



WEB COPY



W.P.No.21132 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

**W.P.No.21132 of 2023
and W.M.P.No.20522 of 2023**

Gopinath

... Petitioner

Vs.

1.State of Tamil Nadu
Rep.by its Principal Secretary
Home, Prohibition and Excise Department
Secretariat, Chennai – 600 009.

2.State Human Rights Commission, Tamil Nadu
“Thiruvarangam”, No.143, P.S.Kumarasamy Raja Salai
(Greenways Road), Chennai – 600 028.

3.V.Anbalagan
4.Senthilkumar
5.Tholkappian

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the issuance of the impugned ex-parte order dated 10.01.2020 passed by the 2nd respondent in SHRC Case No.5950/2018 and quash the same.



W.P.No.21132 of 2023

For Petitioner : Mr.J.Kirankumar
For Respondents : Mr.E.Vijay Anand
Additional Government Pleader for R1
Mr.C.Jayaprakash
Government Advocate for R2

ORDER

This Writ Petition is filed seeking to quash the order passed in SHRC Case No.5950 of 2018 wherein, a recommendation is ordered by the State Human Rights Commission (in short 'SHRC') directing the 1st respondent to recover Rs.50,000/- viz., towards the compensation payable to the complainant. Further the SHRC recommended the 1st respondent to initiate disciplinary action against the present petitioner as per the Rules.

2. Mr.E.Vijay Anand, learned Additional Government Pleader accepted notice for the 1st respondent and Mr.C.Jayaprakash, learned Government Advocate appeared for R2-SHRC. Taking note of the nature of the order to be passed in this writ petition, notice to Respondents 3 to 5 is dispensed with.



W.P.No.21132 of 2023

WEB COPY

3. It is averred in the Writ Petition that the 3rd respondent made a complaint before the 2nd respondent/SHRC against the petitioner and the respondents 4 and 5 in SHRC Case No.5950 of 2018. The petitioner filed detailed counter before the 2nd respondent and denied the entire averments mentioned in the complaint.

4. The SHRC took the complaint on file and posted the matter for appearance of the present writ petitioner. Though the petitioner had filed a detailed counter, he had not come forward to proceed with the case. Therefore, he was set exparte by the SHRC and after examining the complainant/3rd respondent herein, the Commission made the following recommendations:-

“22.In the result, this Commission recommends as follows:-

(i) The Government of Tamil Nadu shall pay a compensation of Rs.50,000/- (Rupees Fifty Thousand only) to the Complainant Thiru V.Anbalagan, Makkal Seithi Maiyam, No.13/9 Malliyam Narasimhan Nagar, Poonamallee, Chennai, within one month from the date of receipt of a copy of this Recommendation and the Government of Tamil Nadu may recover Rs.50,000/-



W.P.No.21132 of 2023

from the 1st respondent. The complaint against the 2nd & 3rd respondents is dismissed.

(ii) This Commission is also recommends to initiate disciplinary action against the 1st respondent as per the Rules.”

5. The main contention of the writ petitioner is that though he filed a counter, the same was not taken into consideration by the SHRC while passing final orders.

6. A perusal of the records would go to show that the impugned order has been passed by the SHRC only based on the oral and documentary evidence let in on the side of complainant/3rd respondent. The writ petitioner herein against whom the allegations are made in the complaint has not let in any oral or documentary evidence. It is very clear that the writ petitioner has filed only counter and has not marked any evidence to substantiate his defence. The SHRC, on the basis of the complaint and the evidence let in on the side of complainant has passed the impugned order, recommending that a sum of Rs.50,000/- has to be recovered from the writ petitioner towards the compensation payable to



W.P.No.21132 of 2023

the complainant and also recommended to take disciplinary action. Since the writ petitioner has not been granted with sufficient opportunity to put forth his case, we are of the view that an opportunity can be granted to the writ petitioner to defend his case.

7. In the light of the above discussion, the Writ Petition is disposed of on the following terms:-

(i) The recommendations made by the 2nd respondent-SHRC in Case No.5950/2018, dated 10.01.2020 is set aside.

(ii) The matter is remitted back to the file of the 2nd respondent -SHRC for conducting the case afresh.

(iii) The 2nd respondent shall continue the proceedings from the stage of examination of the witnesses and marking evidence on both sides and decide the matter on merits and in accordance with law, after affording sufficient opportunity to all the parties concerned and thereafter, pass appropriate orders, within a period of two months from the date of receipt of a copy of this order.



W.P.No.21132 of 2023

WEB COPY

8.Since the matter is remitted back to the file of the 2nd respondent/SHRC, the Principal Secretary to the Government, Home, Prohibition and Excise Department, Chennai/the 1st respondent herein is directed not to take any action against the writ petitioner, until the matter is disposed of by the State Human Rights Commission, Chennai, as directed supra. No costs. Consequently connected miscellaneous petition is closed.

(J.N.B., J.) (N.M., J.)
18.07.2023

Index : Yes / No
Internet : Yes / No
Speaking order/Non-speaking order
Neutral Citation : Yes / No
Jer

Note:Registry is directed to issue order copy on 21.07.2023

To
1.The Principal Secretary
State of Tamil Nadu
Home, Prohibition and Excise Department
Secretariat, Chennai – 600 009.

2.The State Human Rights Commission, Tamil Nadu
“Thiruvarangam”, No.143, P.S.Kumarasamy Raja Salai
(Greenways Road), Chennai – 600 028.



WEB COPY



W.P.No.21132 of 2023

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

Jer

W.P.No.21132 of 2023
and W.M.P.No.20522 of 2023

18.07.2023