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W.P.No.16860 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2022

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No. 16860 of 2022

and

W.M.P.Nos.16148 & 16149 of 2022

1. Ajay Francis Inigo Loyola
2. Prof.Dr.Vandana Zachariah
3. N.Sivanandasankar
4. M.Palaniappan
5. D.R.Shete

... Petitioners

Vs

1. The Commissioner of Police,  
No.132, Commissioner Office Building,  
EVK Sampath Road,  
Vepery,  
Periamet, Chennai – 600 007.

2. The Deputy Commissioner of Police, L & O  
Poonamallee High Road,  
Kilpauk,  
Chennai – 600 010.

3. The Assistant Commissioner of Police, L & O,  
No.18 Police Quarters,  
Poonamallee High Road,  
Kilpauk, Chennai – 600 010.



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4. The Inspector of Police,  
K6 Kilpauk Police Station,  
Chennai.

5. The Principal of St.Georges Anglo  
Indian School and Orphanage,  
738, EVR Road,  
New Bupathy Nagar,  
Shenoy Nagar, Chennai – 600 030.

6. The Zonal Officer,  
Division 103, Corporation of Chennai,  
No.4, Temple Street, Kilpauk,  
Chennai – 600 010.  
Respondents

...

**Prayer:-** Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records and quash the impugned police report dated 20.11.2021 on the file of the 3<sup>rd</sup> respondent and consider the representation made to the 1<sup>st</sup> to 4<sup>th</sup> respondents afresh by transferring the enquiry to another jurisdiction and/or appoint a senior police officer to enquiry and file a fair and correct report taking into consideration the petitioners representation dated 23.12.2021 within a stipulated time period.

|              |                                                   |
|--------------|---------------------------------------------------|
| For P1       | : Mr.Ajay Francis Inigo Loyola<br>Party-in-person |
| For P2 to P4 | : M/s.Priya Annie Zachariah                       |
| For R1 to R4 | : Mr.E.Raj Thilak<br>Additional Public Prosecutor |
| For R5       | : Mr.V.Prakash<br>Senior Counsel                  |



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for Mr.Adrian D.Rozario

**ORDER**

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This Writ Petition has been filed to issue a Writ of Certiorarified

Mandamus, calling for the records and quash the impugned police report dated 20.11.2021 on the file of the 3<sup>rd</sup> respondent and consider the representation made to the 1<sup>st</sup> to 4<sup>th</sup> respondents afresh by transferring the enquiry to another jurisdiction and/or appoint a senior police officer to enquiry and file a fair and correct report taking into consideration the petitioners representation dated 23.12.2021 within a stipulated time period.

2. The learned counsel for the petitioner would submit that the petitioner is a resident of Ramanathan Street, who is living in the nearby locality for more than 30 years. The said street is a busy street and is now punctuated with prosperity and annoyance in contrasting co-existence and keeps the locality sanitation as a low priority item. It was initially a dead end having an exclusive barricade installed for the safety, cleanliness and maintenance of all the residents. The said street was maintained by all the residents in such a manner that the ownership of the street was that of their own, this serenity has been lost due to the 5<sup>th</sup> respondent/School. Therefore



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the petitioners filed a Writ Petition for direction to take appropriate action under Section 133 of Cr.P.C. to control the annoyance caused by the 5<sup>th</sup> respondent. The petitioner obtained an interim injunction. However, it was violated by the 5<sup>th</sup> respondent and as such, the petitioner filed a petition before this Court in Contempt Petition No.705 of 2019.

3. This Court disposed the Contempt Petition after considering the affidavits of the School management and the Police authority, wherein the School refuted the allegations and the Police authority stated that the gates leading to the Ramanathan Street are permanently locked and kept under lock and key. Aggrieved by the same, the 5<sup>th</sup> respondent preferred an appeal before the Hon'ble Supreme Court of India and the same was also dismissed.

4. This Court passed an order on 16.08.2021 in the main Writ Petition in W.P.No.18373 of 2018, directing the police authority to conduct appropriate enquiry within a period of four weeks from the date of receipt of the order. Till the filing of enquiry report, the School is injuncted from



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letting the vacant place of the School for functions, festivals and public gathering. Now, the third respondent conducted an enquiry and filed a report, which is impugned in this writ petition.

5. He further submitted that the Greater Corporation of Chennai and CMDA have not permitted opening of the gates 3, 4, 5 and 6 and as such, the question of permission and usage is only an omission of a public servant in discharging his duty. They were also informed that the 3<sup>rd</sup> respondent forced the 6<sup>th</sup> respondent to do improper favours, but in vain. He further submitted that the 3<sup>rd</sup> and 4<sup>th</sup> respondents stormed the house and trespassed into the private property. The petitioner, being an Advocate, has taken steps in accordance with law to challenge these acts of the 3<sup>rd</sup> and 4<sup>th</sup> respondents. It is a threat to his life and his family members. Further, the 3<sup>rd</sup> and 4<sup>th</sup> respondents stated that they have got permission from the 5<sup>th</sup> respondent to remove a boom barrier, which was installed in the year 1990 since the Ramanathan Street was a culdesac and to curb nuisance and curb lawlessness and forcefully removed the boom barriers and no parking board signs whereas they understand that no permission was given by the 6<sup>th</sup>



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respondent. The 5<sup>th</sup> respondent is running commercial activities instead of running educational activities. It causes nuisance to the residents of Ramanathan Street and since commercial activities being conducted 24 x 7, which is not only against various provisions of law for a School to run activities for profit but not imparting education. Without considering the same, the 3<sup>rd</sup> respondent submitted a report.

6. The learned Senior Counsel submitted that if at all the petitioner has any grievance over the happenings inside of the School premises, he can very well seek to take action under Section 133 of Cr.P.C before the authority concerned. Without approaching the authority concerned, to take appropriate action under Section 133 of Cr.P.C., the petitioner filed Writ Petition before this Court in W.P.No.18373 of 2018, seeking a direction to the police authorities to take appropriate action under Section 133 of Cr.P.C to control the nuisance caused by the 5<sup>th</sup> respondent herein. He further submitted that as directed by this Court, the 3<sup>rd</sup> respondent conducted a detailed enquiry and imposed so many conditions. In fact, the 5<sup>th</sup> respondent is aggrieved already over the report filed by the 3<sup>rd</sup> respondent. Therefore, he prayed for dismissal of the writ petition.



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7. A perusal of the report filed by the 3<sup>rd</sup> respondent reveals that

as directed by this Court, the 3<sup>rd</sup> respondent conducted enquiry and noted that the School/5<sup>th</sup> respondent is having 6 gates in and around the School compound. Gate Nos.1 and 2 were facing towards EVR Salai on the southern side of the School. Gate 3 is located in the eastern side of the School compound facing New Avadi Road. Gate Nos.4 and 5 were located in the western side of the School compound facing Ramanathan Street. Gate No.6 is located in the western side of the School compound facing towards Convent Street. It is also revealed that the 5<sup>th</sup> respondent had led out the open place in the north western side of the School for commercial purpose, during week end and holidays. During such events, it is observed that the general crowd movement through Gate No.5 of Ramanathan Street and which is caused nuisance to the residents of the Ramanathan Street. Therefore, the 5<sup>th</sup> respondent is directed not to use the Gate Nos.4 and 5 for general public entry. Further directed the 5<sup>th</sup> respondent that after any events, the Greater Chennai Corporation should be approached in order to clear the garbage immediately, without any delay, thereby preventing inconvenience to the public. Further, the 5<sup>th</sup> respondent is instructed to use audio system only



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with the permissible decibel. That apart, the 5<sup>th</sup> respondent has to get prior permission from the Police Department before conducting any commercial event within the School premises, failing which appropriate action will be taken.

8. Therefore, this Court finds that the petitioner can have no grievance in the directions issued by the 3<sup>rd</sup> respondent. However, the 5<sup>th</sup> respondent shall follow the directions issued by the 3<sup>rd</sup> respondent strictly, failing which, the petitioner is at liberty to approach the authority concerned for appropriate action as against the 5<sup>th</sup> respondent herein. If the 5<sup>th</sup> respondent failed to follow any directions issued by the third respondent, the 3<sup>rd</sup> respondent is also at liberty to send a report for initiating the proceedings under Section 133 of Cr.P.C.

9. With the above direction, this Writ Petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

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Index:Yes/No  
Internet:Yes/No  
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**G.K.ILANTHIRAIYAN,J.**

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