



WEB COPY



W.P. Nos. 1859 of 2019 and 8945 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 1859 of 2019

and

W.P. No. 8945 of 2022

G.Selvaraj

... Petitioner in both W.P.s

-VS-

1. The State of Tamil Nadu
rep. by its Chief Secretary to Government,
Secretariat,
Chennai – 600 009. ... First Respondent in W.P. No. 1859 of 2019
2. The Secretary to Government,
Environment and Forest Department,
Secretariat,
Chennai – 600 009.
3. The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet,
Chennai – 600 015.
4. The District Forest Officer,
Theni Division,
Theni,
Theni District – 625 531. ... Second to Fourth Respondents in W.P.
No. 1859 of 2019/Respondents in W.P.
No. 8945 of 2022

Prayer in W.P. No. 1859 of 2022:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the



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Respondents to finalize the enquiry report of One Man Commission submitted by Mr. Atulya Misra, I.A.S. On 13.07.2018 about Kurangani Forest fire accident and consequently direct the Respondents to furnish the copy of the said report to the Petitioner as his daughter also died in the said fire accident.

Prayer in W.P. No. 8945 of 2022:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents to consider the Petitioner's representation dated 28.09.2021 and pass orders on the same as per G.O. (Ms). No. 99, P & AR (A) Department dated 21.09.2015 in regard to take action against the erring officials and to grant due compensation for the Petitioner daughter's death due to forest fire accident.

For Petitioner : Mr. K.Arumugam (in both W.P.s)
For Respondents : Mr. T.Arunkumar,
Additional Government Pleader
(in both W.P.s)

C O M M O N O R D E R

Heard Mr. K.Arumugam, Learned Counsel for the Petitioner and Mr. T.Arunkumar, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.



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2. The grievance ventilated by the Petitioner in the Writ Petition in W.P. No. 1859 of 2019 is that his daughter, viz., Subha, had died along with certain others in a forest fire that had taken place at Kurangani Hills on 11.03.2018 and though Dr. Atulya Misra, Principal Secretary, Department of Revenue and Disaster Management, Government of Tamil Nadu, who was appointed as One Man Commission to enquire into the same, had submitted his report on 13.07.2018, no action had been taken by the Respondents. In the Counter-Affidavit dated 11.06.2019 filed by the Second Respondent in that Writ Petition, it has been stated that apart from awarding compensation of Rs. 4,00,000/- to the family of each of the deceased persons in that incident, the Government of Tamil Nadu in Government Letter (Ms.) No. 133, Environment and Forests (FR-14) Department, dated 23.10.2018 has passed an order to implement the recommendations made by the One Man Commission letter and spirit for the same.

3. Thereafter, the Petitioner has on 18.03.2022 filed the Writ Petition in W.P. No. 8945 of 2022 to direct the Respondent to consider his representation dated 28.09.2021 to grant due compensation to him for the death of his daughter at Kurangani Hills and take action against the erring officials in that regard.



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4. Having due regard to the disputable questions of fact relating to violation of human rights involved in the matter, proper investigation has to be conducted and evidence of witnesses would also have to be recorded, which cannot be effectively carried out in summary proceedings under Article 226 of the Constitution. As such, it would be expedient to secure the ends of justice by invoking Section 12(a) of the Protection of Human Rights Act, 1993, as amended by Act 43 of 2006 (hereinafter referred to as 'the Act' for short), which has come into force with effect from 23.11.2006, read with Section 29 of the Act by requiring the State Human Rights Commission, Tamil Nadu to enquire into the complaint of violation of human rights after issuing due notice and hearing all parties concerned following the prescribed procedure under the Act and depending upon its outcome, further action shall be taken in accordance with law. In such circumstances, Learned Counsel for the Petitioner has made an endorsement dated 12.10.2022 accepting to resort to such course of action in the matter.

5. It is made clear that in view of the decision of the Hon'ble Supreme Court of India in ***Paramjit Kaur -vs- State of Punjab*** [(1992) 2 SCC 131] that the bar of the period of one year for the State Human Rights Commission to take cognizance of the matters under Section 36(2) of the Act would not be



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applicable where it is referred by the Court to the Human Rights Commission and the Writ Petition in W.P. No. 1859 of 2019, which has been filed on 18.01.2019 in respect of an incident said to have taken place on 11.03.2018, has been pending in this Court thereafter, the State Human Rights Commission shall not be inhibited to decide the matter on merits without referring to the question of limitation in this case.

6. In the result, these Writ Petitions are disposed on the aforesaid terms. No costs.

12.10.2022

vjt

Index: Yes/No

Note: (i) Issue order copy by 07.11.2022.

(ii) Registry is directed to send a copy of the entire records in W.P. Nos. 1859 of 2019 and 8945 of 2022 to the State Human Rights Commission along with this order.

To

1. The Chief Secretary to Government of Tamil Nadu,
Secretariat,
Chennai – 600 009.



W.P. Nos. 1859 of 2019 and 8945 of 2022

2. The Secretary to Government,
Environment and Forest Department,
Secretariat,
Chennai – 600 009.
3. The Principal Chief Conservator of Forests,
Panagal Building,
Saidapet,
Chennai – 600 015.
4. The District Forest Officer,
Theni Division,
Theni,
Theni District – 625 531.

Copy to

1. G.Selvaraj,
S/o. Govindarajan,
No.78/159, Main Road,
Tittagudi and Taluk,
Cuddalore District – 606 106.
2. The Secretary,
Tamil Nadu State Human Rights Commission,
143, P.S.Kumararaja Salai (Greenways Road),
Raja Annamalai Puram,
Chennai – 600 028.



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P.D. AUDIKESAVALU, J.

vjt

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and
W.P. No. 8945 of 2022**

12.10.2022