



W.P.No.22760 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.04.2023

CORAM

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

AND

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

W.P.No.22760 of 2017

AND

W.M.P.No.23883 of 2017

1.P.Kumaresan
2.Muralidharan

.. Petitioners

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
143, P.S.Kumarsamy Rajaji Salai
Greenways Road, Chennai 600 028

3.J.Balaji

4.Chandrasekharan

.. Respondents



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Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records of the 2nd respondent relating to the impugned order in SHRC No.9020/2013 dated 24.05.2016 on the file of the State Human Rights Commission, Chennai and quash the same.

For Petitioners : Ms.J.Madhuri
For R1 : Mr.P.Gurunathan
Additional Government Pleader
For R2 : Mr.S.Udayakumar
For R3 : Mr.P.G.Thiyagu

ORDER

(Order of the Court was made by V.LAKSHMINARAYANAN, J.)

This writ petition has been filed to quash the impugned order dated 24.05.2016 passed by the 2nd respondent in SHRC No.9020/2013.

2. Heard the learned counsel appearing for either side and perused the entire materials on record.

3. Though the learned counsel for the petitioner wanted to go into the merits of the case and argue the writ petition, from a perusal of the impugned order,



we find it is an *ex parte* proceeding. The 3rd respondent in this writ petition had given evidence. However, the 4th respondent and the writ petitioners neither deposited evidence nor produce any record before the 2nd respondent/State Human Rights Commission. That left no other option to the 2nd respondent, but to pass an *ex parte* order.

4. Learned counsel for the petitioner would submit that it is the mistake of the counsel and therefore, her parties must not be penalised for the same. She would rely upon the decision in *Rafiq and Another Vs. Munshilal and Another* (AIR 1981 SC 1400).

5. Taking into consideration the submission of the learned counsel for the petitioner, the *ex parte* order passed by the 2nd respondent is set aside. The matter is remitted to the 2nd respondent for the purpose of fresh disposal. The 2nd respondent shall give an opportunity to the writ petitioners to let in their evidence and to the 3rd respondent to cross-examine the writ petitioners before it. Thereafter, hear arguments and pass orders. Both sides are agreeable to this course of action. The said exercise shall be completed within a period of four months from the date of receipt of a copy of this order. Discretion is left to the



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2nd respondent, whether it wants to proceed from the stage where the writ petitioners were set *ex parte* or whether it wants to conduct a *de novo* trial. We are giving this discretion because the records show that the 3rd respondent had been cross-examined by the writ petitioners.

In fine, the writ petition is allowed. The order dated 24.05.2016 passed by the 2nd respondent in SHRC No.9020/2013, is set aside and the matter is remitted to the 2nd respondent for fresh consideration as indicated above. No costs. Connected miscellaneous petition is closed.

(V.M.V.,J.) (V.L.N.,J.)
27.04.2023
(1/2)

Index : Yes/No
Neutral citation : Yes/No
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To
WEB COPY

1.The Principal Secretary
Home, Prohibition and Excise Department
Secretariat, Chennai 600 009

2.State Human Rights Commission-Tamil Nadu
Thiruvarangam
143, P.S.Kumarsamy Rajaji Salai
Greenways Road, Chennai 600 028



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V.M.VELUMANI, J.
AND
V.LAKSHMINARAYANAN, J.

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