



W.P.No.12983 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2023

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.12983 of 2023

1.R.Senthil

2.G.Karthick

...Petitioners

Vs.

1.The Commissioner of Road Transport,
Transport Commissioner Office,
Chepaukam, Chennai - 600 005.

2.The Deputy Commissioner of
Road Transport,
Elampillai Road, Kandampatti,
Salem - 636 005,
Salem District.

3.The Inspector of Police,
Vigilance and Anti Corruption
Police Station,
Madurai.

4.K.Kalyanakumar

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the first and second respondents to consider the representation of the petitioner dated



W.P.No.12983 of 2023

24.02.2023 on the file of first and second respondents herein in accordance with law by taking necessary action against the fourth respondent herein to secured the ends of justice.

For Petitioners : Mr.K.Kalaikovan

For R1 to R3 : Mr.P.Baladhandayutham
Special Government Pleader

ORDER

Heard Mr.K.Kalaikovan, learned counsel for the petitioner and Mr.P.Baladhandayutham, learned Special Government Pleader for the respondents 1 to 3.

2. In view of the order to be passed in this Writ Petition, notice to the fourth respondent is hereby dispensed with.

3. The prayer in the present Writ Petition is for a direction to the first and second respondents to act on the petitioners' representation dated 24.02.2023, wherein the petitioners had sought for taking action against the fourth respondent herein. Apart from requesting for action to be initiated against the fourth respondent, no other relief is sought for in the



representation. The locus of a third party to seek for departmental or any other action against a Government employee has already been dealt with by this Court.

4. At the outset, the Writ Petition itself is liable to be dismissed on the ground of maintainability, since this Court had already held in the case of ***Sudalaikannu Vs. The Principal Secretary to Government, Municipal Administration and Water Supply Department, Secretariat, Chennai and others*** passed in ***W.P.(MD) No.8871 of 2018, dated 26.04.2018***, that a third party cannot stand in the way between an employee and the employer in matters of service disputes, especially, in the context of disciplinary proceedings. For such a proposition, the learned Single Judge therein had placed reliance on a decision of the Hon'ble Division Bench and had come to such a conclusion in the following manner:-

..... “14. *As it is rightly pointed out by the learned Amicus, 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.*



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W.P.No.12983 of 2023

15. The theory of personal injury can very well be pressed into the service in this case.

16. Admittedly, the petitioner is a third party and though he has claimed to be the social worker, he cannot claim any personal injury of the case of the alleged delayed action of disciplinary proceedings against the official respondent against the private respondent.

17. Once the third party cease to be the person, without any personal injury, he cannot maintain the Writ Petition as an adversary Writ Petition.

18. If the petitioner files any adversary writ petition on the service side, because he is a third party, the next question would be naturally raised is that, whether he can file such petitions by way of Public Interest Litigations(PIL).

19. In this regard, it is also brought to the notice of this Court that, the very same petitioner already approached this Court by filing a PIL, where the Division Bench of this Court in W.P.(MD).No.6734 of 2007 in Sudalaikannu Vs., the Secretary, Municipal Administration and Water Supply Department and others dated 23.12.2008 made the following observations which can usefully be pressed into service herein.

“It is seen that the petitioner belongs to a



particular political party and he also functioned as a Councilor of the Municipal Corporation. Further, the petition has been filed on frivolous reasons after knowing fully well that action is being taken against respondents-4 to 7. It has been repeatedly held by the Hon'ble Supreme Court as well as by this Court that vexatious applications in the guise of public interest litigations should not be entertained. Since the present petition is one of such kind, we hold that the petitioner has no locus standi to file it and the same is liable to be dismissed."

20. Since the very same petitioner has been branded as the frivolous litigant by the judicial pronouncement of the Division Bench Judgment cited supra, with regard to the genuineness of the litigant's nature, attached with the nature of this Court, one cannot have any doubt that, the petitioner certainly has not approached this Court for any good intention and he might have approached this Court with any other private intention (i.e.,) the reason why the petitioner knowing well that he cannot file the writ petition against the official respondent herein, for the alleged inaction on their part on the private respondents herein by way of service dispute, has filed this Writ Petition.

21. If such kind of frivolous litigations are



W.P.No.12983 of 2023

entertained by this Court, that too, in exercising the extraordinary original jurisdiction of this Court under Article 226 of the Constitution of India, this Court is afraid that, there will be pouring of such frivolous litigations by unscrupulous persons every day and that will open the flood gate to so many unscrupulous persons to abuse the process of law, to settle their personal score in the guise of service dispute. Therefore, this Court has no hesitation to hold that this petitioner does not have any locus to maintain this writ petition for more than one reason, as he has already been considered to be a frivolous litigant by the Division Bench of this Court.”

5. The aforesaid extract is self explanatory. As such, the petitioners herein, who are not employees and is a third party, cannot maintain the present Writ Petition. Hence, the prayer sought for by the petitioners in this Writ Petition does not deserve consideration.

6. Accordingly, the Writ Petition stands dismissed. No costs.

06.06.2023

Index:Yes/No
Speaking/Non-speaking Order



W.P.No.12983 of 2023

Neutral Citation: Yes/No
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W.P.No.12983 of 2023

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W.P.No.12983 of 2023

M.S.RAMESH, J.

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