



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. (MD) .No.21554 of 2021

R.Arumugam

... Petitioner

Vs.

1.The Commissioner,
Most Backward Classes and Denotified Communities,
Kamarajar Salai,
Ezhilagam, Chepauk, Chennai-600 005.

2. The District Collector,
Theni District,Theni.

3. The Superintendent of Police,
Trichy District, Trichy.

4. The Deputy Superintendent Of Police,
Manaparai, Trichy District.

5. The Inspector of Police,
Vaiyampatti Police Station,Trichy District.

6.Bharathidasan

7.Ragupathi

8.Ponraj Kothalam

...Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents 3 to 5 to conduct enquiry and to take appropriate action as against the 7th and 8th Respondents for the reason to help the 6th Respondent to escape him from the criminal case in Spl.S.C.No.36/2019 in Crime No.350/2017, pending before the learned I-Additional District Judge (PCR Cases), Trichy, by considering the petitioner's representation dated 01.09.2021.

For Petitioner	:	M/s.R.Yamuna
For R-1 to R-5	:	Mr.B.Thanga Aravindh Government Advocate(Crl. Side)
For R-6 to R-8	:	Mr.Ajmal Khan Senior Counsel for M/s.Ajmal Associates



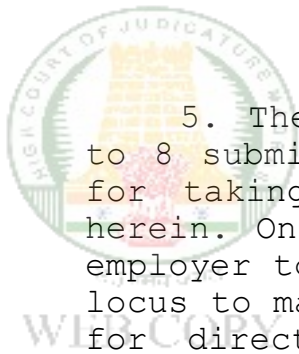
ORDER

This Writ Petition has been filed for issuance of Mandamus, to direct the respondents 3 to 5 to conduct enquiry and to take appropriate action as against the 7th and 8th respondents for the reason to help the 6th respondent to escape him from the criminal case in Spl.S.C.No.36 of 2019 in Crime No.350 of 2017, pending before the learned I-Additional District Judge (PCR Cases), Trichy, by considering the petitioner's representation dated 01.09.2021.

2. The case of the petitioner is that the petitioner had purchased the property comprised in Survey No.334/2 situated at Kattaiyampatti Village, Manapparai Taluk, Trichy District from the sixth respondent by a registered sale deed dated 25.03.2015 vide Document No.1686/2015. The sixth respondent is working as a Junior Assistant in the Backward Classes and Minorities Welfare Department at Theni District. While being so, on 01.10.2017, when the petitioner and his aunt Vellaiammal visited the said property, the sixth respondent along with his henchmen jointly encroached the said property and the same was questioned by them. The sixth respondent and his henchmen intercepted the petitioner and tried to attack with deadly weapons. They also scolded the petitioner with filthy languages by using caste name. Therefore, the petitioner lodged complaint and the same was registered in Crime No.350 of 2017 for the alleged offences punishable under Section 147, 148, 420, 447, 294(b), 354, 506(1) of IPC read with Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (Prevention of Atrocities) Act, 1989. In fact, the sixth respondent and another was arrested and remanded to judicial custody.

3. While pending investigation, the petitioner's aunt Vellaiammal died on 27.02.2018 and even before her death, she executed a Will in favour of the petitioner in respect of the subject property. After registration of F.I.R as against the sixth respondent, he was suspended from service. After completion of investigation in Crime No.350 of 2017, the fourth respondent filed final report and the same has been taken cognizance in Special S.C.No.36 of 2019 on the file of the District Court(PCR Cases), Trichy.

4. Now, the allegation in the complaint lodged by the petitioner is that on 25.01.2018, the seventh respondent issued a field work certificate to the sixth respondent without mentioning the proceedings number and also without any seal to take a ground of alibi, as if, on the date of occurrence, the sixth respondent was in field inspection. The respondents produced false information by misusing their official power. Therefore, the petitioner lodged complaint to take appropriate departmental action as against the respondents 7 and 8 herein.



5. The learned Senior Counsel appearing for the respondents 6 to 8 submitted that the petitioner has no locus to seek direction for taking departmental action against the respondents 7 and 8 herein. Once the petitioner lodged complaint and it is open to the employer to take appropriate action. Further, the petitioner has no locus to maintain the Writ Petition, since he is not a person to ask for direction to take departmental proceedings as against the respondents 7 and 8 herein. In support of his contention, he relied upon a judgment of this Court dated 26.04.2018 passed in W.P.(MD). No.8871 of 2018 and this Court, after relying the judgment of the Hon'ble Supreme Court of India in the case of **Rajnit Prasad Vs. Union of India and others** reported in **(2009) 9 SCC 313** held as follows:

"In respect of departmental proceedings which are initiated or sought to be initiated by the Government against its employees, a person who is not even remotely connected with those proceedings cannot challenge any aspect of the departmental proceedings or action by filing a Writ Petition in the High Court or in this Court. Disciplinary action against an employee is taken by the Government for various reasons principally for "misconduct" on the part of the employee. This action is taken after a "domestic" enquiry in which the employee is provided an opportunity of hearing as required by the constitutional mandate. It is essentially a matter between the employer and the employee and a stranger, much, less a practising advocate cannot be said to have any interest in those proceedings."

6. Further, the law in this regard is well settled, as a third party, not connected with any service dispute cannot maintain the Writ Petition, invoking Article 226 of the Constitution of India, on the service side seeking a writ of Mandamus to take action against any employee or officials.

7. That apart, on perusal of records, it revealed that the allegation made in the complaint lodged by the petitioner was that the seventh respondent issued certificate as if the sixth respondent was in field inspection on the date of occurrence. Therefore, the petitioner challenged its genuinity and seeking direction to take appropriate departmental action as against the respondents 7 and 8 herein. Now, trial has not yet commenced in Special S.C.No.36 of 2019 and when the sixth respondent produced the said document, it can be tested before the Trial Court by way of cross-examination. Before that, no action can be taken as against the respondents 7 and 8 herein.



8. In view of the above, the prayer sought for in this Writ Petition cannot be granted, since the Writ Petition itself is not maintainable. This Writ Petition is dismissed. No costs.

Sd/-

Deputy Registrar (LA & MC)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Commissioner,
Most Backward Classes and Denotified Communities,
Kamarajar Salai,
Ezhilagam,
Chepauk, Chennai-600 005.
 2. The District Collector,
Theni District,
Theni.
 3. The Superintendent of Police,
Trichy District,
Trichy.
 4. The Deputy Superintendent Of Police,
Manaparai,
Trichy District.
 5. The Inspector of Police,
Vaiyampatti Police Station,
Trichy District.
 6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-9475[F] dated 02/03/2022)

W.P. (MD) .No.21554 of 2021
01.03.2022

MGJ(23.03.2022) 4P 8C

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