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W.P.Nos.25528 and 25532 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2022

CORAM

**THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU**

**W.P.Nos.25528 and 25532/2022 and WMP.Nos.24519, 24520,
24524 and 24525/2022**

C.Wilson ... Petitioner in W.P.No.25528/2022

M.Suresh Kumar ... Petitioner in W.P.No.25532/2022

-VS-

1. State Human Rights Commission
rep. by its Registrar, Tamil Nadu,
'Thiruvaramangam',
No.143, P.S.Kumarasamy Raja Salai
(Greenways Road), Chennai-600 028.

2. V.Pushpalatha ... Respondents in both W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India
seeking for issuance of a Writ of Certiorari, calling for the records
pertaining to the order bearing SHRC Case No.4012/2020 dated
18.07.2022, passed by the 1st respondent and quash the same.

In both W.Ps.

For Petitioner : Mr.K.S.Viswanathan

For Respondents : ...



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COMMON ORDER

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(Common Order of the Court was made by **T.RAJA, J.**)

Questioning the correctness of the impugned order dated 18.07.2022 passed in SHRC Case No.4012/2020 by the 1st respondent herein in and by which finding that there has been a violation of human rights of the complainant/2nd respondent herein, directed the Government of Tamil Nadu to pay compensation of Rs.50,000/- to her, within one month from the date of receipt of a copy of that order with a further direction to the Government to recover Rs.25,000/- each from the petitioners herein, namely, Mr.C.Wilson, S/o.Celladurai, Block Development Officer (VP), Palladam Panchayat Union, Tirupur District and Mr.M.Suresh Kumar, S/o.N.Murugesan, Panchayat Secretary, Semmipalayam Village Panchayat, Palladam Taluk, Tirupur District, both these Writ Petitions have been filed.

2. Learned Counsel appearing for the petitioners in both these writ petitions would submit that the 2nd respondent herein filed a complaint before the State Human Rights Commission in the year 2020, complaining that water connection to her house was unauthorizedly disconnected by the petitioners herein and the same has not been restored that would amount to violation of her human rights. The further case of the 2nd respondent before the Commission



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was that she had obtained a drinking water connection from Semmipalayam Panchayat in the year 2011 itself. That apart, the 2nd respondent had also admitted in her complaint that due to her family circumstances, she was unable to pay the water charges, therefore, there was no water supply. After sometime, she made arrangements to pay the said charges and thereafter, approached the petitioners in the office of the Panchayat and came to know that a sum of Rs.4,920/- was due towards arrears and the 2nd respondent also promised to pay the same. But, it has been further alleged that the petitioners have refused to receive the payment and that only after ascertaining from the husband of the Panchayat President Mrs.Sheela viz. One Puniyamurthy, the payment would be accepted. The said Puniyamurthy along with the petitioners have disconnected the water connection without any prior notice to the 2nd respondent and even after the payment of arrears of Rs.4,920/- on 14.05.2020, the connection was not restored. Therefore, a complaint was made to Palladam Police Station on 29.05.2020, but there was no action. Thereafter, the 2nd respondent has approached the 1st respondent, namely, State Human Rights Commission, Tamil Nadu. The learned State Human Rights Commission also overlooking the protection given under Section 146 of the Tamil Nadu Panchayat Act, 1994, passed the impugned order finding that both the petitioners have committed



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violation of human rights on the 2nd respondent herein and also directing the Government of Tamil Nadu to pay a sum of Rs.50,000/- to the 2nd respondent herein and to collect Rs.25,000/- each from the petitioners herein.

3. Learned Counsel for the petitioners, referring to the explanation offered by the Block Development Officer, Palladam Panchayat Union, Tirupur District, in his communication dated 20.05.2022, would further submit that there was no willful default on the part of both these petitioners and the 2nd respondent's husband unilaterally undertook a repair work of the pipelines causing damage to the water connection. Therefore, there was disconnection of water supply and only after the payment of arrears of Rs.4,920/- on 14.05.2020 by the 2nd respondent, the restoration work has started which consumed considerable time. Immediately after the restoration of the water supply line, the water supply was effected and therefore, there was no willful default on the part of the petitioners. Again referring to Section 146 of the Tamil Nadu Panchayats Act, 1994, learned Counsel for the petitioners pleaded that when Section 146 makes it clear that no person shall be entitled, save as otherwise expressly provided, to compensation for any damages sustained by the reason of any action taken by the authorities of a Panchayat Union



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Council or a Village Panchayat in pursuance of their powers under this Chapter, the complaint filed by the 2nd respondent is not legally maintainable. Again taking reliance from Section 232 of the same Act, he has pleaded that there is a protection given to the Chairman, President and other officers working in good faith making it clear that no suit or other legal proceedings shall be brought against the Chairman, Commissioner, President, Executive Authority [the Secretary or the Collector] or any member, officer or servant of a Panchayat or any person acting under the direction of a Panchayat or of such Chairman, Commissioner, President, Executive Authority [the Secretary or the Collector], member, officer or servant in respect of any act done or purporting to be done under this Act or in respect of any alleged neglect or default on his part in execution of any act under this Act, or any rule, bye-law, regulation or order made under it, if such act was done, or such neglect or default occurred in good faith; but any such proceeding shall, so far as it is maintainable in a court, be brought against the Panchayat except in the case of suits brought under Section 234. But, in the present case, even though a detailed explanation has been given that after clearing the arrears of Rs.4920/- by the 2nd respondent towards payment of arrears of water supply charges on 14.05.2020, till 02.06.2020, the day on which the water supply was restored, the water supply line was damaged and only after



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undertaking a rectification work, in which considerable time was consumed, water connection was restored, therefore, the learned Commission applying the protection clause given under Section 232 of the Act ought to have dismissed the said complaint, it is pleaded.

4. However, we are unable to find any merit or justification in the said submissions of the learned Counsel for the petitioners. The reason is simple. Though the 2nd respondent has obtained the drinking water connection from Semmipalayam Panchayat in the year 2011 itself, it appears that due to some family disputes between her and her husband, she was unable to pay the water charges, therefore, water supply was disconnected to her house. When a duty casts on the petitioners to disconnect the water supply line in case of non-payment of water charges by the 2nd respondent, equally, the same has to be restored, at the moment the arrears are cleared. In the present case, when both the petitioners caused the disconnection of water supply for the default in payment of water charges by the 2nd respondent, thereafter, she has cleared the arrears of the water charges on 14.05.2020. Therefore, within a day or two or reasonable time of delay, the disconnected water supply should have been looked into because drinking water is the basic necessity, should be attended by all authorities including the Local Bodies. Water is considered as basic



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need and part of a human life and non-supply of water, necessarily, in our considered view, violates human rights. Therefore, appreciating the non-supply of water for the period of 18 long days even after clearing the arrears of water charges, the learned Commission has rightly passed the impugned order in which we do not find any illegality or infirmity.

5. In the result, both these Writ Petitions fail and the same are, accordingly, dismissed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

(T.R.J.,)

(P.D.A.J.,)

21.09.2022

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To

Registrar,
State Human Rights Commission,
Tamil Nadu,
Thiruvaramangam',
No.143, P.S.Kumarasamy Raja Salai
(Greenways Road), Chennai-600 028.



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**AND
P.D.AUDIKESAVALU, J.
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