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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2021

CORAM

THE HON'BLE MR. JUSTICE K.KALYANASUNDARAM
AND
THE HON'BLE MR. JUSTICE P.D.AUDIKESAVALU

W.P. No. 26268 of 2021
and
W.M.P. No. 27717 of 2021

M. Kumaran

... Petitioner

-vs-

1. Tamilnadu State Human Rights Commission,
rep. by its Secretary,
143, P.S. Kumarasamy Raja Salai (Greenways Road),
Chennai - 600 028.
2. The Deputy Commissioner of Police (Triplicane),
Office of the Deputy Commissioner,
Chennai - 600 002.
3. K. Devaraj
4. Pushpa

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, quashing order dated 14.09.2021 in S.H.R.C. Case No. 9101 of 2019 and consequently, direct the First Respondent Human Rights Commission to conduct enquiry of my complaint dated 1 October 2019 in accordance with the provisions of the Protection of Human Rights Act, 1993 within a time frame fixed by this Hon'ble Court.

For Petitioner : Mr. K. Sakthivel

For Respondents : Mr. K.V.Sanjeev Kumar
Special Government Pleader (for R1)

Mr. R. Siddharth
Government Counsel (for R2)



O R D E R

(through video conference)

Heard Mr. K.Sakthivel, Learned Counsel for the Petitioner, Mr. K.V.Sajeev Kumar, Learned Special Government Pleader, who takes notice for the First Respondent and Mr. R. Siddharth, Learned Government Counsel, who takes notice for the Second Respondent, and perused the materials placed on record, apart from the pleadings of the parties. In order to expedite the matter and considering the nature of the order proposed to be passed which would not prejudicially affect the Third and Fourth Respondents, notice to them is dispensed with and final order is passed at the stage of admission of the Writ Petition.

2. The First Respondent is the Tamil Nadu State Human Rights Commission constituted under Section 21 of the Protection of the Human Rights Act, 1993 (hereinafter referred to as 'the Act' for short), and has been empowered under section 17 read with Section 29 of the Act to enquire into the complaints of violation of human rights. The Petitioner invoked the provisions of the Act and presented a Petition dated 01.10.2019 in S.H.R.C. Case No. 9101 of 2019 before the First Respondent against the Second to Fourth Respondents. The said Petition has been dismissed by an Order dated 14.09.2020 which reads as follows:-

"Complainant is present. Comments filed. Heard the Complainant. Complaint is dismissed"

The Petitioner impeaches the said order in this Writ Petition. It is apparent from the face of the record that the said order is bereft of any reasons while declining the relief sought by the Petitioner. There is no discussion with reference to any of the documents produced by the parties or from the submissions made by them as to how the conclusion has been arrived. It is needless to recapitulate here that disclosure of reasons is an essential facet of any adjudicatory process in consonance with the principles of the natural justice. The Hon'ble Supreme Court of India in *Kranti Associates Private Limited -vs- Massod Ahmed Khan* [(2010) 9 SCC], on noticing various rulings on that aspect, has summarized the legal principles which read as follows:-

"51. Summarizing the above discussion, this Court holds:

- (a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.



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- (b) A quasi-judicial authority must record reasons in support of its conclusions.
- (c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.
- (d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.
- (e) Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.
- (f) Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.
- (g) Reasons facilitate the process of judicial review by superior Courts.
- (h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.
- (i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.
- (j) Insistence on reason is a requirement for both judicial accountability and transparency.
- (k) If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know



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whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

- (l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.
- (m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).
- (n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part 27 of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".
- (o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process". "

Having regard to that established legal position, the reprehensible manner in which the decision making process has been carried out by the quasi-judicial authority in the instant case cannot be countenanced.

3. As a consequence thereof, the impugned order dated 14.09.2021 in S.H.R.C. Case No. 9101 of 2019, passed by the First Respondent is set aside and the complaint is restored to file. The First Respondent shall issue notice to the Petitioner and the Second to Fourth Respondents for their appearance on 27.01.2022 or such other convenient date, and they shall attend that hearing and on the subsequent days to which it is adjourned and extend their co-operation for the early disposal of the matter. It is incumbent upon the First Respondent to hear the parties concerned following the prescribed procedure and pass reasoned order dealing with each of the contentions raised by



them on merits in accordance with law and inform its outcome to all concerned under written acknowledgment.

In the upshot, the Writ Petition is ordered on the aforesaid terms. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

skr

To

1. The Secretary,
Tamilnadu State Human Rights Commission,
143, P.S. Kumarasamy Raja Salai (Greenways Road),
Chennai - 600 028.
2. The Deputy Commissioner of Police (Triplicane),
Office of the Deputy Commissioner,
Chennai - 600 002.

Copy to

1. M.Kumaran,
S/o. Manoharan,
No. 5, II Street,
Pulipon Bazaar,
Triplicane,
Chennai - 600 005.
2. K.Devaraj,
formerly Inspector (Law and Order),
D-4, Zam Bazzar Police Station,
Chennai - 600 014.
3. Pushpa,
formerly Sub-Inspector of Police (Law and
Order),
D-4, Zam Bazzar Police Station,
Chennai - 600 014.

+1cc to Mr. K. Sakthivel, Advocate, S.R.No.66077

+1cc to the Government Pleader, S.R.No.66156

W.P. No. 26268 of 2021

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NSK 11/01/2022