



W.P(MD)No.27819 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.27819 of 2023

Ramraj

... Petitioner

Vs.

- 1.The Secretary,
Ministry of Corporate Affairs,
5th Floor, 'A'-Wing,
Shastri Bhawan,
New Delhi-110 001.
- 2.The Director General of Police,
Office of Director General of Police,
No.1, Kamarajar Salai,
Mylapore, Chennai-600 004.
- 3.The Serious Fraud Investigation Officer,
SFIO Regional Office,
Chennai Corporate Bhawan,
Ground Floor No.29,
Rajaji Salai, Chennai-600001.
- 4.The Secretary,
Ministry of Revenue and Disaster Management,
Government of Tamil Nad,
Namakkal Kavignar Maaligai,
Fort St.George,
Chennai-600 009.



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5.The District Collector,
Tenkasi District,
Tenkasi-627 811.

6.Sunil Kumar Reddy
The Managing Director,
Ace CEMEX Pvt Ltd.,
F-1, Royal Castle,
No.26, Gill Nagar Extension,
Choolaimedu,
Chennai-600 094.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the Third respondent under the instruction of first respondent to take action on the Sixth respondent on the basis of the representation dated 23.10.2023.

For Petitioner : Mr.B.Charmurugan

For Respondents : Mr.K.Balasubramani
Special Government Pleader for R1 to R5

ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader for the respondents 1 to 5.

2. The petitioner was employed by the 6th respondent company.
The petitioner claims that on account of his hard work, the 6th respondent



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company was substantially benefitted. He however alleges that he has been unfairly and illegally sacked from the employment and that certain facilities earlier given had also been withdrawn. The petitioner has now given a complaint that the affairs of the sixth respondent company are vitiated by serious fraud. According to him, the matter calls for investigation by the 3rd respondent. The petitioner has given a representation in this regard. Since action was not initiated, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to issue direction as prayed for.

4. I am not swayed by the said submission. My attention is drawn to Section 212 of the Companies Act, 2013. Section 212(1) of the Act reads as follows:-

“212. Investigation into affairs of Company by Serious Fraud Investigation Office.— (1) Without prejudice to the provisions of section 210, where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a



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company by the Serious Fraud Investigation Office—

(a) on receipt of a report of the Registrar or inspector under section 208;

(b) on intimation of a special resolution passed by a company that its affairs are required to be investigated;

(c) in the public interest; or

(d) on request from any Department of the Central Government or a State Government, the Central Government may, by order, assign the investigation into the affairs of the said company to the Serious Fraud Investigation Office and its Director, may designate such number of inspectors, as he may consider necessary for the purpose of such investigation.”

5. The condition precedent for taking action under Section 212 of the Act is formation of the relevant opinion by the Central Government. It is not for this Court to issue any direction at this stage. Now, it is a call that has to be taken entirely by the first respondent. It is open to the petitioner to avail any other remedy under law.

6. The Writ Petition is dismissed. No costs.

24.11.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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