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W.P.Nos.31394 & 33198 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

W.P.Nos.31394 & 33198 of 2023

Va.Pugazhendi

... Petitioner in W.P.No.31394 of 2023

Arappor Iyakkam,
Represented by its Managing Trustee,
Jayaram Venkatesan,
No.7, Second Floor, Sathya Plaza,
Dr.Thirumoorthy Nagar Main Road,
Nungambakkam, Chennai – 600 034.

... Petitioner in W.P.No.33198 of 2023

Vs.

The State Rep. By,

1. The Government of Tamil Nadu,
Represented by,
The Chief Secretary to Government,
Chief Secretariat,
Fort St. George, Chennai – 600 008.
2. The Director,
Directorate of Vigilance and Anti-Corruption (DVAC),
No.293, MKN Road,
Alandur, Chennai – 600 016.
3. The Inspector General of Police,
Special Investigation Cell-II,
Vigilance and Anti-Corruption,
No.293, MKN Road,
Alandur, Chennai – 600 016.



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4. The Additional Superintendent of Police,
Headquarters,
Vigilance and Anti-Corruption,
Chennai – 600 016.

5. R.Kamaraj

... Respondents in W.P.No.31394 of 2023

1. The Director,
Directorate of Vigilance and Anti-Corruption,
No.293, MKN Road,
Alandur, Chennai – 600 016.

2. The State of Tamil Nadu,
Represented by its Chief Secretary,
Fort St. George,
Chennai – 600 009.

... Respondents in W.P.No.33198 of 2023

Prayer in W.P.No.31394 of 2023 : Writ Petition filed under Article 226 of Constitution of India, pleaded to issue a Writ of Mandamus to direct respondents 2 & 3 to take action on the complaint given by the petitioner which was culminated into proceedings of Petn.No.8989/2018/PUB/CC-HQ dated 12.09.2018 and No.7679/2022/SECTION-7/SA26, dated 09.03.2022 and pass such other or further orders as this Court may deem fit and proper in the circumstances of the case.

Prayer in W.P.No.33198 of 2023 : Writ Petition filed under Article 226 of Constitution of India, pleaded to issue a Writ of Mandamus to direct the respondents to register a FIR under Prevention of Corruption Act, IPC and other laws pursuant to the complaint dated 04.06.2021 given by the petitioner and speedily investigate the matter and pass such other or further orders as this Court may deem fit and proper in the circumstances of the case.



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In W.P.No.31394 of 2023,

For Petitioner : Mr.Thirumoorthy
For R1 to R4 : Mr.Hasan Mohamed Jinnah
State Public Prosecutor.
Assisted by, Mr.R.Muniyapparaj
Additional Public Prosecutor.

In W.P.No.33198 of 2023,

For Petitioner : Dr.V.Suresh
For Respondents : Mr.Hasan Mohamed Jinnah
State Public Prosecutor.
Assisted by, Mr.R.Muniyapparaj
Additional Public Prosecutor.

COMMON ORDER

The Writ Petition in W.P.No.31394 of 2023 has been filed seeking to direct respondents 2 & 3 to take action on the complaint given by the petitioner which was culminated into proceedings of Petn.No.8989/2018/PUB/CC-HQ dated 12.09.2018 and No.7679/2022/SECTION-7/SA26, dated 09.03.2022.

2. The Writ Petition in W.P.No.33198 of 2023 has been filed seeking to direct the respondents to register the First Information Report, pursuant to the petitioner's complaint dated 04.06.2021 and speedily investigate the matter.



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3. The case of the petitioner in W.P.No.31394 of 2023 is as under:-

i) On the demise of Selvi.J.Jayalalitha, the then Chief Minister of Tamil Nadu, the then Minister for PWD Sri.Edapadi Palanisamy became the then Chief Minister of Tamil Nadu and during his regime, Thiru.R.Kamaraj was the then Minister of Food and Civil Supplies of Tamil Nadu and he was a Public Servant as defined under Section 2(c) of the Prevention of Corruption Act.

ii) The said Minister, in conspiracy and collusion with other Government officials, his own agents and henchmen, indulged into various nefarious and corrupt activities in the process of procuring Masoor Dhal, Toor Dhal/Yellow lintel for a higher price than the prevailing market price and thus, caused a huge loss to the Government Exchequer and made illegal gains to himself and his men and thereby, he had misappropriated the public money to the tune of Rs.2600/- Crores.

iii) The petitioner had given a complaint on 13.7.2018 to the second respondent and the second respondent, without taking any action on the complaint, had forwarded the same to the first respondent by communication dated 12.9.2018, contending that the Directorate has not caused any enquiry into the contents of the complaint.

iv) Since no action was taken by the respondents and since the



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allegations make out a cognizable offence, the petitioner has come up with the present writ petition.

4. The case of petitioner in W.P.No.33198 of 2023 viz., Arappor Iyakkam represented by its Managing Trustee is also similar one and the same as under:-

i) The said erstwhile Minister for Food and Civil Supplies of Tamil Nadu alongwith other officials and contractors, in the process of procurement of essential commodities meant for distribution through PDS system by the Tamil Nadu Civil Supplies Corporation and the entire scam had caused a huge loss to the tune of Rs.2028 crores to the Exchequer.

ii) The Arappor Iyakkam had also filed a detailed complaint dated 4.6.2021 with certain documents collected from various Government Offices through Right to Information Act, alleging that the then Hon'ble Minister, alongwith the officials and contractors had indulged into the following activities:-

- (a) Deliberate Alteration of tender conditions to favour select few firms by excluding other regular bidders.
- (b) Bid Collusion and Bid Rigging by related parties.
- (c) Bid Collusion involving Public Sector Enterprises.



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(d) Collusion and conspiracy involving public servants to favour single business group.

iii) Subsequently, the petitioner had received a communication from the first respondent stating that a detailed enquiry has been commenced on 01.09.2021, however, thereafter, since no further action has been taken despite the mandate of the Manual of the Directorate of Vigilance and Anti-Corruption (DVAC), the present petition has been filed seeking to register a case.

5. Mr.Thirumoorthy, learned counsel representing the petitioner in W.P.No.31394 of 2023 submitted that the petitioner, who is a seasoned politician and a public spirited person, on coming to know about the nefarious activities committed by the former Minister Thiru.R.Kamaraj, while he was heading the department of Food and Civil Supplies of Tamil Nadu, had given a complaint to the second respondent on 13.07.2018 and despite the Rules/guidelines provided in the Manual of the Directorate of Vigilance and Anti-Corruption (DVAC) stipulate time frame for completing the enquiry, it has not been strictly adhered to and no further action has been taken. He further submitted that till date, the petitioner is not even called for enquiry and thereby, he seeks the indulgence of this Court to issue a direction to respondents 2 & 3 to take action on the complaint given by the petitioner which has culminated



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into proceedings of Petn.No.8989/2018/PUB/CC-HQ dated 12.09.2018 and No.7679/2022/SECTION-7/SA26, dated 09.03.2022.

6. Dr.V.Suresh, learned counsel appearing for the petitioner in W.P.No.33198 of 2023 submitted that the petitioner, Arappor Iyakkam is an organization concerned about the fields of transparency, good governance, anti-corruption, provision of basic amenities to public and many more. He further submitted that the petitioner, on coming to know that Thiru.R.Kamaraj, who was the then Minister of Food and Civil Supplies of Tamil Nadu, had involved in a massive scam in Tamil Nadu Civil Supplies Corporation (TNCSC) during his tenure between 2015 and 2021, in procurement of Sugar, Palmolein Oil, Dhal, Hulling of Dhal by TNCSC and thereby, he had committed a scam and caused loss to the Government to the tune of Rs.2028 Crores, in collusion with other officials and contractors, had given a complaint to the first respondent on 04.06.2021 and also submitted several documents collected from various Government offices through Right to Information Act.

7. He further submitted that, thereafter, the petitioner had appeared before the first respondent on several occasions and also furnished all the documents relevant to the massive scam. He also submitted that ultimately, the



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petitioner had received a communication dated 06.09.2023 from the first respondent stating that a detailed enquiry had been commenced on 01.09.2021.

He further submitted that though the Rules/guidelines of the Directorate of Vigilance and Anti-Corruption (DVAC) Manual mandates conclusion of enquiry within a time frame, no further action has been taken by the first respondent despite lapse of two years and therefore, the present petition has been filed as cognizable offence is made out in this case, seeking a direction to the respondents to register a FIR under Prevention of Corruption Act, IPC and other laws pursuant to the complaint dated 04.06.2021 given by the petitioner and speedily investigate the matter.

8. In W.P.No.31394 of 2023, the 4th respondent has filed a detailed counter, the contents of which, are extracted hereunder :-

"2. It is submitted that, based on one another's complaint a Factual Enquiry was conducted and thereafter the Factual Enquiry Report was sent to the Vigilance Commissioner and the same was forwarded to the Head of the Department i.e. the Secretary to Public Department. Subsequently the Secretary to Public Department passed orders to the 2nd respondent / Director, DVAC ordering for a Detailed Enquiry into the allegations and the 2nd



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respondent in turn forwarded the same to the 4th respondent / my predecessor the then Deputy Superintendent of Police presently Additional Superintendent of Police Tr.K.Yuvaraj directing him to conduct a Detailed Enquiry. As per the direction, my predecessor Tr.K.Yuvaraj took up the enquiry and commenced the Detailed Enquiry in No.DE 38/2021/PUB/HQ on 01.09.2021 and he called for the records / documents and collected the Tender documents from the TNCSC.

3. It is submitted that, on 26.06.2023 I was directed to conduct the above Detailed Enquiry in No.DE 33/2021/PUB/HQ as my predecessor got promoted as Additional Superintendent of Police and the Case Diary was handed over to me. Thereafter, I commenced the enquiry in this DE. Further, I have enquired the officials of Tamilnadu Civil Supplies Corporation and the officials of Kendriya Bhandar, Material and Minerals Trading Corporation, The State Trading Corporation of India Ltd and NACOF.

4. It is submitted that, I sent notices to Kendriya Bhandar, Material and Minerals Trading Corporation, The State Trading Corporation of India and NACOF requesting to furnish the procedures adopted while floating Expression of Interest (EOI) for empanelment of suppliers, Terms and conditions for backup suppliers, list of



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empanelment suppliers, list of backup suppliers, copy of agreement with backup suppliers, details of trade margins for agre products etc. I received the above said documents and are being perused.

5. It is submitted that, I sent letters to the Managing Director, TNCSC requesting to furnish the details of the officials who handled the process of the tenders for procuring the essential commodities for the period from 2015 to 2021 such as the officials' present employment, employers' details and their present residences/their native addresses and I am yet to receive the above details from the TNCSC. I also sent letters to the Registrar of Companies requesting to furnish the details of the companies participated and succeeded in the above tenders.

6. It is submitted that some of the scrutiny committee members were examined. Further the tenderers who participated in the 48 tenders are to be enquired and the voluminous documents pertaining to the 48 tenders are to be examined to reach prima facie evidence. It is submitted that, the documents pertaining to 48 tenders files run more than 24000 pages. The voluminous nature of the documents concerned in this detailed enquiry would certainly require some more time to complete the entire enquiry process.

7. It is submitted that, while being so, one Va.



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Pugazhendi / the petitioner herein gave the complaint on 13.07.2018 to the 2nd respondent and the said complaint was also clubbed along with the earlier complaints. The nature of the complaint and subject matter of the complaint are one and the same. Hence the enquiry is being conducted along with the earlier complaints.

8. It is submitted that, if during Detailed Enquiry prima facie material found then further action will be taken. Accordingly, I file the counter on the enquiry conducted so far on the subject matter."

9. Mr.Hasan Mohamed Jinnah, learned State Public Prosecutor submitted that in respect of the very same allegation, apart from the complaints received by the respondents Police from the petitioners, there is yet another complaint filed by one Majith and the same is pending enquiry. He further submitted that the factual enquiry was conducted, a Report was sent to the Vigilance Commissioner which was forwarded to the Head of the Department i.e, the Secretary to Public Department and in turn, the Secretary to Public Department had passed an order to the Director, DVAC for conducting a detailed enquiry and thereby, the then Deputy Superintendent of Police, Mr.K.Yuvaraj, had commenced the detailed enquiry in No.DE33/2021/PUB/HQ on 01.09.2021 and collected the tender documents from the TNCSC.



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10. The learned State Public Prosecutor submitted that later, the said Mr.K.Yuvaraj, got promoted as an Additional Superintendent of Police and the case diary was handed over to the present officer, Mr.G.Pugazvendhan on 26.06.2023. He further submitted that after the Officer had taken charge, he had collected voluminous documents, Arappor Iyakkam, the petitioner in W.P.No.33198 of 2023 had furnished lot of materials and there are documents pertaining to 48 tender files which run more than 24000 pages requiring deep perusal, due to which, there had been some delay. He also submitted that the Rules in Directorate of Vigilance and Anti-Corruption (DVAC) Manual are directory and are not mandatory. He further submitted that the investigation has been done in depth and the petitioner in W.P.No.31394 of 2023 will be enquired on any date fixed by this Court. He also submitted that due to shortage in manpower also there had been some lapses on the part of the respondents. He would submit that the respondent Police (DVAC) undertakes that the enquiry would be completed within a period of six months and therefore, the writ petition may be disposed of recording the undertaking.

11. Heard the learned Counsel appearing for the petitioner and the



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learned State Public Prosecutor assisted by the learned Additional Public Prosecutor appearing for the respondent.

12. It is the grievance of the petitioners that though a detailed enquiry was commenced on 01.09.2021, there is no progress, till the present officer took charge on 26.06.2023 and thereby, there has been a delay. Now, an undertaking is giving by the learned State Public Prosecutor that the enquiry would be completed within a period of six months.

13. Recording the undertaking given by the learned State Public Prosecutor, the Writ Petitions stand disposed of. The petitioner in W.P.No.31394 of 2023 is directed to appear before the Investigating Officer for enquiry on 06.12.2023. No costs.

28.11.2023

Note: Issue order copy today (28.11.2023)

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
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1. The Chief Secretary to Government,
Chief Secretariat,
Fort St. George,
Chennai – 600 008.
 2. The Director,
Directorate of Vigilance and Anti-Corruption (DVAC),
No.293, MKN Road,
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Alandur, Chennai – 600 016.
 4. The Additional Superintendent of Police,
Headquarters,
Vigilance and Anti-Corruption,
Chennai – 600 016.
 5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

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