



W.P. No.11692 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 07.11.2024

DELIVERED ON: 20.11.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE MR.JUSTICE P.B.BALAJI

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G.Suresh

...Petitioner

Vs

- 1.Tamilnadu State Human Rights Commissioner
Represented by its Registrar,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai – 600 028.
- 2.The Superintendent of Police,
Kallakurichi District,
Kallakurichi.
- 3.D.Narasimmajothi,
The Sub-Inspector of Police,
Kachirapalayam Police Station,
Chinnasalem Taluk,
Kallakurichi District.
- 4.Balasubramaniam,
Special Sub-Inspector of Police,
Kachirapalayam Police Station,
Chinnasalem Taluk,
Kallakurichi District.



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5.Sathish,
Constable,
Kachirapalayam Police Station,
Chinnasalem Taluk,
Kallakurichi District.

6.Krishnan,
Constable,
Kachirapalayam Police Station,
Chinnasalem Taluk,
Kallakurichi District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order in SHRC Case No.12195/22/59/2021/OC dated 28.06.2023 and consequential review order in Review Petition D No.10591/CR/2023 dated 05.07.2023 in SHRC Case No. 12195/22/59/2021/OC dated 12.03.2024 passed by the first respondent and quash the same and consequentially direct the first respondent to decide the complaint of the petitioner dated 25.10.2021 on merits.

For Petitioner : Mr.K.Magesh

For Respondents

For R1 : Mr.M.Karthikeyan

For R2 : Mr.A.Gokulakrishnan

Additional Public Prosecutor

For RR3 to 6 : No appearance



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ORDER

(Order of the Court was made by MR.JUSTICE P.B.BALAJI, J.)

The writ petitioner has filed the present writ petition seeking to quash the order of the Tamil Nadu State Human Rights Commission dated 28.06.2023 and to consequently review the order in review petition dated 05.07.2023 in Review Petition D.No.10591/CR/2023 in SHRC Case No. 12195/22/59/2021/OC dated 12.03.2024 and to consequently direct the first respondent, The Registrar, Tamil Nadu State Human Rights Commission to decide the petitioner's complaint dated 25.10.2021, on merits and in accordance with law.

2.We have heard Mr.K.Magesh, learned counsel for the petitioner, Mr.M.Karthikeyan, learned counsel for the first respondent and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor appearing for the second respondent. We have also perused the records placed before us by way of typed set of papers.

3.According to the learned counsel for the petitioner, the petitioner was illegally arrested by the Sub-Inspector of Police, Kachirapalayam,



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Chinnasalem Taluk, Kallakurichi District, for offences which were punishable below seven years. The grievance of the writ petitioner is that his arrest was not even intimated to his family members and further the petitioner's name was not even included in the original FIR lodged by the defacto complainant. According to the learned counsel for the petitioner, the third respondent has illegally included the petitioner's name along with two others in the FIR and thereafter, arrested the petitioner, which is a clear violation of human rights.

4.The learned counsel for the petitioner further submits that though the writ petitioner had lodged the complaint as early as on 25.10.2021 before the first respondent, the Tamil Nadu State Human Rights Commission, no action was taken on the said complaint. The complaint of the writ petitioner was closed after lapse of 1 ½ years, that too, without giving an opportunity to the writ petitioner. Therefore, the writ petitioner filed a review application which was also dismissed without granting any opportunity to the writ petitioner, on the ground that the Tamil Nadu State Human Rights Commission did not have any power to review its own order. The learned counsel for the writ petitioner would therefore pray for the writ petition being allowed as the complaint was closed without affording any opportunity to



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the writ petitioner to canvass or put forth his case in an effective manner.

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5.The learned counsel for the respondents submits that the complaint was closed only as not maintainable and therefore, the writ petitioner cannot seek to challenge the same by way of present writ proceedings and sought for dismissal of the writ petition.

6.We have perused the impugned order passed on 30.06.2023 as well as the order passed in the review petition on 12.03.2024.

7.The first respondent has proceeded to close the complaint dated 25.10.2021 on the ground that the complaint was not entertainable as the subject matter falls outside the purview of the Commission as per Regulation 9(j) of the State Human Rights Commission, Tamil Nadu (Procedure) Regulations, 1997. Though the writ petitioner sought to review the said order dated 12.03.2024 by filing a review petition on 05.07.2023, the said review petition was dismissed citing Regulation 28(a) of the State Human Rights Commission Tamil Nadu (Procedure) Regulations, 1997 in and whereby no review lies as against the order passed by the Commission.



8. Admittedly, the impugned order was passed on 12.03.2024 without hearing the writ petitioner. The writ petitioner had lodged the complaint as early as on 25.10.202. However, the first respondent Commission has chosen to take up the same only on 28.06.2023 and holding that the complaint was not entertainable in view of the subject matter falling outside the purview of the Commission, closed the complaint. The first respondent ought to have put the writ petitioner on notice and afforded him a fair opportunity to put forth his objections or explanations with regard to maintainability of his complaint. Without doing so, the impugned order passed by the first respondent summarily closing the complaint is clearly a violation of principles of natural justice.

9. In view of the same, we constrained to interfere and set aside the impugned order dated 28.06.2023. Accordingly, the impugned order dated 28.06.2023 in SHRC Case No.12195/22/59/2021/OC is hereby set aside. In view of the original impugned order dated 28.06.2023 being set aside, no further orders would be necessary with regard to the review petition. However, we direct the first respondent Commission to issue a fresh notice of hearing to the writ petitioner and after due enquiry as the first respondent may deem fit, suitable orders may be passed, in accordance with law.



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Considering the fact that the complaint has been originally lodged on 25.10.2021, the first respondent may dispose of the same expeditiously.

10. With these above observations and directions, the Writ Petition stands disposed of. There shall be no order as to costs.

(D.K.K.J.) (P.B.B.J.)

20 .11.2024

Index : Yes/No
Speaking Order/Non Speaking Order
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To

1. The Registrar,
Tamilnadu State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Road,
Chennai – 600 028.

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

D.KRISHNAKUMAR, J.



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P.B.BALAJI, J.

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Pre-delivery Order in
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20.11.2024