



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2022

CORAM:

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THE HONOURABLE MR.JUSTICE PARESH UPADHYAY
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

Suo Motu W.P(MD)No. 5237 of 2022

The Registrar(Judicial),
Madurai Bench of Madras High Court,
Madurai.

.. Petitioner

-Vs-

1.The Secretary to the Government,
Registration Department, Chennai.

2.The District Collector,
Thanjavur District.

3.Inspector General of Registration,
Registration Department,
Santhome High Road, Chennai - 28.

4.The Director,
Vigilance and Anti-Corruption,
Alandur, Chennai - 600 016.

5.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Thanjvaur.

6.R.Chandrasekaran,
Assistant,
Office of the District Registrar,
Registration Department,
Pattukottai - 614 601.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 5 to take appropriate action against the Respondent No.6 and pass such further or other orders as this Honourable Court may deem fit in the circumstances of the case and thus render justice.



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For Petitioner : Mr.T.S.Mohamed Mohideen

For Respondents : Mr.R.Baskaran
Additional Advocate General
assisted by
Mr.S.Shanmugavel,
Additional Government Pleader
for R1 to R5

: Mr.M.Ajmal Khan, Senior Counsel
for M/s.Ajmal Associates for R6

JUDGMENT

[Made by PARESH UPADHYAY, J.]

1. Registrar (Judicial) of this Court has filed this suo motu writ petition, in his official capacity on 22.03.2022. The memo of this writ petition reads as under:-

"MEMORANDUM OF WRIT PETITION
(Under Article 226 of the Constitution of India)

IN THE HIGH COURT OF JUDICATURE AT MADRAS,
MADURAI BENCH

(Special Original Jurisdiction)

SUO MOTU WP.(MD) NO. 5237 OF 2022

The Registrar(Judicial),
Madurai Bench of Madras High Court,
Madurai.

.. Petitioner

-Vs-

- 1.The Secretary to the Government,
Registration Department,
Chennai.
- 2.The District Collector,
Thanjavur District.
- 3.Inspector General of Registration,
Registration Department,
Santhome High Road, Chennai - 28.



- 4.The Director,
Vigilance and Anti-Corruption,
Alandur, Chennai - 600 016.
- 5.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Thanjavur.
- 6.R.Chandrasekaran,
Assistant,
Office of the District Registrar,
Registration Department,
Pattukottai - 614 601.

.. Respondents

A letter has been addressed to the Honourable Mr.Justice S.M.Subramaniam by one Packim Sikkandar residing at Valar Nagar, Uthangudi, Madurai - 625 017 (Mobile No. 9445528836) wherein shocking revelations have been made as to the possession of disproportionate asset by a Government servant namely R.Chandrasekaran, Assistant working in the Registration Department, Office of the District Registrar, Department of Registration, Pattukkottai - 614 601. In the complaint submitted by the petitioner all details regarding to the purchase of the property, document number, date of registration, value of the properties have been furnished. However, the Office of the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Thanjavur, has not taken action stating the reason, that the said Packiam Sikkandar has sent a copy of the same to this Court.

In view of the details provided in the complaint, the Honourable Court has directed the Registry treat this complaint as a Suo-Motu Writ Petition to initiate appropriate action in the interest of justice. As per the direction Suo-Motu Writ Petition is registered.

In the above circumstances, this Hon'ble Court may be pleased to issue a Writ or Order or direction in the nature of writ of Mandamus, directing the respondents 1 to 5 to take appropriate action against the Respondent No.6 and pass such further or other orders as this Honourable Court may deem fit in the circumstances of the case and thus render justice.



Dated at Madurai on this 22nd day of March

2022

Sd/-

Registrar (Judicial)

Madurai Bench of Madras High Court"

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2. This petition was filed on the orders of Hon'ble Judge who had received the complaint, on which, the following order was passed by His Lordship, on administrative side, on 22.03.2022:-

"This Court received a letter from one Packiam Sikkandar residing at Valar Nagar, Uthangudi, Madurai - 625 107 (Mobile No. 9445528836) and certain shocking revelations are made regarding disproportionate asset of a Government servant working in Registration Department namely R.Chandrasekaran, Assistant, Office of the District Registrar, Department of Registration, Pattukottai - 614 601.

2.The proforma of the complaint submitted by the petitioner reveals that all details regarding to the purchase of the property, document number, date of registration, value of the properties are furnished. However, the Office of the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Thanjavur, has not taken action and by citing the said reason, the said Pakkiam Sikkandar sent the copy of the same to this Court.

3.In view of the details provided in the complaint, it is necessary for this Court to initiate appropriate action in the interest of justice. Thus, this Court is inclined to suo motu treat this complaint as a Writ Petition and the Director of Vigilance and Anti-Corruption, Alandur, Chennai - 600 016 and the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Thanjavur and the Inspector General of Registration, Registration Department, Santhome High Road, Chennai - 600 028 are arrayed as respondents.

4.Accordingly, the Registry is directed to number this complaint as a Writ Petition and list the matter for admission on 23.03.2022."

3. On the basis of the above administrative order of the Hon'ble Judge of this Court dated 22.03.2022, Registrar (Judicial) registered the said complaint as W.P(MD) No. 5237 of 2022 on 22.03.2022 and included it in the list of matters to be

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heard on 23.03.2022. The said listing was before the Bench presided over by the same Hon'ble Judge, at whose instance, the petition was registered as suo motu writ petition.

4. On the first date of listing (23.03.2022), the following order came to be passed by learned Single Judge:-

"Mr.T.S.Mohamed Mohideen, learned counsel is appearing for the petitioner. Mr.S.Shanmugavel, learned Additional Government Pleader takes notice for respondents 1 to 5.

2.The learned counsel for the petitioner made a submission that the petitioner has given a complaint furnishing the entire details regarding the wealth acquired by a public servant, which requires an investigation for the purpose of culling out the truth and ascertaining the genuinity of all such accumulation and wealth.

3.This being the nature of complaint, the 5th respondent/Deputy Superintendent of Police, Vigilance and Anti-Corruption, Thanjavur, is directed to serve a copy of this Writ Petition to the 6th respondent. The Registry, Madurai Bench of Madras High Court, Madurai, is also directed to issue notice to the 6th respondent by today.

4.List this matter for further consideration and for passing orders on 30.03.2022 under the caption 'for orders'."

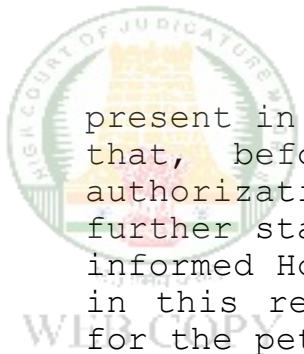
5. As per the above quoted order, the matter was required to be listed on 30.03.2022. The matter was however not listed before any Bench on 30.03.2022.

6. Today, this petition is listed before this Court, as per Roster.

7. We have heard, Mr.T.S.Mohamed Mohideen, learned counsel for the petitioner - Registrar (Judicial), Mr.R.Baskaran, learned Additional Advocate General for respondents 1 to 5 and Mr.M.Ajmal Khan, learned Senior Counsel for the sixth respondent.

8. Mr.T.S.Mohamed Mohideen, learned counsel for the petitioner Registrar (Judicial), has reiterated the stand as reflected earlier in the order dated 23.03.2022. As an officer of the Court also, he has made certain submissions and has assisted the Court by referring to relevant judicial orders and relevant material, reference to which is made hereinafter. It is noted

https://hcmjts.ecourts.gov.in/services/...
...itioner - Registrar (Judicial) of this Court is also



present in the Court and on being asked, he states that, it is true that, before filing of this petition he has not taken any authorization from Hon'ble the Chief Justice, in that regard. He further states that, even after filing of this petition, he has not informed Hon'ble the Chief Justice or even the Administrative Judge in this regard. The substance of the argument of learned counsel for the petitioner and the stand of the petitioner both is that, in due compliance of the directions of one of the Hon'ble Judge of this Court, Registrar (Judicial) has taken actions and this Court may pass appropriate order.

9. Mr.R.Baskaran, learned Additional Advocate General for respondents 1 to 5 has submitted that, as per the directions of this Court, the State Authorities are required to take action. It is submitted by him that, beyond that, State has nothing to say.

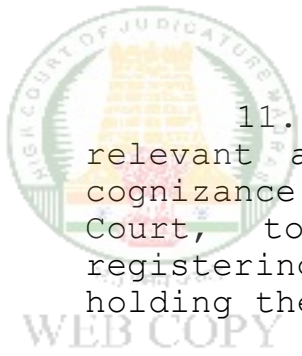
10. Mr.M.Ajmal Khan, learned Senior Counsel for the sixth respondent, against whom directions are sought in this suo motu writ petition has made following submissions.

10.1.1 Serious grievance is made that, the complainant is none else but a person who was an employee of the same department in which the sixth respondent is working. It is further pointed out from the counter that, the said complainant was dismissed by the Government for proved corruption charges against him. Attention of the Court is invited to G.O.No. 420 dated 26.09.2012.

10.1.2 At this stage it is noted that, on being asked, learned Additional Advocate General has confirmed this factual aspect.

10.2 Learned Senior Advocate for the sixth respondent has further submitted that, it is the settled position of law that, if any individual has grievance against any public servant, such complaints are not entertained in the form of public interest litigation and in any case, in the present case, the original complainant is one disgruntled element of the very department in which the sixth respondent is working and generally, the bonafide of the complainant in PIL is one of the relevant consideration, which has escaped the notice of this Court which may be considered.

10.3 It is further submitted that, the very opening part of the complaint which is the basis for this suo motu writ petition refers to W.P.(MD) No. 2869 of 2022 which was filed by the sixth respondent which was dismissed on 11.02.2022. It is submitted that, dismissal of the said petition and directions in the order dated 11.02.2022 and filing of complaint against the said petitioner and taking suo motu cognizance thereof, collectively indicate something beyond public interest. It is submitted that, this petition be dismissed.



11. It is noted that, during the course of hearing, relevant authorities are taken note of by the Court. Judicial cognizance is also taken by us of the procedure evolved by the High Court, to deal with such complaint(s), before treating / registering it as suo motu writ petition and also the Rules / law holding the field about listing / consideration thereof.

12. As per the Roster, all Public Interest Litigations and also all writ petitions filed by or against the High Court need to be listed before the Division Bench. Before the Principal Bench, as per present Roster that subject is assigned to the First Division Bench presided over by Hon'ble the Chief Justice. As per the very same Roster, at Madurai Bench, the said subject is assigned to this Bench. In any case, it is the subject assigned to a Division Bench. Needless to observe that, the said Roster is ordered by Hon'ble the Chief Justice as Master of Roster.

13. The Division Bench of this Court in the case of SUO MOTU W.P. NO. 8022 OF 2011 Vs The Election Commission of India, held as under:-

"2. Before going into the merits of the case, we would like to express our view with regard to the power of the Hon'ble Judges in initiating writ proceeding suo motu. There is no dispute that initiation of writ proceeding suo motu, in public interest, is within the competence of every Hon'ble Judge of this Court, which is the integral part of the constitutional scheme. But, such power is required to be exercised and regulated in accordance with the rules made by the High Court and the norms set keeping in view the administrative instructions issued and roster of sitting prepared by the Chief Justice. While exercising suo motu power of exercising public interest litigation, self-restraint and judicious exercise is expected to be borne in mind. It would be appreciated that as and when any matter of public importance is sought to be brought to the notice of the Court, a reference may be made to the Chief Justice for initiation of action. After such reference is made by any Hon'ble Judge to the Chief Justice for initiation of action, the Chief Justice will examine the matter according to the guidelines formulated by the Supreme Court and after the matter is examined, the same can be placed before the appropriate Bench in accordance with the directive issued in that regard by the Chief Justice for further necessary action. While exercising power of initiating suo motu writ proceeding in public interest, great care and



caution should be taken by the Honble Judge, keeping in mind the directions and observations made by the Supreme Court in a catena of decisions. It would not be proper that as and when any news item is published in the newspaper, the Court will take notice of such news item and treat the same as writ petition suo motu in public interest without referring the matter to the Chief Justice."

14. Long before the above observations, the larger Bench of this Court had in the case of Mayavaram Financial Corporation Ltd., Mayiladuturai v The Registrar of Chits, Pondicherry reported in (1991) 2L.W. 90, while dealing with similar question, held as under:-

"21.....

We think, we should remind ourselves that the jurisdiction of the Court may be qualified or restricted by a variety of circumstances. The power of the Court may be exercised within such limits and in such manner that it ensures a fair hearing, unbiased determination of the dispute and no Judge should be in a hurry or be concerned with any particular case because, as observed in the judgment of the Calcutta High Court (supra),

"The cardinal position cannot be overlooked that before jurisdiction over the subject matter is exercised, the case must be legally brought before the concerned Court for the hearing and determination and that a judgment pronounced by court without investment of jurisdiction is void."

15. Hon'ble the Supreme Court of India in the case of State of Rajasthan v Prakash Chand and others reported in (1998) 1 SCC 1, has reiterated the above position. Relevant part of para : 59 thereof reads as under:-

"59. From the preceding discussion the following broad CONCLUSIONS emerge. This, of course, is not to be treated as a summary of our judgment and the conclusions should be read with the text of the judgment:

(1)

(2) That the Chief Justice is the master of the roster. He alone has the prerogative to constitute benches of the court and allocate cases to the benches so constituted.



(3) That the puisne Judges can only do that work as is allotted to them by the Chief Justice or under his directions.

(4) That till any determination made by the Chief Justice lasts, no Judge who is to sit singly can sit in a Division Bench and no Division Bench can be split up by the Judges constituting the bench themselves and one or both the Judges constituting such bench sit singly and take up any other kind of judicial business not otherwise assigned to them by or under the directions of the Chief Justice.

(5)

(6) That the puisne Judges cannot "pick and choose" any case pending in the High Court and assign the same to himself or themselves for disposal without appropriate orders of the Chief Justice.

(7) That no Judge or Judges can give directions to the Registry for listing any case before him or them which runs counter to the directions given by the Chief Justice....."

16. There is set procedure in this High Court, how to deal with such complaints and what Registry is required to do, before and after registering any such complaint as suo motu writ petition. The Judges of this Court, in their collective wisdom have evolved a policy in this regard. Reference needs to be made to a resolution of the Administrative Committee of this Court dated 24.10.2019, which reads as under:-

"Subject No:6

Public Interest Litigation(PIL) - Letters addressed to the Hon'ble the Chief Justice, other Hon'ble Judges and to the High Court Registry from Public/others for different causes requesting to take up as suo motu PIL - Constitution of a Committee for considering such Petitions / Letters to examine whether they deserve to be taken as Public Interest Litigation - (including Madurai Bench) - Consideration of - Reg. (ROC No. 85426-A/2019/B1).

Resolution:

Considered.

Unanimously resolved to authorize the Hon'ble Chief Justice to constitute a committee of Hon'ble Judges for scrutiny of the



letters/petitions received by the Hon'ble Chief Justice, other Hon'ble Judges and/or the High Court Registry from members of the public or other bodies, seeking to take suo motu cognizance of matters raised therein, so as to decide whether such letters/petitions deserve to be treated as Public Interest Litigations or not.

All letters/petitions received by the Hon'ble Chief Justice / Hon'ble Judges / Registry in this context shall henceforth be forwarded/placed before the said Committee, which shall be nominated from time to time by the Hon'ble Chief Justice.

If the Committee finds any given letter/petition deserving to be registered as a P.I.L., the same shall be transmitted to the Section concerned for being numbered as P.I.L., and listed, with the approval of the Hon'ble Chief Justice, before the appropriate Court holding the Roster."

17.1 The foundation of this petition is that, one Hon'ble Judge of this Court has taken cognizance of a complaint received by him in post from a person who himself is a dismissed employee on proved charges of corruption. The said complaint is ordered to be treated by him as suo motu writ petition. Registry has also listed the said petition before the same Hon'ble Judge. It is not in dispute that, such a petition needs to be listed before the Division Bench. The petition however was listed before learned Single Judge and the same is considered also and even directions are issued.

17.2 At this stage, reference needs to be made to the order of this Court (Coram : Hon'ble Mr.Justice S.M.Subramaniam) dated 11.02.2022 recorded on W.P.(MD) No. 2869 of 2022. The said petition was filed by the present sixth respondent, against whom now directions are issued on this suo motu writ petition by the same Hon'ble Judge. While dismissing the said petition W.P.(MD) No. 2869 of 2022, wherein challenge was made to some administrative order, the Court had observed as under:-

"9. Such a claim raises a doubt in the mind of the Court. Therefore, the authorities competent are bound to look into the service records and the asset details of the petitioner and his family members and other particulars of the petitioner and find out the correctness or otherwise in accordance with the service rules in force. Such an exercise

<https://hcservices.ecourts.gov.in/hcservices> is directed to be done by the first respondent

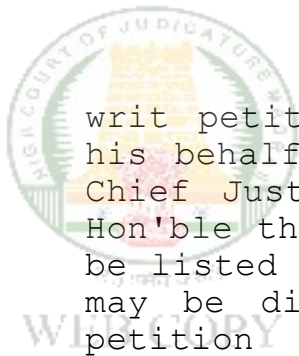


within a period of four weeks from the date of receipt of a copy of this order."

17.3 In continuation of the above observation of learned Single Judge, a dismissed government employee on the charge of proved corruption, projecting himself to be a spirited citizen, immediately sent a written complaint against the said writ petitioner, to the same Hon'ble Judge and the said complaint is ordered to be treated as suo motu writ petition by the same Hon'ble Judge and the same is readily done by the Registry, without any authorization from Hon'ble the Chief Justice in that regard and further in complete defiance of the prescribed procedure, and also listed the said petition for hearing in defiance of the Roster fixed by Hon'ble the Chief Justice. After all these improprieties and illegalities, when the matter was listed before the Court on 23.03.2022, the Hon'ble Court also, may be unmindful of what is assigned to him, gave certain directions. Judicial discipline and decorum demands that, we do not make any further observation in that regard.

18. Having heard learned advocates for the respective parties and having considered the material on record, and also keeping in view the procedure evolved by the High Court to deal with such complaint(s) before treating / registering it as suo motu writ petition, and also the Rules / law holding the field about listing thereof, and also keeping in view the proposition of law, and the factual background in which the issue has come before us, we find that, the proceedings of this writ petition are vitiated from the very stage of registration thereof and therefore all subsequent proceedings can not be permitted to hold the field. Judicial discipline demands that, we do not make any further observation in this regard, leaving it to the competent authority to go into it, on administrative side, to the extent necessary and possible.

19. On conjoint consideration of the above, we reiterate the position of law that, there can not be any dispute that every Hon'ble Judge of this Court is well within his right - by the very constitutional office he holds, to form an opinion as to whether any complaint / information received by him from a citizen or otherwise needs to be taken cognizance of suo motu in public interest, however having formed an opinion that such a complaint / information received by him needs to be considered as suo motu writ petition, no direction can be given by the concerned Hon'ble Judge (s) to the Registry to register the said complaint as suo motu writ petition. The only and proper course of action is to direct the Registry to place such a complaint / information before Hon'ble the Chief Justice, may be through the Committee appointed by Hon'ble the Chief Justice in that regard, for appropriate consideration and order. Even if any direction is given by the concerned Hon'ble Judge to the Registry to register the said complaint as suo motu



writ petition, the Registrar (Judicial) or any officer acting on his behalf is bound to first put it to the notice of Hon'ble the Chief Justice. Further, even after the permission is granted by Hon'ble the Chief Justice in that regard, such a petition needs to be listed for hearing before appropriate Bench as per Roster or as may be directed by Hon'ble the Chief Justice. Even if such a petition is listed before the same Hon'ble Judge, on whose directions the matter is registered as a suo motu writ petition, if that Hon'ble Judge is not assigned that work by the Roster fixed by Hon'ble the Chief Justice or otherwise directed / permitted by Hon'ble the Chief Justice in that regard, the concerned Hon'ble Judge can not take up the said petition for hearing and / or pass any order on that petition and inspite of all this, if any order is passed thereon without authorization from Hon'ble the Chief Justice, such an order, as observed by Larger Bench of this Court, would be void, and in any case, such an order can not be treated to be an order passed by the competent court.

20. For the above reasons, we pass the following order:-

20.1 This petition is dismissed.

20.2 The interim order passed by learned Single Judge on this petition on 23.03.2022 stands vacated.

20.3 Any consequential action taken / contemplated by any party / authority including respondent Nos. 1 to 5, on the basis of directions contained in the said interim order dated 23.03.2022, are quashed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1.The Secretary to the Government,
Registration Department,
Chennai.

2.The District Collector,

<https://hcservices.echamr.org.in/hcse/District>



3. Inspector General of Registration,
Registration Department,
Santhome High Road, Chennai - 28.

4. The Director,
Vigilance and Anti-Corruption,
Alandur, Chennai - 600 016.

5. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Thanjavur.

Copy to

6. The Registrar General,
High Court,
Madras.

7. The Registrar(Judicial),
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-16796[F] dated
06/04/2022)

+1 CC to M/s.T.S. MOHAMED MOHIDEEN, Advocate (SR-16986[F] dated
06/04/2022)

W.P (MD) No. 5237 of 2022
05.04.2022

PA(13.04.2022) 13P 10C