
Mylapore, Chennai 600 004.
9. The Commissioner of police,
Office of the commissioner of police,
Vepery, Chennai-600 007.
10. The Superintendent of police,
Office at Kanchipuram,
Kanchipuram District, Pin - 631 501.
11. Mr. Annaforv Wnagu,
Operation Head,
Rep by Mr. Maxis Christopher,
Centara Watergate Pavilion Hotel Bangkok 567,
Ratchaprarop Road, Makkasan, Ratchathewi,
Bangkok- 10400,
Thailand. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 6 to dispose the representation dated 29.07.2019 with reference to the proceeding dated 29.06.2018 issued by the 2nd respondent herein addressed to the Chief Secretary Government of Tamil Nadu, Chennai.

For Petitioner : Mr.G. Thangavel
For Respondents 6 and 7 : Mr.K.Srinivasan
Special Public Prosecutor for CBI cases
For Respondents 8 to 10 : Mr.C.Iyyaparaj
Additional Public prosecutor

O R D E R

The case of the petitioners is that they were employed by the 11th respondent organization in July 2015. On 12th October 2016, the 11th respondent organization sent a mail to the petitioners stating that the work done by them would not be continued and the company will settle the salary dues. On 09.12.2016 the 11th respondent/Foreign company sent another mail stating that the payment process is going on and it will be completed.

2. In the mean while, the petitioners returned to India and after returning to India, they approached the representative cum auditor of the Foreign Company namely one Mr.M.Narayanamoorthy Kesvan, who informed that the company is ready to settle

Rs.6,00,000/- as part payment whereas, the entire salary due and compensation amounts to Rs.3,40,46,500/-. But, even the said amount was also not paid, the petitioners sent a legal notice dated 14.03.2017 to the said representative of the Foreign Company for settlement of the salary and other back wages. However, the amount was not settled. Therefore, the petitioners made another representation on 30.03.2017 to the first respondent/Government of India and they forwarded the same to the Chief Secretary/5th respondent herein. But, the Government officials has not taken any action. Hence, this petition came to be filed.

3. The learned counsel for the petitioners submitted that the 11th respondent committed an offence by utilising the services of the petitioners and not paying the salary due to them and it is the duty of the Government of India and the State Government to render justice to the petitioners and get back their salary and other back wages. Hence, this Court may issue appropriate direction to the Government of India as against the 11th respondent company with regard to the settlement of salary in favour of the petitioners.

4. Mr.K.Srinivasan, learned Additional public prosecutor for the CBI cases would submit that CBI is not an authorized party, as per Section 4 of IPC since the offence, has taken place outside India. In the present case, the petitioners are employees of the 11th respondent organization, which is the Foreign Company and the dispute is only with regard to payment to salary to the petitioners, and the cause of action arose outside India. Therefore, CBI have no powers to investigate the matter.

5. It is seen from records that the 11th respondent/Foreign company has no branch in India and the cause of action did not arise within the Territorial Jurisdiction of India.

6. Considering the facts and circumstance of the case and in the absence of any cause of action arising in India, I am not inclined to issue any direction either to the State Government or Central Government to consider the grievances of the petitioner. It is also observed that all the petitioners are residing in Madurai and that they have filed the present Writ petition before the Principal Bench rather filing the W.P in the Madurai Bench of Madras High Court.

7. However, this order will not stand in the way of the 2nd respondent to consider the representation of the petitioners and take action.

With the above observations this writ petition is dismissed.
No Costs.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy//

Sub Assistant Registrar

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To.

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10.The Superintendent of police,
Office at Kanchipuram,
Kanchipuram District, Pin - 631 501.

+1cc to Mr.G.Thangavel, Advocate, SR.No.69.

RGN(CO)
CSR: 25.02.2020

W.P.No.33947 of 2019



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