



W.P(MD)No.8463 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.07.2023

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THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P(MD)No.8463 of 2021

S.M.Raja

-Vs-

... Petitioner

1. The Deputy General of Police
Chepauk, Chennai.
2. The Inspector General of Police
South Zone, Madurai.
3. The Deputy Inspector General of Police
Theni, Dindigul.
4. The Superintendent of Police
Theni District
5. The Deputy Superintendent of Police
Aundipatti, Theni District
6. Thanga Krishnan
The Deputy Superintendent of Police
Aundipatti, Theni District
7. The Inspector of Police
Aundipatty Police Station,
Aundipatty, Theni District
8. Saravana Deivendran
The Inspector of Police
Aundipatty Police Station,
Aundipatty, Theni District



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9. The Sub Inspector of Police
Aundipatty Police Station,
Aundipatty, Theni District.

10. Kothandaraman
The Sub Inspector of Police
Aundipatty Police Station,
Aundipatty, Theni District.

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents 1 to 5 to take appropriate action against the respondent 5 to 10 and further to give Rs.10,00,000/- compensation to the petitioner on the basis of the petitioner's representation dated 22.02.2021 within the time frame fixed by this Court.

For Petitioner	: Mr.K.Gokul
For R1 to R5,7 and 9	: Mr. R.M.Anbunithi Additional Public Prosecutor
For R6 and R10	: No appearance
For R8	: Mr.R.Gandhi, Senior Counsel

ORDER

This Writ Petition has been filed seeking for issuance of Writ of Mandamus to direct the respondents 1 to 5 to take appropriate action against the respondent 5 to 10 and further to award Rs.10,00,000/- compensation to the petitioner on the basis of the petitioner's representation dated 22.02.2021



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2. According to the petitioner there is dispute pending between the parties with regard to the land consists of 10 cents and suit in O.S. No. 152 of 2019 is pending on the file of the Sub Court, Theni. In the meanwhile one Amose with Parameswaran, Veluthai, Karikalan, Uma and Gurusamy created forged sale deed. But the patta stands in the name of the petitioner. Against the issuance of patta by the Tahsildhar the said Amose preferred an appeal before the Revenue Divisional Officer and the same was dismissed by an order dated 28.12.2020. While pending civil suit on 20.01.2021 the said Parameswaran along with other anti social elements trespassed into the said vacant land and damaged the Tata Indica Car bearing Reg. No. TN 57 AZ 4429 and two cycles. However the petitioner has also put a lock to the poultry farm with three dogs by putting fencing. The said gang also damaged all the materials set up in the said land. Among three dogs one dog was killed by giving poison and also poultries were taken away by them. The said incident took place with the help of respondents 2 to 10. The said incidents were recorded in the CCTV camera from which photos have been taken, which is enclosed herein. Hence the petitioner has preferred a complaint on 21.01.2021 before the respondents 7 to 10, even then no action was taken.



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3. Thereafter he has given complaint before the fourth respondent and the same was forwarded to the fifth respondent , but no action was taken. Hence he has filed a petition before this Court in Crl.O.P(MD) No.1373 of 2021 seeking police protection and in the said petition this Court has directed the seventh respondent consider the representation of the petitioner within a period of four weeks. Even after passing of the above order, on 03.02.2021 the said Parameswaran along with other goondas came to the said vacant land and further damaged the properties, thereby he caused loss of Rs. 5,00,000/- The above said incident took place in the presence of respondents 5 to 10 which is also recorded in the CCTV camera. On 21.01.2021 he gave complaint before the Registrar of this Court and after that on 03.02.2021 and 09.02.2021 the said copy of the complaint was forwarded by the Registrar to the learned Principal District Judge, Theni to take appropriate action. Thereafter the learned Principal District Judge, Theni has forwarded the complaint to the fourth respondent to take appropriate action within a period of 10 days. Even after direction from the learned Judge, the respondents 5 to 10 failed to take any effective action. Further the petitioner had fought for rights of the 8th committee in Arulmighu Muthumariamman temple and further the said temple possession has been taken by HR &CE Department due to the efforts taken by him.



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4. Further the petitioner has filed several litigations before this Court and hence the respondent purposefully failed to take action. Thereafter on 22.02.2021 the petitioner sent representation to the respondents 1 to 5 but they failed to take effective action, hence he has filed the present petition to consider the representation dated 22.02.2021.

5. The eighth respondent filed counter and denied all the averments made in the petition. Further the alleged writ petitioner is a trouble monger. There are nine criminal cases registered on the file of the Andipatti Police Station and the same is pending. The petitioner used to file one petition after another against the police officials in order to threaten them and prevent them from taking action against his illegal activities. He used to stall the police official from functioning independently. The present writ petition is filed for one more attempt made by the petitioner to threaten the police officials for having discharged their duty without any fear or favour. Infact this petitioner in front of the police officials damaged the wired fence in order to illegally take possession of another person's land. The above illegal activities were recorded and the video footage would show his high-handedness in taking the law into his hands. The



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prayer sought by the petitioner for taking compensation and initiation of disciplinary proceedings is not maintainable in law. It is well settled law that third party cannot seek any direction to the Employer to take disciplinary action against his employees. It is purely an Employer and Employee relationship and he has no *locus standi* to seek any such direction from this Court. Further the petitioner cannot seek direction for compensation in a disputed question of facts. Hence the Writ Petition is liable to be dismissed.

6. The learned counsel for the petitioner contended that already civil dispute is pending between the parties and he has filed a suit in O.S.No.152 of 2019 before the Sub Court, Theni. Pending suit the respondents 7 to 10 trespassed into the property and caused damage worth about Rs.5 lakhs. For the above said illegal acts the present writ petition has been filed.

7. The learned Additional Public Prosecutor appearing for the respondents 1 to 5,7 and 9 represented that the petitioner gave representation before the respondents and the same was considered and closed. Thereafter he has filed writ petition before this Court to consider his representation and the representation of the petitioner was considered and the same was disposed of.



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8. Heard both sides and perused the materials available on record.

9. On perusal of the records, it is observed that the petitioner has produced some copies of the photos and alleged that the respondents have damaged the property worth about Rs.5,00,000/-. It is admitted that civil suit is pending between the parties before the Sub Court, Theni with regard to the same property. The title of the property is to be decided by the competent civil Court. If at all damages is caused to the petitioner he has to approach the civil court for compensation since the title is disputed. This Court under Article 226 of the Constitution of India cannot go into the facts with regard to compensation that too between two private parties.

10. So far as the prayer with regard to the initiation of Disciplinary Proceedings is concerned the learned counsel appearing for the private respondents produced the copy of the order passed by this Court in W.P(MD) No.8871 of 2018 in the case of ***Sudalaikanu .vs. The Principal Secretary to Government and others*** wherein this Court has held as follows:

“ 10. The learned senior counsel would also rely upon the



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decision of the learned Judge of this Court in the matter of **K.Padma vs., Vigilance Cell, Madras and Others** reported in (2007) 3 MLJ 639, where the learned senior counsel relied upon the following passages:

" The grievance of the petitioner in this writ petition is that the District Munsif, Namakkal, while discharging his judicial function, committed irregularities, which made the petitioner to make a complaint to the first respondent, the Vigilance Cell, High Court, Madras. The Vigilance Cell sent recommendations on the same to the Principal District Judge, Namakkal to enquire into the complaint. Also, the proceeding before the Principal District Judge, Namakkal, dated 20.12.2004 which is the Enquiry Report, is filed in the typed set of papers.

2. The entire exercise by the petitioner is highly misconceived. When a complaint against a Judicial Officer is made, it can be enquired into under the Orders of the Hon ble Chief Justice. Any further proceedings on which action to be taken will be decided by him either through the Committees appointed by him or by the Full Court. The petitioner being the complainant has no further role to play in this matter. The Supreme Court, vide decision [Rajnit Prasad v. Union of India AIR 2000 SC 3469](#) : 2000 (9) SCC 313 held that once a complaint is given against a judicial officer his role ends there. The relevant passage found in paragraphs 9 and 10 are as follows:

In respect of departmental proceedings which are initiated or sought to be initiated by the Government against its employees, a person who is not even remotely connected with those proceedings cannot challenge any aspect of the departmental proceedings or action by filing a writ petition in the High Court or in this Court. Disciplinary action against an employee is taken by the Government for various reasons principally for misconduct on the part of the employee. This action is taken after a domestic inquiry in which the employee is provided an opportunity of hearing as required by the constitutional mandate. It is essentially a matter between the employer and the employee, and a stranger, much less a practising advocate, cannot be said to have any interest in those proceedings. Public interest of general importance is not involved in disciplinary proceedings. In fact, if such petitions are entertained at the instance of persons who are not connected with those proceedings, it would amount to an abuse of the process of Court.

10. In view of the above, it is not open to the petitioner to challenge the order of the High Court by which the departmental charge-sheet issued to Dr. U.N. Biswas was quashed. The permission to file the special leave petition is, therefore, refused.



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3. In the light of the above, the writ petition filed by the petitioner is misconceived and clearly not maintainable. Hence the writ petition is dismissed. No costs. Consequently, M.P. Nos. 1 and 2 of 2087 are closed."

11. The learned senior counsel also relied upon the recent decision of the learned Judge made in **V. Vijayalakshmi vs., State of Tamil Nadu represented by its Secretary and others** in W.P.(MD) No.939 of 2018 dated 17.01.2018, where the learned Judge has taken the decision that, the disciplinary action against the officials concerned lies entirely with the employer and it is not for the writ petitioner, who is a private person to ask for a Writ of Mandamus in this regard. The relevant portion of the judgment reads as under:-

"4. The specific complaint of the writ petitioner is that for a period of suspension, that is, from 04.08.2015 to 10.08.2017, even though her salary has been disbursed by the Government, it was not credited to her account and that the same was misappropriated. The writ petitioner, therefore lodged a representation in this regard, for taking appropriate action against the persons who allegedly misappropriated the salary payable to her. Since no action was taken, the present writ petition has been filed for directing the respondents 1 and 2 to take appropriate criminal and disciplinary action against the erring officials.

5. This Court is of the view that the decision to take disciplinary action against the officials concerned, lies entirely with the employer and it is not for the writ petitioner to ask for issuance of Writ of Mandamus in this regard. The writ petitioner has no locus standi in the matter."

11. The law in this regard is well settled, as a third party, not connected with any service dispute cannot maintain the Writ Petition, invoking Article 226 of the Constitution of India, on the service side seeking a Writ of Mandamus to take action against any employee or officials.. In view of the above said dictum laid down by the Hon'ble Supreme Court this petition is not maintainable and it is liable to be dismissed.



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12. Accordingly this Writ Petition stands dismissed. No costs.

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Index : Yes/No
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8. The Additional Public Prosecutor
Madurai Bench of Madras High Court
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P.DHANABAL, J.

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