



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.07.2021

Coram

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

Writ Petition No. 13465 of 2015
and M.P. No. 1 of 2015

G.K. Mani
President
Pattali Makkal Katchi (P.M.K.)
No.63, Nattumuthu Naicken Street
Teynampet, Chennai - 600 018

..Petitioner

Versus

1. The Secretary to the Governor
The State of Tamil Nadu
Raj Bhavan, Guindy
Chennai - 600 022

2. The Chief Secretary
The State of Tamil Nadu
Fort St. George
Secretariat
Chennai - 600 009

..Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the first respondent to dispose of the representation dated 17.02.2015 submitted by the petitioner to the Governor of Tamil Nadu for further course of action.

For Petitioner :Mr. K. Balu

For Respondents:Mr.R.Shanmuga Sundaram, Advocate General
assisted by Mr. Stalin Abhimanyu
Government Advocate

ORDER

This writ petition is filed by the petitioner seeking to issue a Writ of Mandamus directing the first respondent to pass orders on the representation dated 17.02.2015 submitted by the petitioner to His Excellency The Governor of Tamil Nadu for further course of action.



2. According to the learned counsel for the petitioner, in the representation dated 17.02.2015, the petitioner has raised various instances of corruption and misuse of power by the then Ministers of the Government of Tamil Nadu, however, it was not acted upon by the respondents with the seriousness it deserves. Therefore, left with no other alternative, the present writ petition has been filed.

3. The learned Advocate General appearing for the respondents raises a preliminary objection as regards maintainability of this writ petition. According to the learned Advocate General, a Governor of State is insulated by Article 361 of The Constitution of India and no Courts or Tribunals can call upon or questions the action of the Governor. It is his contention that Governor of the State is not amenable and/or answerable to any Court with respect to discharge of his constitutional obligations. It is further contended that the entertaining a writ petition as against the Governor of the State will defeat the object with which certain privileges and immunity were conferred on the Governor of the State under Article 361 of The Constitution of India. In this context, the learned Advocate General also relied on the Constitutional Bench decision of the Supreme Court in the case of Rameshwar Prasad Vs. Union of India reported in 2006 (2) SCC 1, wherein the Honourable Supreme Court in para No. 173 held that there is complete bar to the impleading and even issuing of notice to the President or the Governor in any proceedings before the Courts or Tribunals inasmuch as they are not answerable to any court for the exercise and performance of their powers and duties. Therefore, the learned Advocate General would submit that the writ petition is not maintainable as against the first respondent and it is liable to be dismissed.

4. Heard the learned counsel for the petitioner and the learned Advocate General appearing for the respondents. The petitioner has filed this writ petition to issue a Writ of Mandamus to the first respondent, who is the Secretary to the Governor of the State. In effect, the prayer of the petitioner is to direct the Governor of the State to act upon the representation dated 17.02.2015 submitted by him. Such a direction cannot be issued by this Court inasmuch as the Governor of the State is insulated by Article 361 of the Constitution of India and in the light of the constitutional bench decision of the Honourable Supreme Court cited supra. Therefore, this Court is of the view that the writ petition is not maintainable as against the first respondent herein.

5. At this stage, the learned counsel appearing for the petitioner submitted that even though the representation dated



17.02.2015 and reminder dated 13.03.2015 have been submitted only to the first respondent, he now confines his prayer to issue a direction to the second respondent to consider the said representation dated 17.02.2015 and to take appropriate action thereof. The learned counsel for the petitioner also undertakes to submit a copy of the representation dated 17.02.2015 to the second respondent along with a copy of this order.

6. The learned Advocate General appearing for the respondents fairly submitted that the claim made by the petitioner in the representation dated 17.02.2015, which is enclosed in the typed set of papers filed along with this writ petition, will be considered by the second respondent and appropriate action will be taken thereof on merits.

7. In the light of the above submission of the counsel for both sides, no further order is necessary to be passed in this writ petition. It is open to the petitioner to submit a copy of the representation dated 17.02.2015 to the second respondent and on receipt of the same, the second respondent is directed to consider the same and to pass orders on merits and in accordance with law.

8. With the above direction, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition No. 1 of 2015 is closed.

s/d-

Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

rsh/kj

To

1. The Secretary to the Governor
The State of Tamil Nadu
Raj Bhavan, Guindy
Chennai - 600 022

2. The Chief Secretary
The State of Tamil Nadu
Fort St. George
Secretariat
Chennai - 600 009

+1 CC to The Government Pleader sr 35547

WP No. 13465 of 2015

SRA(CO)
SP(13/08/2021)