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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD) Nos.14481 and 7833 of 2020

and Crl.R.C (MD) No.599 of 2016

W.P (MD) No.14481 of 2020

A.P.Suryaprakasam

... Petitioner

Vs.

- 1.State of Tamil Nadu,
represented by its Secretary,
Civil Supply Department,
Fort St.George, Chennai - 600 009.
- 2.The Chairman cum Managing Director,
Tamil Nadu Civil Supplies Corporation Limited,
No.12, Thambusamy Road,
Kilpauk, Chennai - 600 010.
- 3.The Secretary to Government,
Co-Operation, Food and Consumer Protection Department,
Secretariat, Chennai - 600 009.
[R2 and R3 were *suo motu*
impleaded vide order dated
15.10.2020]
- 4.The Secretary to Government,
Department of Agriculture,
State of Tamil Nadu,
Secretariat, Chennai.
- 5.The Secretary to Government,
Ministry of Home Affairs,
Union of India,
North Block, New Delhi.
- 6.The Secretary to Government,
Ministry of Law and Justice,
Union of India,
Shastri Bhawan, New Delhi.



7. The Secretary to Government,
Ministry of Parliamentary Affairs,
Union of India,
Parliament House, New Delhi.

8. The Chief Secretary to
Government,
State of Tamil Nadu,
Fort St. George, Chennai.

9. The Vigilance Commissioner,
Personnel and Administrative
Reforms Department,
State of Tamil Nadu,
Fort St George,
Chennai.

10. The Director of Vigilance and Anti Corruption,
No.293, MKN Road, Alandur Chennai.

[R4 to R10 were *suo motu* impleaded
vide order 02.11.2020]

11. The Union of India,
represented by its Secretary,
Department of Agriculture and Farmers Welfare,
Krishi Bhawan, Dr. Rajendra Prasad Road,
New Delhi - 110 001.

[R11 was *suo motu* impleaded vide
order 23.11.2020]

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondent to consider the petitioner's representation dated 10.10.2020.

For Petitioner : Mr.A.P.Satya Murthy

For Respondent : Mrs.J.Padmavathi Devi,
Nos.1 - 4 & Special Government Pleader
8 - 10

For Respondent : Ms.Victoria Gowri
Nos. 5- 7 & 11 Assistant Solicitor General of India



W.P (MD) No. 7833 of 2020

S.Rajasekaran

...Petitioner

Vs

1.The Director,
Directorate of Vigilance and Anti Corruption,
No.293, MKN Road,
Alandur, Chennai - 16.

2.The Deputy Superintendent of Police,
Vigilance and Anti Corruption Wing,
Collectorate Campus,
Virudhunagar - 626 002.

3.The Director,
Directorate of Collegiate Education,
9th Floor, EVK.Sampath Building,
College Road, Chennai - 6

4.The Vice Chancellor,
The Madurai Kamaraj University,
Palkalai Nagar,
Madurai.

5.The Secretary,
Collegiate Education,
Chennai.

[R5 was suo motu impleaded
vider order dated 22.07.2020]

6.The Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, Chennai.

[R6 was suo motu impleaded vide
order dated 30.09.2020]

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents 1 to 2 to initiate appropriate criminal action under the relevant provisions of law against the erring officials on the basis of the complaint of the petitioner dated 19.11.2019

For Petitioner : Mr.Veerakathiravan
for M/s.Veera Associates

For Respondents : Mr.A.Natarajan,
1 & 2 State Public Prosecutor



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For Respondents
3 & 4

: Mr.K.Chellapandian,
Additional Advocate General,
Assisted by Mr.K.K.Ramakrishnan,
Additional Public Prosecutor

For Respondents
5&6

: Mr.P.H.P.Aravid Pandiyan,
Additional Advocate General

Crl.R.C (MD) No.599 of 2016

Rajendran

...petitioner / petitioner

Vs

1.Maru.K.Kannan
Theni Government Medical College,
Theni.

2.Hema,
Nurse,
Theni Government Medical College,
Theni.

3.Vijayachitra,
Nurse,
Theni Government Medical College,
Theni.

...respondents / respondents

PRAYER: Criminal Revision Cases have been filed under Section 397 r/w 401 of the Criminal Procedure Code, to allow this revision and setting aside the order dated 27.05.2011 in Crl.M.P.No.1622 of 2011 on the file of the District Munsif cum Judicial Magistrate Court, Aundipatti.

For Petitioner : Mr.M.V.Venkataseshan

For 1st Respondent : Mr.K.K.Senthil
for AAV Partners

For 2nd & 3rd Respondent : Mr.R.Karthickrajan

COMMON ORDER

[Order of the Court was made by **B.PUGALENDHI, J.**]

The writ petition in W.P(MD)No.14481 of 2020 is filed seeking a writ of mandamus directing the respondents to consider the petitioner's representation dated 10.10.2020.



2. The Criminal Revision in CrI.RC(MD)No.599 of 2016 is filed as against the order passed by the learned District Munsif cum Judicial Magistrate, Aundipatti, dated 27.05.2011.

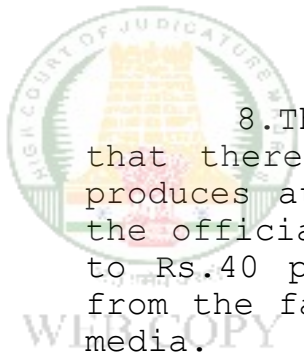
3. The writ petition in WP(MD)No.7833 of 2020 is filed for a writ of mandamus, alleging inaction on the part of the respondents 1 and 2 on the complaint of the writ petitioner dated 19.11.2019.

4. By order dated 02.11.2020, this Court directed to tag W.P(MD)No.7833 of 2010 and CrI.R.C(MD)No.599 of 2016 along with W.P (MD)No.14881 of 2020, since the report of the Administrative Reforms Committee, headed by Dr.Justice A.K.Rajan [Retired Judge of Madras High Court], dated 25.04.2008 to ensure corruption free and transparent administration was referred to and therefore, all these matters were taken up together for hearing and are disposed of by way of this common order.

5. In W.P(MD)No.14881 of 2020, the petitioner has submitted a representation dated 10.10.2020, to the first respondent / the Secretary, Civil Supplies Department, Chennai stating that there are no sufficient numbers of paddy procurement centres in the State and the existing centres are also being closed and the farmers are made to wait for days together in rain on streets without any basic amenities. Therefore, the petitioner has requested the first respondent to redress the grievances of the farmers in this connection. Since the petitioner's representation has not evoked any response, this writ petition has been filed as Public Interest Litigation.

6. The petitioner *inter alia* states that the agriculturists, who have brought their agricultural produces to the Government Procurement Centres are facing several hardships and the agriculturists are made to wait on roads for more than 10 days in continuous rain without procuring their produce, thereby resulting the produces drenched in rain. Since the produces become wet, the Government Procurement Centres also refuse to procure the same. The authorities are insisting upon the production of Chitta and Adangal from the agriculturists, making them to approach the Revenue Authorities. Further the agriculturists are not even able to sell their produces for minimum procurement price.

7. The petitioner further states that visual medias are also telecasting the hardships faced by the farmers at the paddy procurement centres especially in Tanjore, Trichy, Nagapattinam, Thiruvavarur and Pattukottai etc., Therefore, the petitioners seeks direction to the respondents to establish more number of paddy procurement centres in order to avoid any delay in procuring the produce brought by the farmers without making them to wait on streets.



8. That apart, Mr A.P. Suryaprakasam, party-in-person submitted that there is no sufficient space for the farmers to keep their produces at the paddy procurement centres. Further he alleged that the officials are procuring the paddy from private traders. Rs.30/- to Rs.40 per bag is demanded as bribe for procuring the produces from the farmers and several malpractices are exposed in the visual media.

9. Taking judicial notice of the fact from the visual media that agitations are being held by the farmers for not procuring the paddy in time and the officials are also rejecting the paddy citing more moisture content than the prescribed level and therefore, this Court by order dated 15.10.2020 *suo motu* impleaded respondents 2 and 3 and also directed the respondents to answer the queries raised thereon.

10. In pursuance of the said order dated 15.10.2020 the first respondent filed a counter affidavit stating that there are 540 permanent Direct Purchase Centres [DPCs] are functioning in the State and there are totally 2135 DPCs are functioning in the State. The District Collectors concerned are permitted to open required number of DPCs and there is no restriction to open additional DPCs on the need basis.

11. The second respondent filed a counter affidavit dated 27.10.2010 stating that the Government has permitted the District Collectors concerned to open Direct Purchase Centres [DPC] in the respective districts based on the need of the farmers and 862 such centres were opened till then. There is no restriction to open Direct Purchase Centres according to the requirement. During the last Kuruvai procurement season, 2135 DPCs were opened and 32.41 Lakh MTs of paddy have been procured, which is the highest quantity of paddy procured in all the previous seasons.

12. As on 01.10.2020, 591 Direct Purchase Centres were opened in the Delta and Non Delta Districts and as on that day 862 DPCs were functioning. Previously 800 bags of paddy were procured and it was increased to 1000 per bags per day.

13. It is further stated that whenever a farmer approaches a Direct Purchase Centre, he is issued with an auto generated token number indicating the tentative date of procurement and the farmer can bring the paddy on the particular date and therefore, he need not wait in the procurement centres. It is also stated that as per the norms issued by the Government of India, paddy with moisture upto 17% is procured and even if it is more than 17% moisture, it is procured after drying it to the level of 17% moisture. The chitta and adangal records are insisted upon only to prevent the traders or touts involving in selling the paddy. It is further contended that six special teams have been formed and they conduct regular and surprise checks in the Direct Purchase Centres. During the last



season ended on 30.09.2020, 1725 inspections have been conducted and action have been initiated against 105 officials.

14. Heard the learned Counsel on either side and perused the materials placed on record.

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15. The petitioner has brought to the notice of the court the hardships faced by the agriculturalists in selling the paddy at the procurement centres. The grievances expressed by the petitioner are that there is lack of paddy procurement centres in the particular area during the harvest season and there is no sufficient space provided for keeping the paddy, brought for procurement. When it rains, the produce are getting more moisture than the prescribed level, making it difficult for the farmers to sell the paddy.

16. The learned Special Government Pleader for respondents 1 and 2 submitted that there are 2135 Direct Purchase Centres in the State and the District Collectors concerned are permitted to open the required purchase centres on the request of the farmers. She would further submit that several regular and surprise inspections have been made at the procurement centres and action were initiated as against the persons involved in illegality.

17. Admittedly, the farmers after facing many difficulties are doing cultivation. Even for selling the hard grown produces they are finding it difficult, due to lack of sufficient procurement centres, insufficient storage place, bribe, involvement of local traders or merchants, etc.,

18. Though the respondents claim that there are thousands of procurement centres and lakh of metric tonnes of paddy are procured during the harvest seasons, the problems faced by the farmers in the procurement centres appear to be not redressed fully and are prevalent. Therefore, the writ petition is disposed of with the following directions:

(i) The Government shall establish sufficient number of procurement centres, wherever and whenever necessary with sufficient storage space;

(ii) Issuance of auto generated token number as claimed by the respondents and procuring the paddy tokenwise at each and every procurement centre shall be strictly followed in order to avoid any delay;

(iii) The Government shall ensure that the paddy brought to the procurement centres are procured on the very same day, without any delay;

(iv) Regular and surprise inspections have to be conducted in the procurement centres; departmental and criminal action shall be initiated against the erring officials;

(v) It shall be ensured that the paddy are procured without getting any bribe from farmers;



(vi) The farmers should be sensitised about the procedure followed in the procurement centres;

(vii) Details of the authority to whom any complaint in a particular procurement centre to be made, should be exhibited in a prominent manner, at every procurement centres and immediate action should be taken on the complaint received from the farmers:

(viii) The involvement of the local traders or merchants in any manner should be prevented;

Crl.R.C (MD) No. 599 of 2016

19. Insofar as the criminal revision case in Crl.R.C.No.599 of 2016 is concerned, the petitioner Rajendran has filed this petition as against the order passed by the learned District Munsif cum Judicial Magistrate, Aundipatti, dated 27.05.2011, wherein the petitioner has filed a private complaint under Sections 190 and 200 CrPC.

20. The petitioner has filed the complaint that his wife Prabha was admitted in Government Medical College Hospital at Theni on 25.02.2008 and was treated as inpatient till 15.03.2008, however, she died on 15.03.2008 around 10.15 am to 10.30am. The body was sent through an ambulance by the first accused Doctor Kannan around 12.30pm. Having suspicion over the death of his wife, on 23.04.2008 the petitioner sought the copy of the case sheet of his wife through the Right To Information Act. A reply dated 26.05.2008 was given that since the petitioner has discharged his wife against the medical advice, the information sought by the petitioner could not be provided. As against such reply, on 26.05.2008 the petitioner filed an appeal before the Dean of the Government Medical College Hospital, Theni, who in turn on 23.07.2008 replied that since the records are bigger in size, copy could not be taken and given.

21. Under such circumstances, the petitioner filed a writ petition in W.P(MD)No.5685 of 2008, wherein this Court by order dated 27.04.2009 directed the respondents to provide the petitioner all the details sought by him. In pursuance of the order, on 30.05.2009 a copy of the case sheet containing 33 pages was given to the petitioner by the respondents.

22. Before filing the above writ petition, the petitioner filed appeal No.38936/06/08 before the Commissioner, Tamil Nadu State Information Commission, since the Public Information Officer and the Appellate Authority did not furnish him the details sought by him. In the appeal filed by the petitioner, the Commissioner, Tamil Nadu State Information Commission, by order dated 27.06.2009 directed the Director of Medical Education to provide the information sought by the petitioner. The Director of Medical Education in turn directed the Public Information Officer to provide



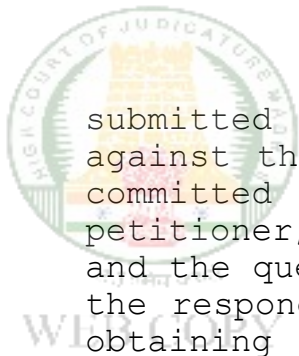
the details to the petitioner. Based on the direction, another copy of the case sheet was also sent to the petitioner on 07.08.2009 by the Public Information Officer, Government Medical College Hospital, Theni.

23. In the interregnum period the Public Information Officer sent a copy of the case sheet to the Director of Medical Education on 30.07.2009 through fax and a copy of this was also sent to the petitioner on 11.08.2009. Therefore, the petitioner was provided with three copies of case sheet dated 30.05.2009, 07.08.2009 and 11.08.2009. However, there are corrections in the case sheet sent to the petitioner on 07.08.2009, wherein it has been stated as DT 50 ML and in the copy sent on 30.05.2009 it is stated as DT 150 ML. Therefore, the petitioner sent a legal notice dated 25.08.2009 to the Dean of the Medical College Hospital, mentioning the tampering of the case sheet, however a vague reply dated 11.09.2009 was given to the petitioner. Again the petitioner sought some clarification on 30.09.2009 and the same was denied by the Dean of the Hospital by reply dated 08.10.2009 rejecting the petitioner's request. In this connection a separate complaint in C.C.No.17 of 2010 is pending against the Dean.

24. It is further stated in the complaint that on 15.03.2008 the petitioner took the body through ambulance bearing Registration No.TN 60 G 0089 to Kulathupatti and a trip sheet is also given to the petitioner. While so, signature was obtained as if the petitioner discharged the deceased as against the medical advice. Therefore, the respondents in order to escape from the commission of offence, have tampered the records and they are safeguarded by the Dean of the hospital.

25. The learned District Munsif cum Judicial Magistrate, Aundipatti by order dated 27.05.2011 dismissed the petition by relying on the medical records dated 15.03.2008 that the petitioner himself has discharged his wife against the medical advice and further held that no prior sanction as per Section 197 CrPC was obtained to prosecute the respondents. Aggrieved over the said order, the petitioner has filed this revision.

26. This revision case is filed on the ground that no prior sanction is required under Section 197 CrPC. The respondents have manipulated the Government records. It is usual practice adopted in hospitals to obtain signatures in blank forms before admitting the patient for surgery. The trip sheet dated 15.03.2008 clearly discloses that the petitioner's wife was taken in ambulance after she died and therefore, the question of discharging his wife against the medical advice does not arise at all. The trial Court without even verifying the original records has passed the order.



submitted that the petitioner on his own risk discharged his wife against the medical advice and therefore, the respondents have not committed any offence. Insofar as the information sought by the petitioner, the petitioner was provided with the information sought and the queries raised by the petitioner have also been clarified by the respondents. Further the petitioner filed the complaint without obtaining prior sanction for prosecuting the respondents, as they are Government officials.

28. Heard the learned Counsel on either side and perused the materials placed on record.

29. It is seen that the petitioner's wife due to some illness was admitted in the Government Medical College cum Hospital at Theni on 25.02.2008 as an inpatient and she underwent a surgery on 11.03.2008. However, she passed away on 15.03.2008. Having suspicion over the death of his wife, He approached the authorities by way of the Right To Information Act, seeking case sheet of his wife. When the same was denied, he filed a writ petition in W.P(MD)No.5685 of 2008. Based on the directions of this Court on 27.04.2009, the records sought by the petitioner were provided on 30.05.2009, after a period of one year from the death of his wife and the filing the application under RTI, dated 23.04.2008. Again based on the direction of the Commissioner, the Right To Information Act, he was provided with another copy on 07.08.2009 and finally he was provided with a copy on 11.08.2009.

30. It is to be noted that in 7th page of the case sheet of the petitioner's wife, in the copies sent on 30.05.2009 and 11.08.2009 it is mentioned as 'DT - 150 ml', contrarily, in the copy sent on 07.08.2009 it is mentioned as 'DT-> 50 ml'. The small line and the 1 between DT and 150 has been changed as an arrow mark [->] as 'DT-> 50 ml'. The petitioner has also sought clarification on this two different measurement and the correction, but the respondents replied that it is to indicate the office note. When the respondents in their reply to the petitioner stated that the records are under the safe custody and nobody has access to it, it is not known how this correction/ manipulation had occurred. Though the petitioner had sought the details of the person, who did such correction and the reasons for the same, they have been denied by the respondents citing the provisions of the Right to Information Act.

31. The petitioner relied on the trip sheet, issued by Seva Nilayam, Rajathani, dated 15.03.2008, wherein it has been stated in the coloumn purpose / details of duty as 'Prabhavathi, aged 56, W/o. Rajendran, death case, Koluthuppatti'.

32. This Court takes note of the conduct of the respondents in providing the copy of the case sheet of the petitioner's wife to <https://hservices.ecoipr.gov.in/hservices/> there is no proper explanation provided by the



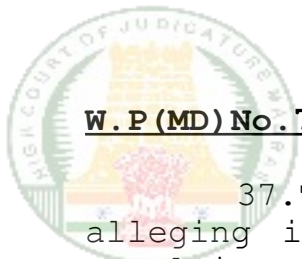
respondents for the corrections found place in the case sheet. The trip sheet furnished by the petitioner also shows it as a death case. The petitioner also alleged that his signature was obtained in blank forms.

33. All the above would create suspicion over the death of the petitioner's wife and the respondents have not given explanation in a clear manner. The trial Court rejected the complaint of the petitioner holding that the petitioner as against the medical advice discharged his wife and he has not filed any material for having obtained prior sanction for prosecuting the respondents.

34. Insofar as the prior sanction is concerned, this Court by order dated 25.08.2020 called for the procedure available for a private individual to obtain sanction as required under Section 197 CrPC and under Section 19 of the Prevention of Corruption Act for lodging a private complaint as against the erring officials. In response, the Additional Superintendent of Police, (HQRS), V & AC, Chennai has filed a report that private individuals can also approach the competent authority with relevant materials to obtain sanction against a public servant with respect to any offence he made in the discharge of his official functions either under 197 CrPC or under Section 19 of the Prevention of Corruption Act, 1988. He has further stated that as on 31.08.2020, prior approval was pending in 57 cases, out of which, 48 cases were pending for more than three months from various department heads and sanction was awaited in 42 cases, of which, 24 cases were pending for more than three months.

35. This Court has concern over the possibility a private individual in getting sanction for prosecuting the Government Officials, when the Department of Vigilance and Anticorruption is waiting for sanction and prior approval in several cases for more than three months. However, section 197 CrPC mandates prior sanction for prosecuting Government Officials.

36. In the light of the above, the order passed by the learned District Munsif cum Judicial Magistrate, Aundipatti in Cr.M.P.No.1622 of 2011, dated 27.05.2011 is hereby set aside by allowing this criminal revision case. The petitioner is directed to furnish a copy of the complaint along with all the relevant materials to the Superintendent of Police, Theni, within a period of two weeks from the date of receipt of a copy of this order. The Superintendent of Police, Theni is hereby directed investigate the same and proceed against the erring officials by obtaining prior sanction from the competent authority.



W.P (MD) No. 7833 of 2020

37. This writ petition is filed for a writ of mandamus, alleging inaction on the part of the respondents 1 and 2 on the complaint of the writ petitioner dated 19.11.2019.

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38. When the matter was taken up for hearing, it was represented on behalf of the respondents 1 and 2 that this complaint dated 19.12.2019 was duly forwarded to the Head of the Department, namely, 5th respondent on 02.12.2019, for approval for enquiry as required under Section 17A of the Prevention of Corruption Act as amended in the year 2018. Since the complaint forwarded by the Vigilance and Anticorruption Department has not been acted upon within the time limit as per the proviso, this Court *suo-motu* impleaded the Secretary, Collegiate Education Chennai, as a party 5th respondent to this proceedings by order dated 22.07.2020. and directed the 5th respondent to file a status report. Accordingly, on 17.08.2020 the Joint Secretary, Higher Education Department has filed a status report with bereft of details. By expressing dissatisfaction over the status report filed on behalf of the 5th respondent and also by observing the consequences on the delay in granting approval, this Court raised certain queries and also directed the 5th respondent to file a better affidavit. Pursuant to this order dated 17.08.2020, a status report was filed by the 5th respondent, by referring the communication received from the 1st respondent / Director of Vigilance and Anticorruption in petition No.12756/2019/EDN/CC-HQ dated 02.12.2019 and it is stated that as per their understanding, the complaint was forwarded only for the departmental action and as a follow up action, the Director of Collegiate Education was requested to send his remarks on 24.07.2020 and a reply was also received on 30.07.2020 stating that he has recommended for a detailed enquiry. Accordingly, 5th respondent also sent a letter to the Director of Vigilance and Anticorruption Department on 21.08.2020, to enquire into the matter and initiate necessary action.

39. While so, this Court raised certain issues that why not the scope of the enquiry be extended with the officials, who have deliberately delayed the process of investigation. As a response to the queries raised by this Court a status report was filed on behalf of the 5th respondent, but it did not contain anything on the queries raised by this Court. But the 5th respondent has submitted that their enquiry revealed there is *prima facie* evidence for misconduct in the recruitment by the Devanga Arts College and a letter was also sent to the 1st respondent / Director of Vigilance and Anticorruption on 21.08.2020 to enquire into the matter and to initiate necessary action. As an explanation to this affidavit filed on behalf of the 5th respondent, Mr. Aravinth Pandiyan, learned Additional Advocate General represented that the request of the Director of Vigilance and Anticorruption in petition No.12756/2019/EDN/CC-HQ, dated



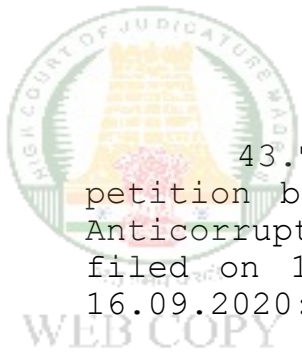
02.12.2019 is only for a departmental enquiry and not for an approval as contemplated under Section 17A of the Prevention of Corruption Act. The learned Additional Advocate General also circulated a copy of the petition No.12756/2019/EDN/CC-HQ dated 02.12.2019.

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40. In this case, the complainant made it clear that the Principal of the College himself stated that the appointments have been made in a fraudulent manner and that apart, the complainant has also mentioned that he has obtained certain information under the Right to Information Act that no call letters were despatched from the college to any of the candidates applied for the post. The allegation in the complaint itself is that a Lecturer and two others were appointed in a college in a fraudulent manner. Moreover, it is also brought to the knowledge of this Court that one of the Lecturers from this institution is facing trial for the charges that she made an attempt to exploit the girl students of the College.

41. However, after this Court has taken cognizance of this issue and after several detailed orders have been passed, contemplating criminal prosecution as against the officials, who are delaying the process of investigation, 5th respondent has filed the report that there is *prima facie* evidence for misconduct in the process of recruitment by the Devanga Arts College and also addressed to the 3rd respondent on 21.08.2020 to enquire into the matter and initiate necessary action. But with these *prima facie* materials, this complaint was kept pending for the past several months. A mere reading of the complaint and the documents enclosed along with the complaint make out a *prima facie* case of misconduct in the process of recruitment in the aided College and to find out this misconduct, the authorities have taken nearly 8 months. Even in the letter of the 1st respondent, dated 02.12.2019, in paragraph No.3, it is mentioned that factual verification was done as per the guidelines given in G.O.Ms.No.173, Personnel and Administrative Reforms (N) Department, dated 19.12.2018 and the Director has arrived at a conclusion that the content of the complaint is only general in nature and therefore, forwarded the complaint for departmental action by the 5th respondent. At least after 8 months, the 5th respondent has taken a stand that a *prima facie* evidence of misconduct is available in the complaint. Now the matter is pending with the 3rd respondent / the Director of Collegiate Education, Chennai.

42. Under such circumstances, this writ petition is disposed of with a direction to the 3rd respondent the Director of Collegiate Education, Chennai to conduct an enquiry and submit a report to the Government as expeditiously as possible and based on the enquiry report the Government shall take further course of action. No costs. Consequently, connected miscellaneous petitions, if any shall stand closed.



43. This Court has earlier extended the scope of this writ petition by raising certain queries relating to the Vigilance and Anticorruption Department and in response to the same, a report was filed on 16.09.2020 and this Court passed the following order on 16.09.2020:

"Today, the Additional Superintendent of Police, Headquarters, Vigilance and Anti Corruption Department, Chennai, has filed a report dated 16.09.2020, on behalf of the first and second respondents, wherein, it is stated as follows:

"8. It is further submitted that the Government have sanctioned an amount of Rs.6,36,53,263/- to install Cyber Lab at DVAC, Headquarters, Chennai, for the purpose of collection and preservation of digital evidence by the investigating officer as the involvement of digital evidence like CCTV footages, computer hardware, call data and need for their analysis are increasing in Prevention of Corruption Act cases in recent days. Further the analysis requires specialized equipments, software and trained personnel to assist the investigation officer for culling out evidence for cracking such cases. In this regard the officers working in this Directorate are regularly deputed for training in recent developments in investigation techniques organized by Premier Training Institutes like Central Bureau of Investigation, National Police Academy and Central Detective Training Institute etc.,

9. It is further submitted that apart from these, the Government has sanctioned Office Automation Software to DVAC Headquarters, in the year 2011 and started functioning from the year 2012. This software is intended to speed up the regular work flow in the Headquarters of DVAC. Further High Court monitoring and trial monitoring is also regularized through automation with special software created for the purpose. DVAC has a website which has all the relevant details including functioning / organizational setup of DVAC. It also updates the First Information Report registered in all the Detachments. This website also provided e-mail links to the Directorate and for all the detachments for the purpose of receiving online complaints. DVAC is facilitating petition through e-mail and also by Fax, apart from the regular process.

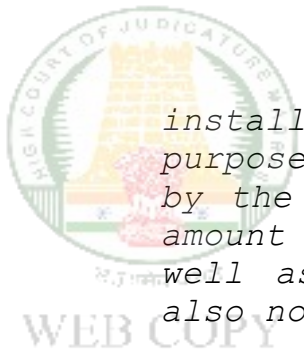


10. It is respectfully submitted that with respect to increasing the Strength of Police Personnel in DVAC for curbing corruption in the State of Tamil Nadu, to cope up with the ever increasing number of cases / enquiries, huge number of petitions pending in Hon'ble High Court and Hon'ble Supreme Court, large number of Departmental Enquiries and Tribunal Enquiries and increasing number of petition and complaints, the Directorate of Vigilance and Anti Corruption has sent a proposal to the Government requesting to increase the strength of DVAC, to cope up with the increasing work load and to have uniform pattern of working in all the Detachments functioning throughout the State and the same is under consideration by the Government. It is submitted that, apart from this, a proposal was sent to the Government for re-organizing the DVAC Ranges and creation of three more Superintendent of Police posts with supportive staff to ensure the better supervising mechanism and speedy disposal of cases and the same is also under consideration with the Government."

2. Section 17 of the Prevention of Corruption Act authorizes certain cadre of Officers for investigation into cases under the Act. As per clause-C of Section 17, no Police Officer below the rank of Deputy Superintendent of Police or a Police Officer of equivalent rank shall investigate any offence punishable under the Act. But, as per the proviso, the Police Officer not below the rank of Inspector of Police, if authorized by the State Government in this behalf, by general or special order, may also investigate into the matter.

3. Therefore, the Deputy Superintendents of Police and Inspectors of Police alone are competent to conduct investigations on the offences committed under the Act. It is admitted by the Department of Vigilance and Anti Corruption, by way of the report, that the existing staff strength are not adequate to meet the need of the hour. In Tamil Nadu, not less than 14 lakh Government employees are working, but, for monitoring these Government employees, around 200 and odd officials are available in the Department. It is stated in the report that a proposal has been made to the Government in this regard, however, the progress on the proposal and the date on which such proposal was made are not available in the report.

4. It is also stated in the report that a sum of Rs. 6,36,53,263/- has been sanctioned by the Government to



install Cyber Lab at DVAC Headquarters, Chennai, for the purpose of collection and preservation of digital evidence by the investigation officers. But, the date on which this amount has been sanctioned is not available in the report as well as the progress in establishing such a Cyber Lab is also not mentioned.

5. It is also stated in paragraph no.9 of the report that a website with e-mail link has been created by the Directorate for the purpose of receiving online complaints and the DVAC is facilitating petitions through e-mail and also by fax, apart from the regular process. But, the report is not specific as to when such a link to lodge online complaint was provided and whether the general public is made aware of such a facility.

6. Considering the number of complaints received and the number of incidents reported, this Court feels that it is the need of the hour that the contact numbers of the respective Officers, namely, the Deputy Superintendents of Police and the Inspectors of Police must be made available/ visible not only in the Government Offices, but also in the common places like Bus Stand, Railway Station, Library, etc. The size and font of such a display should be visible to the common man. It is represented by the learned Additional Advocate General that as on date, the contact numbers are made available in common platforms, like, Buses, etc., besides all the Government Offices.

7. This Court places on record its appreciation for the efforts and initiatives shown by the Department, the learned State Public Prosecutor and the learned Additional Advocate Generals. But, the initiatives shown by them, though laudable, can achieve its real purpose only when it is implemented in its letter and spirit.

8. Though there is a separate Directorate for the Department of Vigilance and Anti Corruption, the Officers are deputed from the regular police force. The Officers working in the Department of Vigilance and Anti Corruption are also likely to be posted again to the parent department. If that is the position, this Court fails to understand as to how an Inspector of Police in the DVAC can be expected to conduct an investigation on a case involving a Deputy Superintendent of Police or a Superintendent of Police, for the reason that there might be a chance for him to work under the very same Officer, in his parent department, when his deputation gets completed.



9. Legislative, Executive and Judiciary are the three pillars of Democracy. Of these, the Legislatures have already installed CCTV cameras and the entire proceedings are available in live telecast. The Judiciary has also installed CCTV cameras inside the Court Halls. It is not known whether any steps have been taken by the Executive to install CCTV cameras in the Government Offices to check the work pattern of the government officials. In fact, this Court in a writ petition has issued a direction to install CCTV cameras in all the police stations, but, it appears, the same has not been implemented in letter and spirit. We are proudly saying that the Greater Chennai Corporation has installed CCTV cameras in and around the city and thereby, the crime rate in the city has reduced drastically. When it is possible to install CCTV cameras in the whole city, it can be done in all the Government Offices also. Such installation of CCTV cameras in Government Offices would reduce corruption to some extent by restricting the movements of touts or brokers.

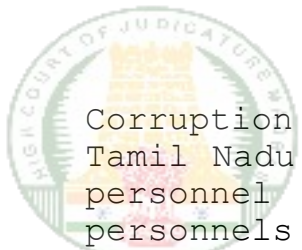
10. No doubt, in some Government Offices, like Revenue Department, etc., CCTV cameras are installed. In fact, even in police stations, there are CCTV cameras, but, in a writ petition, this Court received a report that the data stored in such CCTV cameras were made to auto-delete in the end of the day. Therefore, the very purpose of installing such CCTV cameras is defeated.

11. In order to address these issues and to show progress with regard to the report of the Additional Superintendent of Police, dated 16.09.2020, the learned State Public Prosecutor and the learned Additional Advocate Generals sought a weeks time.

12. Post the matter on 23.09.2020, at 05.00 pm."

44. Pursuant to the earlier order of this Court dated 16.09.2020, the respondents 1 & 2 have filed a report dated 30.09.2020.

45. It is stated in the report that with regard to the re-fixation of ranges by three more Superintendent of Police posts, a proposal was made in the year 2018 and the same is still under consideration of the Government. It is also stated that the said proposal is kept in abeyance as per the communication of the Secretary, Personnel and Administrative Reforms Department, dated 20.08.2020, in view of the ban order passed by the Government for creation of new posts in Government Departments because of the financial constraints owing to the present COVID-19 pandemic situation. The fact remains that the Officers in Vigilance and Anti



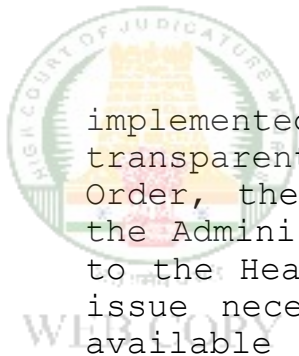
Corruption Department are deputed from the Police Department. The Tamil Nadu Police Force is having a strength of more than 1.25 Lakh personnel and instead of creating new posts, some efficient personnels from the police department can be deputed and thereby some more strength can be given to the Vigilance and Anti Corruption Department. In all practical reasons, the Vigilance and Anti Corruption Department, with the existing strength, cannot monitor the 14 Lakh Government Staff in the State, effectively.

46. From the report, it is also seen that though the Government has sanctioned a sum of Rs.6,36,53,260/- for establishing a Cyber Lab at the Directorate of Vigilance and Anti Corruption, Headquarters, Chennai, vide G.O.Ms.No.117, Personnel and Administrative Reforms Department, dated 29.08.2018, it has not been established so far. The sanctioned amount shall be utilised as early as possible, so that the Department can avoid escalation of price for the instruments, etc. When the Government has exclusively sanctioned the said amount for establishing a Cyber Lab at the Directorate, let the project not be delayed waiting for establishing a similar set up all over the State.

47. The respondents 1 & 2 have also enclosed the photographs of the pamphlets issued and posters displayed in the notice board of every public offices and in public places at visible points with slogans against corruption and with the address and phone numbers of the Directorate of Vigilance and Anti Corruption. In the opinion of this Court, these posters and pamphlets cannot survive for long and what is required is a permanent fixture in a metal or plastic board, erected in a prominent size, so that it will be available permanently in the public offices and public places. The said sign boards may also consist the phone numbers of the District Vigilance Offices also, apart from the Directorate of Vigilance and Anti Corruption, Chennai.

48. A corruption free transparent administration alone can give confidence on the minds of a common citizen. In achieving this object, the Government of Tamil Nadu, vide Government Order in G.O.Ms.No.65, Personnel and Administrative Reforms (AR-I) Department, dated 09.03.2007, constituted an Administrative Reforms Committee under the Chairmanship of Dr. Justice A.K. Rajan, Retired Judge of Madras High Court to ensure corruption free and transparent administration. The Committee has also submitted its first report as early as on 25.04.2008 and the Government, after examining the recommendations of the Administrative Reforms Committee, has taken a policy decision to accept certain recommendations and has also passed a Government Order in G.O.Ms.No.24, Personnel and Administrative Reforms (AR-I) Department, dated 17.02.2010, in this regard.

49. In the said Government Order, the Government to took decision in as many as 50 subjects and if this Government Order is



implemented in its *stricto sensu*, the object of corruption free transparent administration can be achieved. In this Government Order, the Government has accepted certain recommendations made by the Administrative Reforms Committee and has also issued directions to the Heads of the Departments / Secretaries to the Government to issue necessary orders in compliance of the same. But, from the available websites, this Court was not able to collect those instructions / orders / circulars issued by the Heads of the Departments / Secretaries to the Government on the implementation of the same.

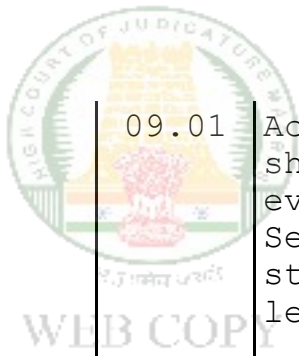
50. This Government Order in G.O.Ms.No.24, Personnel and Administrative Reforms (AR-I) Department, dated 17.02.2010 was issued by the Personnel and Administrative Reforms Department and therefore, to ensure the implementation of the said Government Order, the Secretary to Government, Personnel and Administrative Reforms Department, Secretariat, Chennai, was *suo-motu* impleaded as a respondent [sixth respondent] in the writ petition and the newly impleaded sixth respondent was directed to collect the relevant orders / circulars issued by the Heads of the Departments on the implementation of the recommendations of the Administrative Reforms Committee, as accepted by the Government vide G.O.Ms.No.24, Personnel and Administrative Reforms (AR-I) Department, dated 17.02.2010 and to file a consolidated comprehensive report on this issue as well as on the other issues raised by this Court. The sixth respondent was also directed to ensure fixation of permanent boards with the phone numbers of the respective District Offices in prominent sizes in public offices and in public places.

51. Pursuant to the directions, the sixth respondent filed a status report on the action taken on the recommendation of Justice A.K.Rajan Committee in G.O.Ms.No.24, dated 17.02.2010, as follows:

Para No.	Recommendation of the Administrative Reforms Committee	Action taken by the Government
04.02	The existing rules and Government Orders shall be followed and enforced strictly, in letter and spirit, by all the employees. (By that 70% to 90% of the delay will be reduced.)	All the files are processed in the Government departments in accordance with the Acts and Rules in force and monitored by the supervisory officers. The Supervisory Officers and the Heads of the Departments and Secretaries are empowered for ensuring prompt and timely action in all such files and to take appropriate action against those responsible for delay



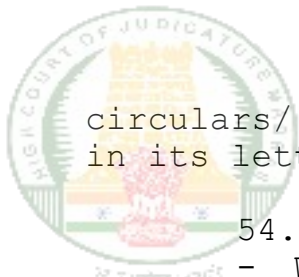
4.06	Decision making process should be decentralized. Powers and responsibilities should be delegated to various Hierarchical Officers.	The Secretaries and Heads of the Departments are instructed to delegate decision making issues at respective levels. The decisions relating to policy of the Government are decided at the highest level of the Government, whereas, those decisions relating to the implementation and providing services to public at gross root level of the departments are delegated to the second level and third level officers as specified in the respective rules. The powers to utilise the funds of the Government have been decentralised at various levels for which they are accountable.
08.09	Training the staff on modern gadgets, latest management system and refresher course should be given regularly.	All the incumbents entering into the Government service are imparted with foundation training at Civil Service Training Institute at Bhavanisagar, Secretariat Foundation Training Institute, Group A and B Officers Training Institute and Anna Institute of Management at Chennai, etc., Senior Officers and Supervisors are also imparted training at regular intervals to acquaint with the updated working knowledge. Necessary provisions are already available in the rules governing the posts.
08.10	Award should be given for good performance. A Committee of HODs, may be formed to receive recommendations from all the departments for good performance award, annually. The Committee shall frame rules and procedures. The award shall carry a citation and valuable memento.	Best practices award is presented by the Hon'ble Chief Minister every year on the independence day for those, who achieve excellent results in good governance and who have successfully implemented strategies and new initiatives. Besides this award, a number of other awards, are presented by the Government like Gandhi Adigal Police Medal, Ayyann Tiruvalluvar Award, Mahakavi Bharathiar Award, Best Institution Award.



09.01	Accountability shall be fixed on every Government Servant, at every stage and at every level.	The subjects are allotted to each Government servant by the appropriate authorities in each office. Thus accountability is ensured at all levels. Wherever, lapses if any noticed at any level, the authorities concerned are empowered to take action against those responsible.
09.01	Supervisory Officers should not hesitate to take action, as provided by the rules, against erring staff, failing which action shall be initiated against the Supervisory Officer.	The subjects are allotted to each Government servant by the appropriate authorities in each office. Thus accountability is ensured at all levels. Wherever, lapses if any noticed at any level, the authorities concerned are empowered to take action against those responsible.
10.01	When the Supervisory Officer initiates action against the subordinate for not responding to his directions, the action should not be hampered, by the higher ups.	The subjects are allotted to each Government servant by the appropriate authorities in each office. Thus accountability is ensured at all levels. Wherever, lapses if any noticed at any level, the authorities concerned are empowered to take action against those responsible.
14.02	A reasonable time limit shall be fixed to complete the Departmental proceedings.	Necessary instructions have already been issued fixing reasonable time limit for completion of disciplinary proceedings and reiterated at regular intervals

52. Further it is submitted that the Chief Secretary to Government sent a communication in D.O. Letter No. 25623/AR-I/2020-4, dated 11.12.2020, directing all the Departments of Secretariat calling for the action taken report on the recommendation of Justice A.K. Rajan Committee and a copy of the said letter along with the action taken report has been filed before this Court.

53. It is seen that only nine departments have filed the action taken report and there is no details with regard to the other departments, whether they are taking action for implementation of the above said Government Order. Therefore, the Government shall ensure that the government Order in G.O. Ms. No. 24, Personnel and Administrative Reforms (AR-I) Department, dated 17.02.2010 and the



circulars/ Governments Orders issued in this regard are implemented in its letter and spirit.

54.In the result,

- W.P.(MD)No.14481 of 2020 is disposed of, in terms of paragraph no.18 of this order;

- CrI.RC(MD)No.599 of 2016 is allowed, in terms of paragraph no.36 of this order; and

- W.P.(MD)No.7833 of 2020 is disposed of, in terms of paragraph no.42 of this order.

- There shall be no order as to costs. Consequently, all the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dsk

To

- 1.The Secretary to Government,
State of Tamil Nadu,
Civil Supply Department,
Fort St.George, Chennai - 600 009.
- 2.The Chairman cum Managing Director,
Tamil Nadu Civil Supplies Corporation Limited,
No.12, Thambusamy Road,
Kilpauk, Chennai - 600 010.
- 3.The Secretary to Government,
Co-Operation, Food and Consumer Protection Department,
Secretariat, Chennai - 600 009.
- 4.The Secretary to Government,
Department of Agriculture,
State of Tamil Nadu,
Secretariat, Chennai.
- 5.The Secretary to Government,
Ministry of Home Affairs,
Union of India,
North Block, New Delhi.



6. The Secretary to Government,
Ministry of Law and Justice,
Union of India,
Shastri Bhawan, New Delhi.
7. The Secretary to Government,
Ministry of Parliamentary Affairs,
Union of India,
Parliament House, New Delhi.
8. The Chief Secretary to Government,
State of Tamil Nadu,
Fort St. George, Chennai.
9. The Vigilance Commissioner,
Personnel and Administrative
Reforms Department,
State of Tamil Nadu,
Fort St George,
Chennai.
10. The Director of Vigilance and Anti Corruption,
No.293, MKN Road, Alandur,
Chennai.
11. The Secretary to Government,
Union of India,
Department of Agriculture and Farmers Welfare,
Krishi Bhawan, Dr. Rajendra Prasad Road,
New Delhi - 110 001.
12. The Deputy Superintendent of Police,
Vigilance and Anti Corruption Wing,
Collectorate Campus,
Virudhunagar - 626 002.
13. The Director,
Directorate of Collegiate Education,
9th Floor, EVK. Sampath Building,
College Road,
Chennai - 6
14. The Vice Chancellor,
The Madurai Kamaraj University,
Palkalai Nagar,
Madurai.
15. The Secretary to Government,
Collegiate Education,
Chennai.



16.The Secretary to Government,
Personnel and Administrative Reforms Department,
Secretariat, Chennai.

17.The District Munsif cum Judicial Magistrate,
Aundipatti.

18.The Superintendent of Police, Theni.

19.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.GP (SR-26787[F] dated 19/08/2021)

+1 CC to M/s.R.KARTHIC RAJAN, Advocate (SR-26700[F] dated 18/08/2021)

+1 CC to M/s.K.K.SENTHIL, Advocate (SR-26690[F] dated 18/08/2021)

+1 CC to M/s.,VEERA ASSOCIATES, Advocate (SR-26668[F] dated 18/08/2021)

W.P (MD) Nos14481 and 7833 of 2020 &
Cr1.R.C (MD) No.599 of 2016
17.08.2021

RK (20.09.2021) 24P 24C