



W.P.(MD)No.20240 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.20240 of 2021

and

W.M.P.(MD)Nos.16913 of 2021, 11919 of 2022, 16866, 8430 of 2023

1.The Government of Tamil Nadu,
Rep.By the Principal Secretary to Government,
Highways and Minor Ports Department,
Secretariat, Chennai 600 009.

2.The Superintending Engineer,
Highways (C & M), Tirunelveli Circle,
Tirunelveli District.

3.The Deputy Superintending Engineer,
Highways (C & M), Tirunelveli Circle,
Tirunelveli District.

4.The Divisional Engineer,
Highways (C & M), Tenkasi,

5.The Senior Draughting Officer,
Highways (C & M),
Tenkasi District.

... Petitioner

Vs.

1.The State Human Rights Commission,
Tamil Nadu, Rep. by its Assistant Registrar,
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai 600 028.



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2.K.Kaleeswari
3.G.Varadharajaperumal
4.S.Mariappa
5.A.Kaliraj
6.V.R.Aravindharaja
7.A.Annamalai

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the 1st respondent in SHRC Case No.10660 of 2020 and 10659, 10661 and 10662 of 2020, dated 23.04.2021 and quash the same.

For Petitioner : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.S.P.Maharajan
Special Government Pleader

For R1 : No Appearance
For R2 to R6 : Mr.K.Jeyamohan
For R7 : Mr.S.Ramanathan

ORDER

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

The order passed by the State Human Rights Commission in S.H.R.C.Case Nos.10660 of 2020 and 10659, 10661 and 10662 of 2020, dated 23.04.2021 is sought to be quashed in this writ proceedings.

2.A complaint was made before the State Human Rights Commission in a matter of setting up of a Petrol and Diesel Retail Outlets, which is falling under



the control of the Oil Corporation. The facts in detail may not be required to determine the issue in the present case, in view of the fact that the State Human Rights Commission, prima facie, exceeded its jurisdiction by granting the relief to the complainant by setting aside the order passed by the competent authority under the Petroleum Rules. Further, the State Human Rights Commission recommended the Principal Secretary to Government, Highways and Minor Ports Department to instruct the Divisional Engineer, Highways to issue No Objection Certificate to the complainants enabling them to set up the petroleum retail outlets.

3.The term 'human rights' is defined under Section 2(d) of the Protection of Human Rights Act. It means that 'rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.'

4.The subject issue relating to grant 'No Objection Certificate' for setting up a retail petroleum outlet would not fall under the definition of human rights and therefore, the very basis on which, the complaint was entertained by the State Human Rights Commission is beyond the jurisdictional powers conferred under the Act.



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5.The issues as on hand cannot be adjudicated by the State Human Rights Commission and the complaints in this regard are to be made before the competent authority under the Special Enactment and by way of writ proceedings before this Court. Since the State Human Rights Commission has exceeded its jurisdiction beyond the scope of the Protection of Human Rights Act, we are inclined to consider the writ petition.

6.Accordingly, the impugned order passed by the State Human Rights Commission in S.H.R.C.Case Nos.10660, 10659, 10661 and 10662 of 2020 is set aside and the writ petition stands allowed. The amount already deposited, if any to the credit of S.H.R.C.Case Nos.10660, 10659, 10661 and 10662 of 2020 is directed to be refunded to the writ petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S., J.) & (V.L.N., J.)
05.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

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