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W.P.No.23512 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR  
AND  
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.23512 of 2023

Sajeev

S/o Sudakaran

..

Petitioner

v.

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

2. P.Ganesan

..

Respondents

Writ Petition filed under Article 226 of the Constitution of India,  
praying for issuance of a Writ of Certiorari, to call for the records in SHRC  
Case No.151/2016 dated 21.10.2022 by the 1<sup>st</sup> respondent Commission and  
quash the same.

For Petitioner

::

Mr.P.Muthamizh Selvakumar



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For Respondents :: M/s N.Fiza Nawab for  
M/s Sharada Vivek for R1  
Mr.K.Sanjesh Mahalingam for R2

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

This writ petition is filed for issuance of a writ of certiorari to quash the proceedings of the first respondent/State Human Rights Commission, dated 21.10.2022 in SHRC Case No.151 of 2016.

2.1. The brief facts that are necessary for the disposal of this writ petition are as follows. The second respondent herein has preferred a complaint stating that the second respondent purchased a lorry by getting loan from Sriram Finance; that during September, 2015, one Kathirvel came to his home and told that he is from the Transport Department and demanded to pay tax to the tune of Rs.10,000/-; that the complainant was threatened that the lorry would be seized in case the amount is not paid; that the complainant paid Rs.9,000/-, but a receipt was given to him only for a sum of Rs.4,500/-; that on 31.12.2015, the officer by name Kathirvel and



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the petitioner attached to Palladam Police Station came in a white car and trespassed into the complainant's house; that they threatened the complainant to pay the tax immediately or else face seizure of the vehicle; that they demanded a further sum of Rs.25,000/-; that Mr.Kathirvel informed that the Motor Vehicle Inspector by name Natesan has personally come to collect the tax; that the complainant was asked to give the key of his lorry; that the petitioner asked the complainant to carry the battery in his bike to charge it; that the complainant went to the police station with the battery, where the Motor Vehicle Inspector snatched the bike key; that Mr.Kathirvel took the bike; that during that time, the petitioner was also with them; that Mr.Kathirvel and Mr.Natesan had taken the complainant's lorry key and the papers relating to his vehicle and cash of Rs.46,000/-.

2.2. Alleging human rights violation, the complainant has preferred the complaint before the first respondent with a prayer to issue directions to the State as well as the individuals to compensate the complainant.

2.3. The complaint was entertained by the first respondent in SHRC



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Case No.151 of 2016. The first respondent Commission passed final orders

by giving recommendations in the following lines:-

(a) The Principal Secretary to Government, Transport Department, Secretariat, Chennai shall pay a compensation of Rs.25,000/- (Rupees Twenty Five Thousand only) to the Complainant Mr.Ganesan; and

The Additional Chief Secretary to Government, Home Department, Secretariat, Chennai shall pay a compensation of Rs.25,000/- (Rupees Twenty Five Thousand only) to the Complainant Mr.Ganesan.

The above said payments shall be made within a period of eight weeks from the date of receipt of this order.

(b) After making such payment The Principal Secretary to Government, Transport Department, Secretariat, Chennai may recover a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) from the 1<sup>st</sup> respondent; and the Additional Chief Secretary to Government, Home Department, Chennai may recover a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) from the 2<sup>nd</sup> Respondent, as per rules.”

2.4. Aggrieved by the same, the petitioner, who is the second



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respondent before the first respondent Commission, has preferred the above writ petition.

3. The learned counsel for the petitioner, reiterating the grounds raised in the writ petition, made the following submissions:-

(a) The first respondent failed to consider that there is no allegation of human rights violation against the petitioner, who was just present at the time when the complainant's vehicle was seized for non-payment of tax.

(b) It is not the case of the complainant that the petitioner had abused or assaulted or humiliated the complainant in any manner on the date of occurrence.

(c) The petitioner, who is attached to a police station, was requested by the Motor Vehicle Inspector under the pretext that his assistance is required to carryout his official duty.

(d) In such circumstances, in the absence of any specific allegation against the petitioner, the complainant's complaint as against the petitioner is unsustainable in law.

(e) When the complainant himself admits non-payment of tax due to



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the Government, the coercive action taken by the Motor Vehicle Inspector to seize the vehicle cannot be found fault with by the first respondent.

4. This Court, from the complaint, is unable to find any serious allegations against the writ petitioner, who was just present along with the Motor Vehicle Inspector on 31.12.2015. Merely because the petitioner came to the house of the complainant in a car along with the Regional Transport Officer, this Court has no other material to doubt the bona fides of the petitioner in rendering assistance to the Regional Transport Officer in discharge of his official function. From the mere presence of the petitioner on the request of the Regional Transport Officer who pretended to do an official act in exercise of his power under the Motor Vehicles Act, this Court is unable to sustain the order of the first respondent Commission as against the petitioner. When no specific overt act of human rights violation is alleged against the petitioner, it is not necessary that the writ petitioner also should examine himself to disprove the contents in the complaint.

5. The petitioner, who is the second respondent before the first



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respondent, has not filed any document. Unless there is something to repudiate or to controvert, it is not necessary for the petitioner to file any document. The fact remains that the complainant, namely, the second respondent has filed a complaint mainly against the Regional Transport Officer by name P.Natesan. The writ petitioner has been impleaded merely because he was also present on the day when the complainant's lorry key and the key of his bike were taken by one Kathirvel and the Regional Transport Officer. The petitioner has filed a counter affidavit before the first respondent specifically repudiating the allegations against him. Except his presence, there is no admission from him. It is his version before the Commission that the complainant had admitted having not paid the tax for the vehicle owned by him and that his presence was to assist the Regional Transport Officer to collect the tax from the defaulter. It is his further version that the complainant removed the battery from his lorry with an intention that the vehicle cannot be moved without the battery. It is in the said circumstances, this Court is unable to find sufficient material to hold the petitioner responsible for the whole incident alleged against the Regional Transport Officer and another staff. Though the complainant has named



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another person by name Kathirvel, the said Kathirvel was not impleaded despite specific allegations made against the said Kathirvel. In the absence of any overt act alleged against the petitioner, this Court cannot accept the case of the complainant to affirm the recommendations of the first respondent to recover a sum of Rs.25,000/- from the petitioner.

6. The learned counsel for the second respondent submitted that as per the recommendations of the first respondent Commission, the Government has issued a Government Order directing payment of compensation to the complainant and the recovery from the petitioner and the other person as directed by the State Commission. Since the Government has issued order complying with the direction of the State Human Rights Commission, it is contended by the second respondent that the writ petition without challenging the said Government Order is not maintainable.

7. This Court is unable to accept this argument having regard to the facts admitted and borne out from the records. The petitioner is a person



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who is aggrieved by the order of the State Human Rights Commission giving recommendations. When this Court is unable to sustain the recommendations of the Commission directing the Government Home Department to pay a sum of Rs.25,000/- and the further direction for recovery, the order of Government pursuant to the recommendations of the State Commission, need not be challenged. In other words, the order passed by the Government complying with the recommendations is nothing but consequential. Therefore, the order impugned cannot get validated by the order following the order of Commission.

8. In view of the findings of this Court aforesaid, this Court finds that the order of Commission in the complaint of the second respondent in SHRC Case No.151 of 2016 is liable to be quashed so far as the petitioner is concerned. Since the Additional Chief Secretary to Government, Home Department has not challenged the order of the State Commission, this Court is not inclined to interfere with the direction of the first respondent to pay a compensation of Rs.25,000/- to the complainant, namely, the second respondent. However, the further direction to recover the said sum of



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Rs.25,000/- from the petitioner is quashed. The writ petition stands disposed of accordingly. Consequently, W.M.P.No.23023 of 2023 is closed.

There shall be no order as to costs.

Index : yes/no

(S.S.S.R.,J.)

(N.S.,J.)

Neutral citation : yes/no

09.01.2024

SS

To

1. The Registrar

State Human Rights Commission - Tamil Nadu

No.143, P.S.Kumarasamy Raja Salai

Greenways Road

Chennai 600 028



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S.S.SUNDAR,J.

AND

N.SENTHILKUMAR,J.

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