



W.P.No.12166 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.12166 of 2023

R.Natarajan

...Petitioner

Vs

1. The Government of Tamil Nadu  
Represented by the Chief Secretary  
Fort St. George,  
Chennai 600 009.
2. The Commissioner,  
Hindu Religious & Charitable Endowments Department,  
119, Uttamar Gandhi Salai,  
Nungambakkam,  
Chennai 600 034.
3. The Joint Commissioner,  
Hindu Religious & Charitable Endowments Department,  
Mayiladuthurai.
4. Sri La Masilamani Desiga Gnanasambanda Paramacharya  
Swamigal,  
Dharmapuram Adheenam, Dharmapuram  
Mayiladuthurai 609 101.

...Respondents



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**Prayer :-** Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondent 1 to give reply to the Petitioner in accordance with law, with reference to all the issues raised in his representation dated 02.11.2022.

For Petitioner : Mr.E.Maragatha Sundari  
For Respondents : Mr.N.R.R.Arun Natarajan  
Special Government Pleader  
(for R1 to R3)  
  
Mr.M.Karthikeyan (for R4)

### **ORDER**

This writ petition has been filed for the issue of writ of Mandamus directing the 1<sup>st</sup> respondent to consider the representation made by the petitioner on 02.11.2022 and to respond for the same.

2. The petitioner claims to be a practicing saivite. According to the petitioner, the 4<sup>th</sup> respondent performed a ceremony called as “Pattinappiravesam” and during that



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ceremony, he was carried in a Pallanquin by fellow human beings. According to the petitioner, it is inhuman to make one man carry the other in a civilized society and even if it is taken to be a custom, the petitioner contends that it is a *custom contra naturam* in law.

3. In view of the above, the petitioner made a representation to take action for such an in-human act that was done by carrying the 4<sup>th</sup> respondent in pallanquin. The petitioner had sent an application under the RTI Act to the Joint Commissioner seeking for information on the so called custom of carrying the 4<sup>th</sup> respondent in a Pallanquin by human beings. On receipt of this application, a reply was given by the Joint Commissioner through letter dated 27.09.2022 to the effect that there is no record available with respect to the information that had been sought for by the petitioner.



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4. The petitioner thereafter seems to have made a representation to the 1<sup>st</sup> respondent on 02.11.2022 by explaining the entire facts and had sought for the action that is taken by the HR&CE Department in order to stop the practice of carrying the 4<sup>th</sup> respondent in a pallanquin by fellow human beings. Since this representation did not evoke any response, the present writ petition has been filed before this Court seeking for appropriate directions.

5. Heard Mr.E.Maragatha Sundari, learned counsel for the petitioner and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader, for respondents 1 to 3 and Mr.M.Karthikeyan, learned counsel for 4<sup>th</sup> respondent.

6. The petitioner was pursuing application under the RTI Act and hence, on the reply given by the Joint Commissioner on 27.09.2022, the petitioner ought to have gone on a Second appeal before the State Information Commission



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and worked out his remedy, instead the petitioner has given a representation to the Chief Secretary. This procedure adopted by the petitioner is unsustainable. Hence, the representation made to the Chief Secretary, does not give a cause of action for the petitioner to approach this Court and seek for a direction.

7. The scope and significance of issuing directions by way of a writ of Mandamus where the party approaches the Court seeking for the disposal of the representation, was considered in detail by the Apex Court in ***[A.P.S.R.T.C and others Vs. G.Srinivasa Reddy and others]*** reported in **2006 3 LW 170**. The Apex Court made it clear that the practice of issuing directions in a mechanical fashion should be avoided by the writ court and the Court has to be convinced that there is a legal right involved which warrants giving such a direction to the state or an instrumentality of a state. No one can ask for issuance of writ of Mandamus without a legal right. There must be a judicially enforceable legal right as well as a legally



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protected right before one who is suffering from a legal grievance can seek for a mandamus. A person can be said to be aggrieved only when a person has been denied a legal duty to do something or to abstain him from doing something. The law on this issue has been discussed in detail by the Apex Court in ***[Mani Subrat Jain and others Vs. State of Haryana and others]*** reported in 1977 1 SCC 486.

8. It is clear from the above judgments that a writ Court will issue a writ of Mandamus only if the petitioner is able to establish that the petitioner has a legally enforceable right and there is a corresponding duty on the part of the authorities.

9. In the instant case, the grievance that has been expressed by the petitioner is not based on any legal right. The petitioner feels that the 4<sup>th</sup> respondent should not be carried in a pallanquin by fellow human beings. Therefore, the petitioner is looking at this issue from his perspective. If there are persons



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who voluntarily want to carry some one in a pallenquin, no one can stop those persons from doing it. The actual grievance will arise only if somebody is compelled to do such an Act. In such an event, it can be called as in human in a civilised society since one man cannot be compelled to carry another man even in the guise of calling it a custom since such a custom will be considered *custom contra naturam in law*. Hence, in the absence of any legal right on the part of the petitioner, there can never be a corresponding legal duty on the part of the respondent. In such circumstances, this Court cannot issue a writ of Mandamus.

10. In view of the above findings that the petitioner was knocking the wrong door by approaching this Court when he was simultaneously pursuing his application under the RTI Act and also due to the fact that the petitioner does not have a legally enforceable right, this Court does find any ground to entertain this writ petition.



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11. In the result, this writ petition stands dismissed. No costs.

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Index : Yes  
Internet : Yes  
Neutral Citation case : Yes  
To

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