

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-03-2021

CORAM

THE HONOURABLE MR. JUSTICE R. SUBBIAH
AND
THE HONOURABLE MR. JUSTICE C. SARAVANAN

WRIT APPEAL NO. 1161 OF 2020

The High Court of Judicature at Madras
rep. by its Registrar General
High Court, Madras ..Appellant/3rd Party

Versus

1. A. Venkatesan ..Respondent I/Petitioner
2. The State Information Commissioner
Tamil Nadu Information Commission
No.2, Sir Thiagarayar Road
Eldams Road Junction
Teynampet, Chennai - 600 018
3. The Superintendent of Police/
1st Appellate Authority
Tiruppur District
4. The Public Information Officer/
Additional Superintendent of Police
Police Head Office
Tiruppur District
5. The Deputy Superintendent of Police
Udumalpet Sub Division
Tiruppur District
6. The Inspector of Police
Thali Police Station
Tiruppur District
7. The Branch Manager
New India Assurance Company Ltd
Amman Complex, Erode - 1 ..Respondents/2 to 7
Respondent 2 to 7

Appeal filed under Clause 15 of Letters Patent against the Order dated 01.06.2020 passed in WP No. 10230 of 2019 on the file of this Court.

WP PRAYER: Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the Second Respondent vide his office Proceedings No. Na. Ka. No. 02-AP/Tha.A.U.Sa/Me.Mu.A.thi/18 dated 15.03.2019 by enclosing letter of the Third Respondent vide his office Proceedings No. C. No. 02/RTI/SDO-Udt/2019 dated 11.03.2019 who in turn enclosing the letter of the Fifth Respondent vide his office proceedings No. C. No. 18/RTI/UDT PS/19 dated 10.03.2019 rejecting the appeal filed by the Petitioner dated 19.02.2019 and confirming the impugned order passed by the Third Respondent vide his office Proceedings No. Na. Ka. No. 71-19 Tha.A.U.Sa/Po.Thi.A.Thi.Ma/19 dated 13.02.2019 and quash the same and consequently direct the Second to Fifth Respondents to furnish the documents as per the application of the Petitioner dated 28.01.2019 to the Petitioner within the time fixed by this Court.

For Appellant : Mr. Karthik Ranganathan

JUDGMENT

R. SUBBIAH, J

This Writ Appeal is filed by the Registrar General of this Court, after obtaining leave to file this appeal.

2. This appeal is filed as against the directions given by the learned single Judge in the Order dated 01.06.2020 in WP No. 10230 of 2019 filed by the first respondent herein against the respondents 2 to 7 herein, directing the appellant to communicate the copy of the order dated 01.06.2020 to all the Motor Accident Claims Tribunal in Tamil Nadu and Puducherry

3. The respondent No.1 has filed the Writ Petition for the relief of Writ of Certiorarified Mandamus to quash the order passed by the respective respondents and consequently direct them to furnish certain documents as sought for by him.

4. The first respondent/writ petitioner was an Investigator appointed by the Respondent No.7 namely New India Assurance Company Limited, Erode pursuant to the notice received by them from the Motor Accident Claims Tribunal, relating to the claim petition filed by a victim involving motor vehicle bearing registration No. TN 07 A5 6214 purportedly insured with them. The Insurance Company engaged the writ petitioner as an

Investigator to collect the documents relating to the accident and the vehicle involved in the accident. Since certain documents required by the writ petitioner were not available in the Crime and Criminal Tracking System (CCTNS) Portal of the Police Department, the writ petitioner, as an investigator, has filed an application under the Right to Information Act. The application of the writ petitioner was rejected by the Police Department directing him to download the documents required from CCTNS Portal. Aggrieved by the rejection of the application under The Right to Information Act, the above writ petition was filed by the first respondent.

5. The learned single Judge passed a detailed order while dismissing the writ petition filed by the writ petitioner. The learned single Judge inter alia issued a direction to the Registry of the High Court/appellant herein to circulate the said order to the Motor Accident Claims Tribunals in the State of Tamil Nadu and Puducherry. The relevant portion of the order reads as under:-

"10. In the light of the foregoing discussion, the questions raised are answered as under:

(i) The provisions of the Right to Information Act, 2005, cannot be invoked for obtaining documents from police authorities in connection with defending a claim for compensation before the Motor Accidents Claims Tribunal constituted under the Motor Vehicles Act, 1988.

(ii) An investigator appointed by an insurer cannot, in his own personal capacity, correspond with public authorities, much less prosecute litigation, relating to furnishing of documents in connection with an accident involving a vehicle said to be insured with that insurer.

(iii) When documents required by an insurer in terms of Sections 158 (6) and 160 of the Motor Vehicles Act, 1988, are not uploaded on time in the CCTNS portal of the Police Department in the internet in the State of Tamil Nadu, the aggrieved insurer is entitled to make an application under Section 169 of the Motor Vehicles Act, 1988, read with Rule 1 of Order XVI of the Code of Civil Procedure, 1908, to the Motor Accidents Claims Tribunal, where the claim petition for compensation is pending, seeking direction to the concerned police authorities to furnish the required documents, apart from seeking redressal of such grievance from the concerned Nodal Officer identified by the Office of the Director General of Police, Tamil Nadu as directed by this Court in Cholamandam MS General Insurance Company Limited Vs.

Director General of Police, Tamil Nadu (at para 16 in Order dated 14.08.2019 in CrI. O. P. No. 5922 of 2018).

11. It is needless to add here that where the concerned police officer, without justifiable cause, fails to promptly comply with an order passed by the Motor Accidents Claims Tribunal to produce the document required by an insurer in terms of Sections 158(6) and 160 of the Motor Vehicles Act, 1988, or does not respond to the direction issued by the Nodal Officer for uploading such document in the CCTNS portal of the Police Department, he shall be liable for disciplinary action as per rules. Hence, the Director General of Police, Tamil Nadu, is directed to issue a circular in this regard along with a copy of this order to all the concerned Police Officers in the State of Tamil Nadu requiring strict compliance of their statutory obligations mentioned supra, and also send copies of the same to the insurance companies which have been registered with the CCTNS portal of the Police Department for availing the online facility for downloading required documents. The Registry of this Court, after obtaining necessary orders from the Hon'ble Chief Justice, shall also communicate copy of this order to all the Presiding Officers of the Motor Accidents Claims Tribunals in Tamil Nadu and Puducherry for apprising the legal position enunciated in this order.

12. In the upshot, the Writ Petition is dismissed with the aforesaid observations. No costs.

6. Aggrieved by the directions issued in Para Nos. 10 and 11, directing the Registry of this Court to circulate the copy of the order to all the Motor Accident Claims Tribunal in Tamil Nadu and Puducherry, the present writ appeal is filed.

7. The learned counsel appearing for the appellant - Registrar General submitted that the directions issued by the learned single Judge pertains to public interest, which has to be considered only by the Division Bench handling the Public Interest Litigation (PIL). Therefore, without placing the case before the Honourable Chief Justice for passing appropriate orders to place it before the Bench dealing with Public Interest Litigation, the directions issued by the learned single Judge would jeopardize the roster allocation. It is further submitted that issuing such directions would tend to interfere

with the administration of the Registry of this Court, besides being contrary to the administrative instructions and prevailing procedure and practice. The learned counsel for the appellant relied on the judgment of the Honourable Supreme Court in the case of State of U.P. and others vs. Neeraj Chaubey and others) in Special Leave to Appeal (Civil) Nos. 26922-26923 of 2010 and CC 14694 to 14695 of 2010 dated 16.09.2010, wherein in para Nos. 9 and 10, it was observed as follows:-

"9. The High Court had taken note of various judgments of this Court including State of Maharashtra vs. Narayan AIR 1982 SC 1198; Inder Mani v. Matheswari Prasad (1996) 6 SCC 587; State of Rajasthan vs. Prakash Chand and others (1998) 1 SCC 1; R. Rathinam vs. State by DSP, District Crime Branch, Madurai District, Madurai and another (2000) 2 SCC 391 and Jasbir Singh vs. State of Punjab (2006) 8 SCC 294 and various judgments of High Courts and came to the conclusion that the Chief Justice is the master of roster. The Chief Justice has full power, authority and jurisdiction in the matter of allocation of business of the High Court which flows not only from the provisions contained in sub-section (3) of Section 51 of the States Re-organisation Act, 1956, but inheres in him in the very nature of things. The Chief Justice enjoys a special status and he alone can assign work to a Judge sitting alone and to the Judges sitting in the Division Bench or Full Bench. He has jurisdiction to decide which case will be heard by which Bench. If the Judges were free to choose their jurisdiction or any choice was given to them to do whatever case they may like to hear and decide, the machinery of the Court would collapse and the judicial work of the court would cease by generation of internal strife on account of hankering for a particular jurisdiction or a particular case.

The Court held that a Judge or a Bench of Judges can assume jurisdiction in a case pending in the High Court only if the case is allotted to him or them by the Chief Justice. Strict adherence of this procedure is essential for maintaining judicial discipline and proper functioning of the Court. No departure from this procedure is permissible.

10. In case an application is filed and the Bench comes to the conclusion that it involves some issues relating to public interest, the Bench may not entertain it as a Public Interest Litigation but the court has its option to convert it into a Public Interest Litigation and ask the Registry to place it

before a Bench which has jurisdiction to entertain the PIL as per the Rules, guidelines or by the roster fixed by the Chief Justice but the Bench cannot convert itself into a PIL and proceed with the matter itself."

8. Reference was also made to the Full Bench decision of the Allahabad High Court (Lucknow Bench) in the case of Chawali vs. State of U.P. and others (Misc.Bench No. 9470 of 2014 connected and Special Appeal (D) No. 32 of 2014, Writ Petition Nos. 2666 of 2013 and 299 (H/C) of 2014 dated 16.01.2015 wherein it was held as follows:-

"52. Power conferred on the Constitutional Courts to deal with public interest even while dealing with private dispute based on power conferred to Writ Courts by Common Law of England, followed by different pronouncements of Honourable Supreme Court while dealing with power flowing from Article 226 or Article 32 of the Constitution of India.

53. In a case in Jaspal Singh v. State of Punjab (2012) 1 SCC 10 their Lordships of Supreme Court have reiterated the old phrase that extraordinary situations demand extraordinary remedy. This includes constitutional right of Constitutional Court to secure public interest while dealing with private dispute. In Jaslap Singh's case (supra) Hon'ble Supreme Court reiterated that the Courts cannot be a silent spectator where sprinkling facts warrant interference in order to serve the interest of justice. Constitutional framers had consciously added the word "for any other purpose" while conferring power to writ Court under Article 226 of The Constitution of India.

54. We reiterate the aforesaid proposition of law and hold that the single Judge or the Division Bench or a Larger Bench of this Court has got the right to deal with public interest and secure the public interest without converting the petition into PIL. However, it shall depend on the facts and circumstances of each case.

55. But there is one rider. Stretch given to a petition of private dispute to secure public interest must be within the jurisdiction conferred by Hon'ble Chief Justice in terms of the roster. Since the jurisdiction relating to detention by State (in the present case) based on the order passed by the Chief Judicial Magistrate sending the

detenu to Protective Home, has been conferred by Hon'ble Chief Justice to the Division Bench, power could not have been exercised by the learned single Judge. However, the learned single Judge could have passed order to secure public interest with regard to private detention."

9. Applying the ratio laid down in the aforesaid two cases, the learned counsel for the appellant submitted that the appellant is not questioning the correctness or otherwise of the order of dismissal passed by the learned single Judge. However, the direction given by the learned single Judge is against the spirit of the decision of the Honourable Supreme Court. Therefore, in order to ensure that such directions are not issued in future by way of judicial order, the present appeal is filed.

10. We have heard the learned counsel for the appellant and perused the materials placed. Though the intention of the learned single Judge is to make the Tribunals aware of the dictum laid down in the order of the learned single Judge, procedural formality requires that it has to be placed before the Chief Justice. Such directions cannot be issued to the Registry.

11. The object with which the learned single Judge issued the direction to the Registry to circulate the copy of the order to all the Motor Accident Claims Tribunal in the State of Tamil Nadu and Puducherry is to make aware of the dictum, which will be useful to the Tribunals in dealing with such type of cases. At the same time, if the Court feels that it is a matter of importance where a direction is required to be issued to the subordinate judiciary or executive, then the matter has to be placed before the Honourable Chief Justice of this Court for being placed before the appropriate Division Bench dealing with Public Interest Litigations. The directions issued by the learned single Judge straight away to the appellant/Registrar General of this Court is against the administrative procedure of the Courts. Such an administrative procedure is being followed to streamline and/or to adopt a uniform procedure whenever such directions are issued in the Judicial side of this Court. Even if a suo motu proceeding is initiated on any subject, such matter has to be directed to be placed before the Honourable Chief Justice for passing appropriate orders to place the matter before the appropriate Division Bench dealing with Public Interest Litigation. The existing procedure, if scrupulously followed, would enhance and streamline the administrative efficacy. Moreover, while dealing with the correctness or otherwise of an order impugned before the Court, the Courts are not expected to Legislate or issue any Administrative Direction,

with which the Court is not connected with in the "lis", in exercise of the power under Article 226 of the Constitution of India. Further, we make it clear that the Courts should not involve itself in Rule making process. It can point out the mistake and vacuum in the Rules and may give such directions which will subserve the ends of justice in a particular case. However, it cannot take up the task of rule making body.

12. Therefore, we set aside the order passed by the learned single Judge on 01.06.2020 in WP No. 10230 of 2019 in so far as it relates to the direction issued to the appellant to communicate the copy of the order dated 01.06.2020 to all the Motor Accident Claims Tribunal in Tamil Nadu and Union Territory of Puducherry on merits. In all other respects, the impugned order dated 01.06.2020 passed by the learned single Judge remain untouched by this order. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rsh

To

1. The Registrar General
High Court of Judicature at Madras
High Court, Madras
2. The State Information Commissioner
Tamil Nadu Information Commission
No.2, Sir Thiyagarayar Road
Eldams Road Junction
Teynampet, Chennai - 600 018
3. The Superintendent of Police/
1st Appellate Authority
Tiruppur District
4. The Public Information Officer/
Additional Superintendent of Police
Police Head Office
Tiruppur District
5. The Deputy Superintendent of Police
Udumalpet Sub Division
Tiruppur District

6. The Inspector of Police
Thali Police Station
Tiruppur District
7. The Branch Manager
New India Assurance Company Ltd
Amman Complex, Erode - 1

Copy to

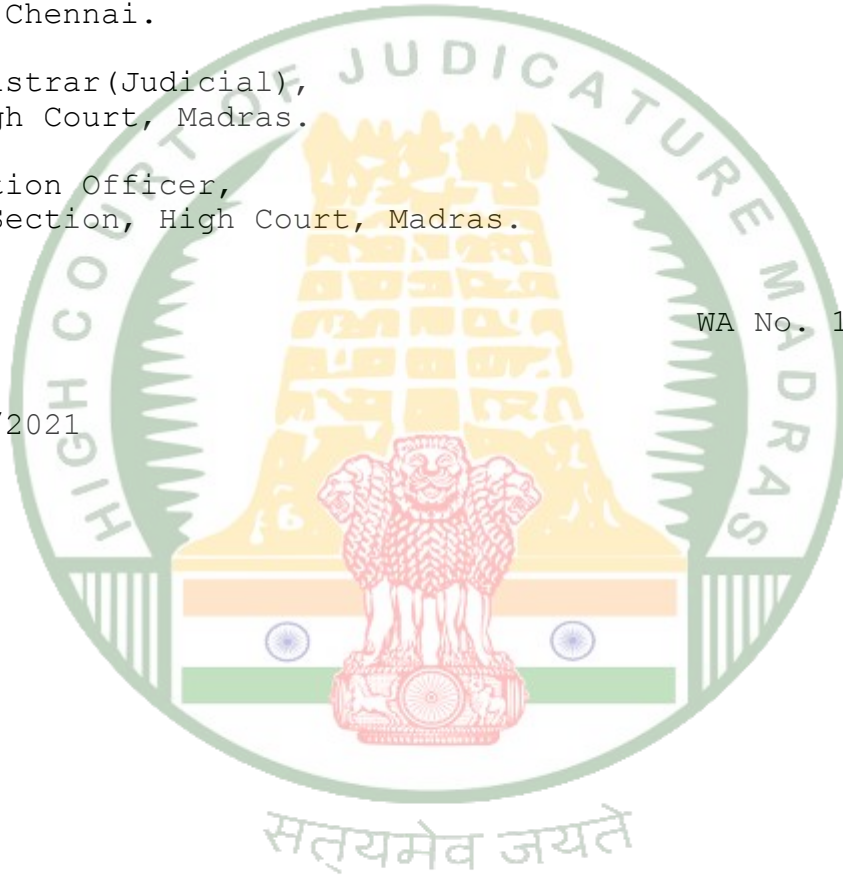
1.The Director General of Police
Tamilnadu, Kamarajar Salai,
Mylapore, Chennai.

2.The Registrar(Judicial),
Madras High Court, Madras.

3.The Section Officer,
Criminal Section, High Court, Madras.

WA No. 1161 of 2020

BS(CO)
KKV/16/04/2021



WEB COPY