



W.P.21967 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.21967 of 2018
and
W.M.P.Nos.25766 & 25767 of 2018

Sivakumar

.... Petitioner

VS

1. The State Human Rights Commission,
Tamilnadu, Thiruvaramangam,
No.143,P.S.Kumarasamy Rajaji Salai,
Greenways Road,
Chennai - 600 028.
2. The Principal Secretary to Government,
Revenue Disaster Management Department,
Secretariat,
Chennai - 600 009.
3. The Inspector of Police,
Periyannayanpalayam Police Station,
Periyannayanpalayam,
Coimbatore District.

4. S.Vittaldoss

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
to issue a Writ of Certiorari to call for the records pertaining to the order of



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the 1st respondent in SHRC case No.8126 of 2017 dated 20.07.2018 and quash the same.

For Petitioner : Mr.R.Amardeep
For Respondents : Mr.K.V.Sajeevkumar for R1
Mr.S.Balamurugan,
Government Advocate for R2 & R3
Mr.A.Venkatesan for R4

ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

This writ petition has been filed challenging the order of the 1st respondent-SHRC dated 20.07.2018 made in SHRC case No.8126 of 2017, by which, the State Human Rights Commission recommended the Government to pay a compensation of Rs.50,000/- to the complainant/ S.Vittaldoss and to recover the said amount from the petitioner and another person/ A.Vetrivelmurugan, equally as per rules and regulations.

2. This writ petition was heard and disposed of on 08.11.2023. At the time of signing the order, we required certain clarification. Accordingly, the matter was posted on 05.07.2024 and after hearing both sides, the following order is passed.



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3. (i) The petitioner was working as Tahsildar, Coimbatore North Taluk, under the 2nd respondent Department. He received a proceedings dated 04.08.2017 from the 3rd respondent-Inspector of Police, regarding a complaint given by one Mrs.Uma dated 30.07.2017. The complaint is with regard to land dispute. It is stated that her neighbour along with political persons are harassing her. The complaint was taken in CSR.No.291/2017 and enquiry was conducted. It was found that there was quarrel between two religious group and as there may be law and order problem, the 3rd respondent-Police referred the matter to the petitioner-Tahsildar under section 107 of Cr.P.C.

(ii) The petitioner-Tahsildar conducted a peace meeting on 05.08.2017 by calling the necessary parties. Thereafter, a report was submitted to the District Collector, Coimbatore, on 05.08.2017 stating that the problem between the parties was closed by advising the complainant to follow the procedure to have a prayer hall and to get prior permission for using loud speaker in the locality if it is objected by local neighbours and residents. It was accepted by both the parties.

(iii) On 31.08.2018, 4th respondent-complainant applied for grant of



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patta. It was rejected by V.A.O. on 27.09.2017 stating that approved lay out needed lay out sketch. Thereafter, the application was re-generated on 11.10.2017 for patta Transfer Application which was approved on 27.10.2017.

(iv) However, the 4th respondent-complainant filed a complaint before the 1st respondent /SHRC alleging that the petitioner-Tahsildar rejected the online patta transfer application dated 31.08.2017 without any basis keeping in mind the peace meeting proceedings.

(v) The petitioner-Tahsildar received the summons from SHRC and he appeared before the Commission on 23.02.2018. No summons was served to the 3rd respondent-Inspector of Police. The matter was adjourned to 21.03.2018. However, the 3rd respondent and the petitioner appeared for enquiry on 21.03.2018 and the matter was adjourned to 24.04.2018. The petitioner made the counter ready on 24.04.2018 to be submitted before the 1st respondent on the date of enquiry. However, no enquiry was conducted on that day. When the petitioner enquired, it was informed that fresh summons will be issued for the next hearing date. But to his shock and surprise, the petitioner came to know that himself and the 3rd respondent were set exparte



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on 22.06.2018 and an order was passed on 20.07.2018. Hence, the present writ petition is filed with the aforesaid relief.

4. (i) Learned counsel for the petitioner would state that the 1st respondent failed to take into consideration the fact that the complaint given by the 4th respondent-complainant is not maintainable under the Human Rights Act as initially the complaint was referred under section 107 of Cr.P.C.

(ii) Learned counsel would further submit that the petitioner-Tahsildar had acted in a bonafide and good conscience for resolving the dispute between two religious group. Learned counsel would further submit that the petitioner did not pass any order restricting the personal liberty of the 4th respondent and only advised the 4th respondent to conduct the prayer Hall following the procedure laid down under law as objections were raised by the neighbours and the residents of the area where the prayer hall is located. He would further submit that the 1st respondent-SHRC had proceeded with the case setting the petitioner-Tahsildar and the 3rd respondent-Inspector of Police as exparte. The SHRC, did not afford sufficient opportunity to the petitioner to defend the case which is in violation of principles of natural justice.



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5. Learned counsel appearing for the 4th respondent-complainant would submit that the 4th respondent was conducting prayer in his own house. But he was restrained to conduct the prayer. Such act is liable to be punished under Section 295 and 97 IPC.

6. The learned counsel for the 4th respondent would further submit that the 3rd respondent, inspite of registering a criminal case, issued CSR No.291/2017 and forwarded an application to the petitioner-Tahsildar under Section 107 Cr.P.C.. Even after the same, the petitioner and 3rd respondent trespassed into his house and restrained him from conducting prayers in his residence. Hence, the action on the part of the petitioner and the 3rd respondent-Inspector of Police, amounts to violation of human rights.

7. Heard the learned counsel appearing on either side and perused the materials available on record.

8. A perusal of the impugned order would go to show that both parties viz., the complainant and the petitioner-Tahsildar appeared before the SHRC on 21.03.2018. SHRC adjourned the case to 22.06.2018 for filing counter by Inspector of Police. On 22.06.2018, SHRC recorded that since both parties



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were called absent, they were set exparte. Further, the SHRC observed that complainant has no oral evidence and marked the documents only. In our considered view, SHRC, without giving any opportunity to the petitioner-Tahsildar and the Inspector of Police, proceeded with the case and passed orders which is a clear violation of principles of natural justice. The petitioner and the 3rd respondent are state officials usually loaded with law and order and other important day to day duties. In such a situation, for their non appearance in one hearing, the SHRC setting them as exparte cannot be said to be a fair proceeding in the matter. The petitioner and the 3rd respondent viz., Inspector of Police who were involved in investigation activities, need to be given ample opportunity to put forth their case.

9. In the present case, it is seen that Peace Committee Meeting was held between the parties and a settlement was arrived. In such circumstances, the SHRC proceeding with the matter and passing order, without looking into the relevant material evidence on the side of petitioner-Tahsildar and the Inspector of Police and their defence, cannot be said to be fullfledged trial proceedings. SHRC ought to have followed the fair procedure of affording sufficient opportunity to the parties in the case. Therefore, whatever the procedure adopted by the SHRC in this case, is not in consonance with the



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principles laid down by the Hon'ble Apex Court so also Hon'ble High Courts.

Therefore, we are of the opinion that the writ petition will have to be allowed and the matter has to be remanded back to the SHRC for fresh disposal.

10. In view of the above discussion, the impugned order dated 20.07.2018 made in SHRC.No.8126 of 2017 is hereby set aside and the matter is remitted back to the SHRC for fresh consideration. The Writ Petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

(J.N.B., J.) (N.M., J.)
05.07.2024

Index : Yes / No
Internet : Yes / No
nvsri



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To

WEB COPY

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J. NISHA BANU, J.
and
N.MALA, J.

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