



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.4902 of 2022

and

W.M.P.No.5048 of 2022

Balaraman

... Petitioner

vs

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

2. The Special Secretary to Government,
Public (HR) Department,
Secretariat,
Chennai - 600 009.

3. The Registrar,
The Honourable State Human Rights Commission,
143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai - 600 028.
Tamil Nadu.

4. A.Sundar Rajan

5. Maheswari

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to impugned recommendation in SHRC Case No.4947 of 2019 issued by State Human Rights Commission dated 06.01.2021 and to quash the same.

For Petitioner : Mr.D.Alexis Sudhakar

For Respondents : Mr.V.P.Elamparthi
1 and 2 Additional Government Pleader

For Respondent 3 : Mr.K.V.Sajeev Kumar
Special Government Pleader



ORDER

[Order of this Court was delivered by
SATHI KUMAR SUKUMARA KURUP, J.]

WEB COPY

This Writ Petition is filed by Mr. Balaraman, who is serving as a Sub Inspector of Police, Thiruvennainallur Police Station, Villupuram District, challenging the correctness of the order passed by the State Human Rights Commission in SHRC No.4947 of 2019, dated 06.01.2021.

2. The contention of the writ Petitioner is that the State Human Rights Commission had passed orders without conducting full-fledged enquiry regarding the allegations of the fourth Respondent/ Complainant before the State Human Rights Commission. It is the Complainant's case that the Petitioner herein had violated the human rights of the Complainant and foisted false case against his wife and brother-in-law. The neighbour next door who had quarrelled with the Complainant's family and attacked them, against whom the Complainant preferred a complaint before the Sub Inspector of Police, Neyveli Township Police Station, Cuddalore District, was ignored and complaint made by the aggressor was registered against the Complainant's wife and brother-in-law. The State Human Rights Commission had observed in the order that the Petitioner had violated the human rights of the Complainant's wife Maheswari and ordered to pay compensation of Rs.25,000/- (Rupees Twenty five thousand only) to the wife of the Complainant by the Government of Tamil Nadu and further directed the Government of Tamil Nadu to recover the said amount from the Petitioner herein.

3. Mr. D. Alexis Sudhakar, learned Counsel for the Petitioner had cited the provisions of the State Human Rights Commission, Tamil Nadu (Procedure) Regulations, 1997 wherein as per Regulation 9(g), when the Court of competent jurisdiction is seized of the pending case, then the Human Rights Commission has no locus standi to entertain the complaint. While so, the State Human Rights Commission in this case had on the basis of the complaint of the Complainant erroneously arrived at a conclusion that the Petitioner had committed human rights violation and imposed compensation to be paid by the State for the conduct of its official. Also, the State Human Rights Commission had directed the State to recover the amount from the salary of the Petitioner. This finding is erroneous on the ground that in the discussion by the State Human Rights Commission it is observed that when two complaints were filed by the rivals, both the complaints ought to have been proceeded with to its logical conclusion thereby filing two charge sheets. But the complaint lodged by the aggressor party against the Complainant's family was taken to its logical conclusion whereas the complaint



preferred by the Complainant before the Sub Inspector of Police, Neyveli Township Police Station was referred to as RCS. Thereafter, the State Human Rights Commission had found fault with the Respondent before the Commission/Petitioner herein. It is to be noted that on the date of disposal of the State Human Rights Commission case, the learned Judicial Magistrate had not conducted the trial and disposed of the FIR or charge sheet pending before the Court of the learned Judicial Magistrate. While so, when the matter is sub judice before the learned Judicial Magistrate, the finding of the State Human Rights Commission, is in violation of the provisions of the State Human Rights Commission, Tamil Nadu (Procedure) Regulations, 1997.

4. On perusal of the State Human Rights Commission, Tamil Nadu (Procedure) Regulations, 1997, the arguments of the learned Counsel for the Petitioner assailing the order of the State Human Rights Commission is found justified. Therefore, applying Section 18 of the Protection of Human Rights Act, 1993 imposing penalty of Rs.25,000/- on the Petitioner is found unfair, unacceptable and against the provisions of Regulation 9(g) of the State Human Rights Commission, Tamil Nadu (Procedure) Regulations, 1997.

5. Further, it is found from the typed set of papers filed along with this Writ Petition that the person who registered the FIR is not the Petitioner in the Writ Petition Mr. Balaraman and the Investigation Officer's name also not Mr. Balaraman. Since Mr. Balaraman has no role either as Investigation Officer filing charge sheet or any one in the team of Investigation, imposing cost of Rs.25,000/- (Rupees Twenty Five Thousand only) based on the averments in the complaint of the Complainant before the State Human Rights Commission is found unwarranted.

In the light of the above discussion, the Writ Petition is allowed. The order of the Human Rights Commission in SHRC No.4947 of 2019, dated 06.01.2021 imposing cost of Rs.25,000/- and recovery from the Petitioner is found unjustified and the same is set aside. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

srm



To

1. The Chief Secretary,
Secretariat,
Government of Tamil Nadu,
Chennai - 600 009.
2. The Special Secretary to Government,
Public (HR) Department,
Secretariat,
Chennai - 600 009.
3. The Registrar,
The State Human Rights Commission,
143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai - 600 028.
Tamil Nadu.

+1cc to Mr.K.V.Sajeev Kumar, Advocate, S.R.No.20577

+1cc to Mr.D.Alexis Sudhakar, Advocate, S.R.No.20300

W.P.No.4902 of 2022

GPL (CO)
SU (07/04/2022)