

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.3412 OF 2019
&
W.M.P.No.3698 OF 2019

E.J.Coelho

... Petitioner

.Vs.

1. The National Commission for Scheduled Castes,
5th Floor, Lok Nayak Bhawan,
Khan Market,
New Delhi - 110 003.
2. Shri M.Krishnan
3. The District Collector,
The Nilgiris,
Ootacamund - 643 001.
4. The Revenue Divisional Officer,
Gudalur Division,
Gudalur - 643 212.
The Nilgiris District.
5. The Tahsildar,
Gudalur - 643 212,
The Nilgiris District.
6. The Inspector of Police,
Gudalur Police Station,
Gudalur - 643 212,
The Nilgiris District.

... Respondents

PRAYER:-

Writ Petition filed Article 226 of the Constitution of India praying for issuance of a writ of certiorarifi calling for the records pertaining to Case No.26 [File No.7/76/2018] dated 07.12.2018 on the file of the 1st respondent together with the proceedings of the 4th respondent dated 23.01.2019 under A1.Pa.Ve.1/2019 and quash the same.

For Petitioner : Mr.G.Adithyaraj
For M/s.P.Wilson Associates

For R1 : Mr.Venkataswamy Babu
Senior Panel counsel

For RR3 to 6 : Mrs.V.Yamuna Devi
Special Government Pleader

For R2 : Notice Served
No appearance

ORDER

- (1) Challenge in this writ petition is to the proceedings of the National Commission for Scheduled Castes, State Office, Chennai, with reference to a Minutes of hearing held on 07.12.2018.
- (2) It appears that there was a dispute regarding use of a traditional pathway leading to the Mariyamman Temple, Sivan Temple and Bommadevan Temple in Gudalur Taluk of Nilgiris. The people belonged to Scheduled Castes and Scheduled Tribes communities residing in that area appeared to have made a complaint before the Commission claiming that their usual pathway has been blocked by the petitioner herein. The Commission did not issue any notice to the petitioner nor did it take up the matter on the administrative side. There have several writ petitions and police complaints as well as a civil suit in respect of the right claimed by the people belonging to Scheduled Castes and Scheduled Tribes residing in that area. In fact, one Sivan Kelavath Mariamman, Bomma Devar Trust represented by its Secretary Mr.S.Suresh, has filed a suit before the District Munsif, Gudalur, seeking permanent injunction restraining the respondents therein, namely, Silver Cloud Estate Private Limited and the State of Tamil Nadu represented by the District Collector, from disturbing the right of the way leading to the temple.
- (3) While things stood thus, all of a sudden, the Commission appears to have passed the impugned Minutes of 07.12.2018 which reads as follows:-

'Shri M.Krishnan appraised the case of release of pathway to SCs to the Hon'ble Vice Chairman. The petitioner informed that the traditional pathway leading to 'Mariamman Temple', 'Sivan Temple' and 'Bommathevan Temple' has been

blocked by Shri E.J.Koilo, Proprietor of Silver Cloud Estate in Gudalur. It was informed that the estate owner had erected electric fence illegally to block the above said pathway of SCs. On hearing the details of the case from Shri.M.Krishnan, the Hon'ble Vice Chairman recollected his visit to the spot during his visit to the Nilgiris District during May, 2018 and instructed the DRO, Gudalur to initiate action to release the blocked pathway to the SCs immediately.''

- (4) A counter affidavit has been filed by the Senior Investigator in Government of India, Ministry of Social Justice and Empowerment, wherein it is claimed that the Commission being a Constitutional creation, is entitled to do what it has done. I do not think such a claim could be accepted, particularly by a Constitutional Court. No doubt, the Commission has been set up with an awed object of protecting the interests of Scheduled Castes and Scheduled Tribes. That does not mean that the Commission can act in derogation of the rights of other citizens of the country. The rights of the other citizens of the country should also be respected by the said Commission which claims itself it to be a Constitutional functionary. A bare minimum requirement is adherence to principles of natural justice. It is further claimed in the counter affidavit that what had been done is only a direction to the District Collector to look into the matter.
- (5) A reading of the Resolution dated 07.12.2018 makes it very clear that it is a positive direction to release the blocked pathway immediately. Considering the supreme status claimed by the Commission in the counter affidavit, the District Collector or the Revenue Divisional Officer or the District Revenue Officer who has been directed to take proceedings, will definitely comply with the Resolution in its letter and spirit, by removing the alleged blockade. As already been pointed out, the matters are pending before the Civil Court and writ petitions had been filed in this regard regarding the very same dispute.
- (6) I am therefore unable to sustain the Minutes which gives a positive direction without hearing the petitioner. The Commission ought to have heard the petitioner and thereafter, disposed of the matter in the manner known of law.
- (7) A Constitutional authority has more obligations towards citizens under the very Constitution and it cannot

function in derogation of such rights of individuals.

- (8) Hence, the writ petition is allowed and the Impugned Minutes dated 07.12.2018 is quashed. Consequently, the notice issued by the Revenue Divisional Officer, directing the petitioner herein to appear for enquiry is also quashed. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

AP

To

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Gudalur Police Station,
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The Nilgiris District.

+1cc to M/s.P.Wilson Associates, Advocate, S.R.No.40628
+1cc to the Government Pleader, S.R.No.42015

W.P.NO.3412 OF 2019

PMK(CO)
PBS/20/07/2022