



W.P.(MD)No.11638 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **10.10.2023**

CORAM

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**
AND
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD)No.11638 of 2022
and W.M.P. (MD) No.8222 of 2022

A.Kannan

...Petitioner

-Vs.-

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

2.State Human Rights Commission,
Rep. by its Registrar,
No.143, PSV Kumarasamy Salai,
Raja Annamalaipuram,
Chennai – 600 028.

3.The Director General of Police,
Post Box No.601, Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.

4.Nambirajan

5.Alliduraichi

...Respondents



W.P.(MD)No.11638 of 2022

PRAYER:- Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order and recommendations passed on SHRC Case No.1593 and 1594 of 2018 dated 04.05.2022 on the file of the 2nd respondent State Human Rights Commission, Tamil Nadu and quash the same as arbitrary and unconstitutional .

For Petitioner : Mr.T.Lajapathi Roy
Senior Counsel

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader
for R1 and R3

Mr.C.Arulvadivel @ Sekar
for R2

Mr.K.Jeyamohan
For R4 and R5

ORDER

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The order of the State Human Rights Commission, Tamil Nadu dated 04.05.2022, in SHRC Case No.1593 and 1594 of 2018, is under challenge in the present Writ Petition.

2. The petitioner Mr.A.Kannan, was working as Inspector of Police, Kurivikulam Police Station, Tenkasi District. The respondents 4



W.P.(MD)No.11638 of 2022

and 5 herein preferred two different complaints in SHRC Case No.1593 of 2018 and 1594 of 2018 respectively against the writ petitioner.

3. The gist of the complaint is that the close relative of the complainant in SHRC Case No.1593 of 2018 and his mother Kanagambaram filed a civil suit against his father Kanagaraj on the file of the District Munsif Court in O.S.No.351 of 1990 for partition in Survey No.270 and the said suit was decreed in the year 2000 and the shares were demarcated. However, the complainants have given complaints regarding Human Rights violations stating that the respondents 4 and 5 were threatened by the writ petitioner, who was holding the post of Inspector of Police. The complainants have further stated that they were humiliated in the Police Station and abusive languages were used by the Inspector of Police against the complainants. In this background, the complaint was registered before the State Human Right Commission and the Commission conducted an enquiry and made a finding as under:-

“15. Considering the oral and documentary evidence of the parties, this Commission is of the considered opinion that it is established by the Complainant that the Respondent



WEB COPY

had failed to register a criminal case on the basis of the complaint lodged by him against the culprits and used abusive language against the Complainant and others and threatened him to withdraw the complaint in the presence of the witnesses. Since the electrical materials were stolen by the opposite party he could not able to cultivate the land. Therefore, failure on the part of the Respondent to take action against the culprits amounts to violation of human rights of the Complainant. This point is answered accordingly.

...

17. Considering the oral and documentary evidence of the parties, this Commission is of the considered opinion that it is established by the Complainant that the Respondent had failed to register a criminal case on the basis of the complaint lodged by P.W.2 against the culprits and used abusive language against the Complainant and others and threatened her to withdraw the complaint otherwise false case will be foisted against her. Since the opposite party trespassed into her land and drove the Tractor into her land and damaged the cultivation, she had incurred a heavy loss and she he could not able to cultivate the land. Therefore, failure on the part of the Respondent to take action against the culprits amounts to violation of human rights of the Complainant. This point is answered accordingly.”



W.P.(MD)No.11638 of 2022

4. Learned Senior Counsel appearing on behalf of the writ petitioner mainly contended that there is no finding in respect of the allegations set out in the complaints. There is no evidence to establish the human rights violations and mere statement regarding using of abusive language would be insufficient to arrive at a conclusion and grant compensation.

5. Learned Senior Counsel also drew our attention regarding the spirit of the Rule 9 of the State Human Rights Commission, Tamilnadu (Procedure) Regulation, 1997, which reads as under:-

“9. Complaints not ordinarily entertainable – The Commission may dismiss in limini complaints of the following nature:-

(a) Vague, anonymous or pseudonymous or illegible, trivial or frivolous.

(b) Bared under Section 36 (1) of the Act.

(c) Bared under Section 36 (2) of the Act.

(d) Related to civil dispute, such as property rights, contractual obligations.

(e) Relates to Service matter or labour or industrial disputes.

(f) Allegations do not make out any specific violation of human rights.



WEB COPY



W.P.(MD)No.11638 of 2022

(g) Matter is sub judice before a Court or tribunal.

(h) Matter is covered by a Judicial verdict or decision of the Commission.

(i) Where copy of the complaint addressed to some other authority is received by the Commission.

(j) Matter is outside the purview of the Commission.”

Rule 9(d) specifically stipulates that the Commission may dismiss in limini complaint related to civil disputes, such as property rights, contractual obligations.

6. Learned counsel appearing on behalf of the respondents 4 and 5 raised an objection by stating that the Human Right Commission has not decided the issues relating to civil disputes but considered the allegations of humiliation and usage of abusive language against the respondents 4 and 5. Therefore, there is no infirmity in the order passed by the State Human Rights Commission.

7. We have considered the rival submissions made between the parties and carefully gone through the findings of the State Human Rights Commission in the impugned order.



W.P.(MD)No.11638 of 2022

8. The findings in paragraph Nos.15 and 17 (cited supra) would be insufficient to form an opinion that the writ petitioner had humiliated the respondents 4 and 5 or used abusive language against the complainants. To prove such allegations, evidences and specific findings are required. Though the learned counsel for the respondents 4 and 5 states that materials are available on record to establish the allegations against the writ petitioner, there is no finding to that extent in the order impugned. In the absence of any factual finding or the evidence available this Court cannot take a different view in respect of the allegations, which have not been proved for the purpose of grant of compensation.

9. Mere statement regarding allegations of humiliation or abusive language would be insufficient for grant of compensation and more so Section 9 (d) of the State Human Rights Commission, Tamilnadu (Procedure) Regulation, 1997, above stated, prohibits entertaining a complaint relating to civil dispute, such as property rights, contractual obligations. In the present case, admittedly civil dispute existed, partition suit was instituted and therefore, the police authorities cannot interfere with the disputes of civil nature and they have rightly relegated the parties to approach the competent civil court of law. This being the



W.P.(MD)No.11638 of 2022

factum, we are of the opinion that the order impugned is infirm. Since the present Writ Petition has been filed against complainant in SHRC Case No.1593 of 2018 and no separate Writ Petition has been filed in respect of complainant in SHRC Case No.1594 of 2018, we are inclined to mould the reliefs since both the complainants are parties in the present Writ Petition and represented through lawyers.

10. Accordingly, the orders passed in SHRC Case No.1593 and 1594 of 2018 are quashed and the Writ Petition stands allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

11. It is brought to the notice of the Court that the Government has already settled the compensation pursuant to the order passed by the State Human Rights Commission in G.O.(D) No.863 Home (Police-IV) Department, dated 22.06.2022. However, the said amount shall not be recovered from the Writ Petitioner and respondents 4 and 5.

[S.M.S.J.] & [V.L.N.J.]
10.10.2023

NCC :Yes/No
Index :Yes/No
SJ



W.P.(MD)No.11638 of 2022

To
WEB COPY

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai – 600 009.
- 2.The Director General of Police,
Post Box No.601, Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.



WEB COPY



W.P.(MD)No.11638 of 2022

S.M.SUBRAMANIAM, J.
AND
V. LAKSHMINARAYANAN, J.

SJ

W.P.(MD)No.11638 of 2022

10.10.2023