



W.P.No.24113 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

W.P.No.24113 of 2023

and

W.M.P.No.23601 of 2023

Vijayakumari

... Petitioner

Vs.

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

2.R.Senthilan

3.Samson
Then Inspector of Police,
Panakudi Police Station,
Radhapuram Taluk.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India



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for issuance of a Writ of Certiorari calling for the records pertaining to the order passed by the 1st respondent dated 06.10.2022 in S.H.R.C. Case No.2784 of 2014 and to quash the same as illegal, incompetent and ultravires.

For Petitioner	:	Mr.K.Suthan
For R1	:	Mr.N.Subramanian
For R2	:	Mr.K.Gunasekar
For R3	:	No appearance

ORDER

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

This writ petition is filed challenging the order passed by the State Human Rights Commission in a complaint which was entertained in S.H.R.C. Case No.2784 of 2014.

2.When the petitioner was working as Sub-Inspector of Police in Panakudi Police Station, the 2nd respondent filed a complaint dated 30.04.2014 alleging that the respondents 2 and 3 in the complaint failed to



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act upon the complaint lodged by the complainant against one Maria Parthiban and instead, the respondents 2 and 3 in the complaint before the Commission had intervened in the civil dispute and helped the opposite party to construct compound wall in the property owned by the complainant. For failure to take action against the individual who tried to encroach the property of the complainant and for threatening the complainant and assisting the private individual to put up the compound wall, despite written complaint being lodged by the complainant before the Police, the 2nd respondent prayed for a compensation for human rights violation.

3.After the complaint was entertained, the State Human Rights Commission gave sufficient opportunity to the petitioner and the other respondent in the complaint to file counter. Though the petitioner and the other respondent in the complaint filed counter affidavit denying the allegations, the State Commission came to the conclusion that the petitioner and the other respondent in the complaint had violated the human rights of the complainant and recommended the State to pay a compensation of Rs.50,000/- to the complainant with a liberty preserved to the State to



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recover the said sum of Rs.50,000/- from the petitioner. A further direction was also issued to the State to initiate disciplinary proceedings against the petitioner.

4.The case of the complainant was examined not only by relying upon the self-serving statement of the complainant, but also after referring to the sequence of events and the evidence available. It is not disputed that the complainant has filed the complaint on 20.12.2023 at Panagudi Police Station against one Maria Parthipan and two others. The complaint submitted by the complainant was not registered and on 25.01.2014. However, it is stated that at about 10.00 p.m., the Constable called the complainant stating that the petitioner has come to the spot. When the complainant went to the place of occurrence, the allegation is that complainant was threatened by the petitioner, despite the complainant stating that he had already applied for taking measurement and that the proposed construction by the opponent was in the property of the complainant. It is the grievance of the complainant that, with the assistance and active support of the petitioner, the private individual had put up a wall



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in the property of the complainant.

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5. When the nature of dispute is purely civil, the petitioner ought not to have entertained the dispute and she should have asked the parties to approach the Civil Court for appropriate relief and directed the parties to maintain status *quo* till such time either one of them gets an interim order before the Civil Court. In this case, the specific allegation is that the petitioner was present and it was only with the support extended by the petitioner, the private individual could complete the construction which was objected to by the complainant following the written complaint in the Police Station earlier. Even though the serious allegations levelled against the petitioner are not proved, the fact that the petitioner had entertained a civil matter and had threatened the complainant, was accepted by the State Commission. On the interpretation of Section 12 of the Protection of Human Rights Act, 1993, the State Commission has recorded a finding that the conduct of the petitioner is illegal, inhuman and affecting the human rights of the complainant.



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6.This Court is unable to find any evidence to substantiate the case pleaded by the petitioner that she was not present on the date of occurrence when the private individual was putting up construction. This Court is unable to find any motive behind the complainant's allegation against the petitioner for human rights violation. On the appreciation of evidence, the Commission has considered the evidence of P.W.1 and P.W.2 who were also cross-examined by the petitioner. During the cross-examination of P.W.1, the suggestion put to the witness was that the petitioner was on leave from 24.01.2014 and 28.01.2014. However, the stand taken by the complainant even during cross-examination was that the petitioner was present and the statement was corroborated by other witnesses. This Court is unable to find any irregularity while recording evidence or in the findings rendered by the State Commission. This Court is unable to accept the contention of the petitioner that there was no human rights violation on the complainant. Therefore, the recommendation of the State Commission directing the State Government to pay a compensation of Rs.50,000/- to the complainant



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cannot be assailed.

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7. Even though this Court finds some justification in giving liberty to the State Commission to recover the said sum of Rs.50,000/- from the petitioner, the further direction that the Government should also initiate disciplinary proceedings against the petitioner is not warranted having regard to the time lag as the petitioner will be put to serious prejudice on account of delay. Therefore, the recommendation of the State Commission directing the State to initiate disciplinary proceedings against the petitioner, alone is set aside.

8. With the above modification, this writ petition is partly allowed.
No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) (N.S., J.)
15.03.2024

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Index : Yes / No
Neutral Citation : Yes / No



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To

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