



W.P.No.29218 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.10.2023

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.29218 of 2023

G.Antony Ratnam

...Petitioner

vs.

1.The Superintendent of Police,
Thiruvallur Taluk, Thiruvallur District.

2.Mr.K.Shankar, I.P.S.,
The Commissioner of Police,
Avadi Police Commenssionerate,
No.5/1, Avadi, Chennai – 600 054.

3.The Director,
National Commission for Backward Classes,
Trikoort – 1, Bhikaji Cama Place,
New Delhi – 110 066

4.The Commissioner,
Commissionerate Rehabilitation and Welfare of non Resident Tamils,
Ezhilagam Annex, 4th Floor,
Chepauk, Chennai – 600 005.

5.The Director,
Directorate of Adi Dravidar Welfare,
Chepauk, Chennai – 600 005.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Quo-Warranto, directing the second respondent to answer to this Court, under what authority the second respondent is holding the post of Commissioner of Police, Avadi Police Commissionerate.

For Petitioner : Mr.S.Ezhilraj

For Respondents : Mr.P.Kumaresan
Additional Advocate General
Assisted by Mrs.V.Yamuna Devi
Special Government Pleader for RR1, 2, 4 & 5

ORDER

This writ petition has been filed seeking for issuance of a Quo-Warranto, directing the second respondent to answer to this Court, under what authority the second respondent is holding the post of Commissioner of Police, Avadi Police Commissionerate.

2. The case of the petitioner is that, he is a Tax Consultant, GST Practitioner for the past 10 years and had also enrolled as an Advocate in Bar Council of Tamil Nadu & Puducherry. The petitioner employed one B.Gowri Kumari, who was originally a migrant from Srilanka and had



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illegally migrated to India in the year 1986. At present she is a resident of Tiruvallur, as an employee to assist him in the Tax Consultancy work. The petitioner introduced the said Gowri Kumari to his clients. While she was working in the office, she said that she knew some Auditors and requested the petitioner to give his Income Tax Returns file for auditor's signature. Believing her words, the petitioner gave all his details regarding the Income Tax Returns. Thereafter, the petitioner came to know about the fraud and with malafied intention she had used the signature of a deceased auditor, Krishna Morthy (M.No.009274) and also used Sridhar (Ms.031533). Due to her fraudulent behaviour, the petitioner had terminated her from the office on 15.07.2018. The said Gowri Kumari along with two other persons viz., S.V.Charles and Babu brought some rowdy elements to the petitioner's office who took the office files, datas and other records and also assaulted and threatened the petitioner.

3. On 16.07.2018, the petitioner lodged a complaint before the T-9 Pattabiram Police Station. On receipt of his complaint, the Sub Inspector of Police conducted preliminary investigation, but, had not given CSR number



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for the said complaint. Only after repeated requests they assigned a CSR number on 18.07.2018. Therefore, the petitioner lodged a complaint before Sub Inspector of Police, T-11, Thiruninravur Police Station, who went through the petitioner's application and verbally harassed the petitioner uttering the name of his community, as there is no such community in “PATTAMKATTI” and also gave life threatening. Further, the police officials along with other rowdy elements attacked and assaulted the petitioner inside the police station and also kept inside the lock-up and threatened the petitioner that he will be booked under women harassment case, theft, robbery, murder and PCR Act (SC & ST) Act.

4. Thereafter, the petitioner approached the Bar Association, Poonnamallee, the members of the Association also accompanied and lodged a complaint against the said Gowri Kumar and Babu for forging the signature and CSR No.46 of 2019 was assigned and thereafter, the same was closed. As his grievance was redressed no action was taken against the petitioner's representation. The 3rd respondent replied to the petitioner's representation directing the 1st respondent to take necessary action against



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the same. Finally the petitioner directly met the 1st respondent and gave his representation, dated 15.06.2023 to take action against the representation, but, till date no action has been taken. Hence, the petitioner has come forward with the present Writ Petition.

5. Heard, Mr.S.Ezhilraj, learned counsel for the petitioner and Mr.P.Kumaresan, learned Additional Advocate General assisted by Mrs.V.Yamuna Devi, learned Special Government Pleader for respondents 1, 2, 4 & 5.

6. The learned counsel for the petitioner submitted that the petitioner had terminated one Gowri Kumari from his office on 15.07.2018. The said Gowri Kumari along with two persons and rowdy elements attacked him and has taken all the datas and office records. Therefore, on 16.02.2018, the petitioner lodged a complaint before the T-9 Pattabiram Police Station and only on the 18.07.2018 CSR number was assigned. On the very same day he had lodged a complaint before the Sub Inspector of Police, T-11, Tiruninravur Police Station, where the petitioner was verbally harassed



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stating his community as there is no such community in “PATTAMKATTI” and the attacked and assaulted in the lock-up. Therefore, the petitioner along with the members of the Bar Association, Poonnamallee lodged a complaint on 02.02.2019 and CSR No.46 of 2019 was assigned and thereafter same was closed. Even after many requests, no action was taken by the respondents and finally he gave a representation to the respondents on 15.06.2023 to take action whereas till date the respondents had not taken any action on the petitioner's representation. Hence, he prayed for allowing this Writ Petition.

7. Mr.P.Kumaresan, learned Additional Advocate General for the respondents 1, 2, 4 and 5 would submit that the scope of Quo Warranto is very limited. Only when a person, who is occupying the post is appointed without the right to be appointed or if there is any violation of fundamental rights, Writ of Quo Warranto can be issued. Whereas in the present case, there is no such violation of fundamental rights. The petitioner is aggrieved only by the fact that the respondents had not taken any action on his representation. Therefore, prayed for dismissal of the Petition.



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8. I have considered the rival submissions made by the learned counsels appearing on either side and perused the materials available on record before this Court.

9. The Apex Court in the case of *Mor Modern Coop. Transport Society Ltd., Vs Government of Haryana* held that the Writ of Quo Warranto can be issued when the appointment is contrary to the statutory provisions. In *B.Srinivasa Reddy*, this Court has reiterated the legal position that the jurisdiction of the High Court to issue a Writ of Quo Warranto is limited to one which can only be issued if the appointment is contrary to the statutory rules. The said position has been reiterated by this Court in *Hari Bansh Lal* wherein this Court has held that for the issuance of Writ of Quo Warranto, the High Court has to satisfy itself that the appointment is contrary to the statutory rules.

10. For better appreciation, the Writ of Quo Warranto is explained



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hereunder:

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“The writ of quo warranto” is not a substitute for mandamus or injunction nor for an appeal or writ of error, and is not to be used to prevent an improper exercise of power lawfully possessed, and its purpose is solely to prevent an officer or corporation or persons purporting to act as such from usurping a power which they do not have. Information in the nature of Quo Warranto does not command performance of official functions by any officer to whom it may run, since it is not directed to officer as such, but to person holding office or exercising franchise, and not for purpose of dictating or prescribing official duties, but only to ascertain whether he is rightfully entitled to exercise functions claimed.

In Central Electricity Supply Utility of Odisha v. Dhobei Sahoo Division Bench of Hon'ble Apex Court reiterated that:

"21. [...] the jurisdiction of the High Court while issuing a writ of quo warranto is a limited one and can only be issued when the person holding the public office lacks the eligibility criteria or when the appointment is contrary to the statutory rules. That apart, the concept of locus standi which is strictly applicable to service jurisprudence for the purpose of canvassing the legality or correctness of the action



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should not be allowed to have any entry, for such allowance is likely to exceed the limits of quo warranto which is impermissible. The basic purpose of a writ of quo warranto is to confer jurisdiction on the constitutional courts to see that a public office is not held by usurper without any legal authority"

11. That being the case, the petitioner herein has been aggrieved by the said acts of the police officials. Whether the facts are true or not can be considered only by the concerned authorities and not before this Court and that the petitioner has got the alternative remedy available to approach the competent Court for redressing his grievance, as to whether there is any inaction on the part of the police officials. More over the petitioner's affidavit does not have details regarding what was the denial by the said police officials while considering his complaint because on 15.07.2018 the act done by the said x-employee and thereafter, on 16.07.2018 the petitioner had lodged a complaint before the T-9, Pattabiram Police Station and the CSR copy was issued on 18.07.2018. On the very same day, the petitioner went to T-11, Thiruninravur Police Station where he states that he had been mocked and verbally harassed by the Sub Inspector of Police Station, there



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is no details regarding what had been transcribed between them and why the police officials assaulted him when the petitioner was kept in lock-up. All these aspects have not been explained in this petition.

12. Therefore, this Court is not inclined to entertain the plea made by the petitioner as the same is without any merits and the petitioner has to seek the remedy before the appropriate Court and the Writ Petition is liable to be dismissed. The in-action on the part of the local police officials, the Commissioner of Police, Avadi Police Commissionerate cannot be held responsible, therefore, the petitioner's plea has to be rejected in total. Moreover the petitioner has not stated any reasons as why he had waited for three long years for approaching the authority and had given a representation at a later point of time.

13. With the above observations, this Writ Petition is dismissed. No cost. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Speaking order : Yes/No
Neutral Citations : Yes/No

To

1.Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai – 600 008.

2.The Director General of Police,
Dr Radhakrishnan Salai,
Mylapore, Chennai – 600 004.

V.BHAVANI SUBBAROYAN,J.

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