



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.8238 of 2024

P.Meena

... Petitioner

Vs.

1.The District Collector,
O/o. The District Collector, Erode, Erode District.

2.The Superintendent of Police,
Erode, Erode District.

3.The Inspector of Police,
Ammamet Police Station,
Erode District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Mandamus, directing the Respondent No.1 to consider and dispose of petitioner representation dated 21.11.2023 to appoint Mrs.N.Gomathi, Advocate as Special Public Prosecutor in Spl.S.C. No.23 of 2020 Pending on the file of Learned Session Judge, Special Court for the trial of cases under SC/ ST (POA) Act, Erode in view of the mandate proviso to Rule 4 (5) of Schedule Caste and Schedule Tribes (Prevention of Atrocities) Rules 1995.

For Petitioner : Mr.B.Mohan

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

This writ petition has been filed for a direction to the 1st respondent to appoint Mrs.N.Gomathi, Advocate for conducting the prosecution in Spl.SC.No.23 of 2020 pending before the learned Session Judge, Special Court for the trial of cases under SC/ ST (POA) Act, Erode.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondents.

3.The petitioner is the *defacto* complainant based on whose complaint, an FIR came to be registered in Crime No.24 of 2020 for various offences under IPC and also under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. The investigation was conducted by the 4th respondent and a final report came to be filed and the same was taken on file by the Court below in Spl.S.C. No.23 of 2020.

4.The petitioner made a representation before the 1st respondent requesting for appointment of Mrs.N.Gomathi, Advocate as the Special Public Prosecutor to conduct the case. As per Rule 4(5) of the Scheduled Castes and the Scheduled



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Tribes (Prevention of Atrocities) Rules, 1995. Since there was absolutely no progress, the present writ petition has been filed before this Court seeking for appropriate directions.

5.The learned counsel for the petitioner submitted that the 1st respondent has already expressed his mind and was satisfied that Mrs.N.Gomathi, Advocate can be appointed as the Special Public Prosecutor to conduct the case in Spl.S.C. No.23 of 2020. While coming to such a decision under Rule 4(5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities), 1995, the 1st respondent himself could have directed for the appointment. The learned counsel for the petitioner to substantiate his submissions, relied upon the earlier order passed by this Court in CrI.O.P.No.22043 of 2013, dated 25.09.2013.

6.The relevant portions in the order are extracted hereunder:

25. The language employed in Rule 4(5) is plain, simple and admit of any difficulty or ambiguity in understanding it. Unlike the General Penal Law of India or any other enactment providing prosecution, the SC/ST (PA) Act is a special Act intended to put an end to untouchability, degradation of human being merely on account of their birth. That is how, as per Section 18 of the Act, even grant of pre-arrest bail has been ruled out for those who commits the offences prescribed under the Act. Added to that



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Section 20 introduced a non-obstante clause and Section 21 imposed a duty on the Central Government to frame rules for effective implementation of the Act.

26. In such circumstances, the golden rule of literal interpretation has to be adopted. There shall not be any addition or subtraction to the language of the law employed in such plain rule.

27. In view of the foregoings, whether the prosecution is being conducted by a Senior Public Prosecutor or whether there was any allegation as against the Prosecutor, when the victim of the atrocity wishes that an eminent Senior Advocate shall be engaged to conduct the prosecution case then the District Magistrate has to engage such an Advocate to conduct the prosecution in the Special Court. The District Collector cannot avoid such a request of the victim of the atrocity.

7. The learned counsel also relied upon the judgment of this Court in ***K. Muruganandam Versus The District Magistrate and District Collector, Namakkal Dist & Another*** reported in **2011 (3) MWN (Crl) 146** in this regard.

8. It is clear from the above judgment that under Rule 4(5) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities), 1995, the District Magistrate himself can direct for engaging the Advocate as Special Public



Prosecutor to conduct the case in the Special Court. It is not necessary to get the concurrence from the Government in this regard. Hence, there shall be a direction to the 1st respondent to appoint Mrs.N.Gomathi, Advocate as Special Public Prosecutor to conduct the case of the prosecution in Spl.S.C. No.23 of 2020 pending before the learned Session Judge, Special Court for the trial of cases under SC/ ST (POA) Act, Erode. This process shall be completed by the 1st respondent, within a period of two weeks from the date of receipt of copy of this order.

9.This writ petition is disposed of with the above directions. No Costs.

28.03.2024

Index : Yes/No
Internet : Yes/No
ssr

To

- 1.The Session Judge,
Special Court for the trial of cases under SC/ ST (POA) Act, Erode
- 2.The District Collector,
O/o. The District Collector, Erode, Erode District.
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N. ANAND VENKATESH, J.

SSI

5.The Public Prosecutor,
High Court, Madras.

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