



W.P.No.22426 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.02.2023

CORAM

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI
AND
THE HONOURABLE Mrs. JUSTICE R.HEMALATHA

W.P.No.22426 of 2022
AND
W.M.P.No.21477 of 2022

B.Mahalakshmi

.. Petitioner

Vs.

1.Tamil Nadu State Human Rights Commission
Rep. by its Secretary
No.143, P.S.Kumarasamy Raja Salai
Greenways Road, Chennai 600 028

2.A.Bhuvaneshwari

3.The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai-9
(R3 impleaded *vide* order dt.14.11.22 in W.M.P.No.26833/22)

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari, to call for the records of the order dated 18.07.2022 in S.H.R.C.No.5675 of 2018 passed by the 1st respondent and quash the same.



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For Petitioner : Mr.A.Mohan
For 1st Respondent : Mr.N.Subramanian
For 2nd Respondent : No appearance
For 3rd Respondent : Mr.P.Gurunathan
Additional Government Pleader

ORDER

(Order of the Court was made by R.HEMALATHA, J.)

Challenging the order dated 18.07.2022 passed in S.H.R.C.No.5675 of 2018, B.Mahalakshmi, then Sub-Inspector of Police, District Crime Branch (DCB), Thiruvarur District has filed this writ petition.

2. The brief facts of the case are as under :

On 18.06.2018, Indian Ladies National Group, Thiruthuraipoondi represented by its Secretary, gave a representation stating that the 2nd respondent Bhuvaneshwari, who is the wife of one Annadasan, resident of Vittukatti Village, Thiruthuraipoondi Taluk was taken to the police station along with her husband and harassed by the DCB, Thiruvarur, due to which, the 2nd respondent was admitted in the Government Medical College and Hospital, Thiruvarur. The DCB had acted based on a complaint by one



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Maheshwari that the Bhuvaneshwai-Annadasan couple had taken 22 sovereigns of gold jewellery and Rs.50,000/- cash from her, under the guise of getting them a dole from Government of Tamil Nadu for giving birth to two female babies under a special scheme. While the 2nd respondent was under treatment, the writ petitioner let off the 2nd respondent from the hospital with a warning and also intimidation of dire consequences, if she reveals as to what had happened in the police station. For further treatment, the 2nd respondent was admitted in the Government Hospital, Thiruvavarur. Again the writ petitioner threatened the 2nd respondent to get discharged from the hospital. Since the writ petitioner had been continuously harassing the 2nd respondent, she lodged a complaint.

3. On receipt of the said complaint, the State Human Rights Commission (SHRC) issued summons to the writ petitioner and after examining the witnesses on both sides, had recommended as follows :

RECOMMENDATIONS

- (a) The Additional Chief Secretary to Government, Home, Prohibition and Excise Department, Secretariat, Chennai, shall pay a compensation of Rs.25,000/- (Rupees Twenty Five Thousand only) to the complainant Tmt.A.Bhuvaneshwari,



W/o.Annadasan, residing at Parameswaran Street, V.T.Ashokan Colony, Vittukatti Village, Thiruthuraipoondi Taluk, Thiruvarur, within 8 weeks from the date of receipt of this order.

- (b) After making such payment, the Additional Chief Secretary to Government, Home, Prohibition and Excise Department, Secretariat, Chennai may recover a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) from the respondent.
- (c) The Additional Chief Secretary to Government, Home, Prohibition and Excise Department may ensure that the DGP may initiate disciplinary action against the respondent in view of the violation committed by her, in this case.”

Aggrieved over the order of the SHRC, the present petition is filed to quash the same.

4. Heard Mr.A.Mohan, learned counsel appearing for the writ petitioner, Mr.N.Subramanian, learned counsel appearing for the 1st respondent and Mr.P.Gurunathan, learned counsel appearing for the 3rd respondent. Though notice has been served on the 2nd respondent and her name also printed in the causelist, she has not chosen to enter appearance.



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5. Mr.A.Mohan, learned counsel appearing for the writ petitioner contended that the SHRC had wrongly directed the Government to initiate disciplinary action against the writ petitioner, apart from granting compensation of Rs.25,000/- to the 2nd respondent. He further contended that when the SHRC had come to a definite conclusion that the writ petitioner had discharged her duty and had not violated human rights of the 2nd respondent, the order of the SHRC granting compensation to the 2nd respondent is erroneous. He placed reliance on the decision of this Court in **Lakshmanan Vs. State and Others** (W.P.No.17619 of 2021 decided on 24.01.2023), wherein, this Court has held that every instance of a casual enquiry by the police cannot be termed as human rights violation.

6. *Per contra*, Mr.N.Subramanian, learned counsel appearing for the 1st respondent contended that a perusal of the entire records would reveal that there was violation of human rights by the writ petitioner and therefore, the order passed by the SHRC cannot be assailed.

7. It is seen from the records that the SHRC had observed that the



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writ petitioner had discharged her duty lawfully and that there is no element of violation of human rights. It is also observed that the if the writ petitioner had kept quiet, she would be failing in her duty and if she has not taken any action against the perpetrator of the offence, aspersions would be cast upon her by the victim. In such circumstances, it is incomprehensible, as to why the SHRC has given a recommendation imposing compensation of Rs.25,000/- to the 2nd respondent and also for initiating disciplinary action against the writ petitioner. It is also seen from the medical records that the 2nd respondent did not have any external or internal injury and she was admitted in the hospital for abdominal pain. There is nothing to show that this pain was caused due to the police excess. The SHRC, in paragraphs 8, 9 and 11 had observed as follows :

“8. That after carefully scrutinizing the testimonies of the witnesses who appeared on either side and after carefully examining the documents produced on their respective sides, it is seen that a complaint has been given by one Maheshwari against the petitioner Bhuvaneshwari and her husband as early as on 18.11.2017 (Ex.R2); that on receipt of the said complaint, a CSR receipt No.242/2017 has been issued by the respondent on 21.11.2017, which was marked as Ex.R3. A perusal of the said complaint reveals that the petitioner and her husband had given false promises and had taken 22 sovereigns of gold jewellery and a sum of Rs.42,000/-. It is also seen from Ex.R1 that some of the jewelry had been pledged with India Infoline Finance Ltd., like wise, on perusal of Ex.R4, it could



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be seen that a letter has been issued by the petitioner to the respondent admitting that she would return all the jewelry and the amount, which letter had been duly endorsed/signed by three witnesses. If assuming that this letter was taken by force, then there is no need for these independent witnesses to sign the same. From Ex.R8, it is seen that the petitioner was summoned by the Inspector of Police, District Crime Branch, Thiruvarur District and not by the respondent. A perusal of the AR copy also reveals that there was no apparent injury and that the petitioner had only complained of abdominal pain. The petitioner has submitted Ex.P1 to P8 being the treatment taken at the Government Hospital for pain in the abdomen. There appears to be no internal or external injury, but the petitioner has suffered intense pain and was being treated for the same for one week.

9. The Commission observes that, while discharging their duty, particularly when dealing with the members of the society who are illiterate or unaware of procedures, the police personnel should not take advantage of their ignorance and should deal with them knowing that they cannot defend themselves. The respondent asking this petitioner to come daily to the police station, is a case in point. It is important that some amount of restraint and the optimum use of force is used by police to elicit the truth in the course of their investigations. The rules and guidelines have been clearly laid down and they need to follow the rules while discharging their duty.

11. In this case, since this Commission has come to the conclusion that while there appears to be no blatant violation of human rights, the procedures and practices being followed at the police stations in general and in the actions of this respondent have to be enquired into within the department, so that such lapses do not occur, especially while dealing with the marginalized sections of our society.”

8. It is seen that the complaint was lodged with the SHRC only by the



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Indian Ladies National Group, Thiruthuraipoondi represented by its Secretary, but, the name of the complainant is mentioned as A.Bhuvaneshwari. The Secretary of the Indian Ladies National Group, Thiruthuraipoondi was examined as P.W.1 and in her deposition, that some other Bhuvaneshwari had informed the Indian Ladies National Group that the writ petitioner had brutally attacked Bhuvaneshwari and her husband Annadasan. In these circumstances, we find that the entire orders passed by the SHRC is absolutely perverse and therefore, liable to be set aside.

In the result, the writ petition is allowed and the order dated 18.07.2022 passed by the State Human Rights Commission in S.H.R.C.No.5675 of 2018 is quashed. No costs. Connected miscellaneous petition stands closed.

(V.M.V.,J.) (R.H.,J.)
24.02.2023

Internet : Yes / No
Neutral citation : Yes/No
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To

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1.The Secretary

Tamil Nadu State Human Rights Commission
No.143, P.S.Kumarasamy Raja Salai
Greenways Road, Chennai 600 028

2.The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
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V.M.VELUMANI, J.
AND



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