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WP.No.17908/2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

WP.No.17908/2017 & WMP.No.19439/2017

Dr.S.Sri Venkatesh

... Petitioner

Vs.

1.The Principal Secretary to Government
Home Department, Fort St George
Chennai 600 009.

2.The Secretary to Government
Public Department, Fort St George
Chennai.

3.The Registrar
The State Human Rights Commission
Greenways Road, Chennai 600 028.

4.The Assistant Registrar Law
The State Human Rights Commission
Greenways Road, Chennai 600 028.

5.The Joint Director, Joint Director of Welfare Service
Thoothukudi District.



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6.Mr.T.Chelladurai

... Respondent

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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of certiorari calling for the records of the 4th respondent in SHRC.No.6673/2011 dated 29.04.2016 and the consequential proceedings in 5th respondent in Na.Ka.No.5830.N1/2016 dated 02.03.2017, quash the same.

For Petitioner	: Mr.Kumar Telvaraj
For R1	: Mr.M.R.Gokul Krishnan, AGP
For R2&R5	: Mr.M.Bindran, AGP
For RR3,4&6	: No appearance

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

(1)The petitioner who is a third party to the proceedings before the State Human Rights Commission [in short 'SHRC'], has filed the present petition challenging the order passed by SHRC dated 29.04.2016 in SHRC No.6673/2011.

(2)The petitioner is a doctor who was called upon to give evidence before the Commission in relation to a complaint lodged by the 6th respondent in this writ petition alleging human rights violation which was entertained in SHRC.No.6673/2011.



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(3)The 6th respondent herein filed a complaint. Brief facts of the complaint are as follows:

(4)The complainant is a resident of Kovilpatti. While he was working in a Private Mill in Kovilpatti, there was an incident on 14.08.2011. The contention of the complainant is that his neighbour along with his wife and son came along with some rowdies and scolded the complainant and his wife. It was his further statement that the petitioner and his wife were assaulted by the other group and as a result, the complainant and his wife sustained injuries. It is the case of the complainant that admittedly the police, pursuant to the complaint lodged by the complainant, arrested one of the accused. It is the further case of the complainant that after filing of the FIR, the Sub Inspector of Police who was impleaded as the 2nd respondent before SHRC, demanded a sum of Rs.5,000/- from the complainant's father. Since the father of the complainant refused to give the amount, the 2nd respondent took the complainant from a tea stall to the police station wherein the complainant was brutally assaulted by the 2nd respondent. It is further stated by the complainant that his father questioned the brutal attack and however, the respondents before SHRC,



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namely the Inspector of Police and the Sub Inspector of Police have jointly assaulted the complainant with their lathis and also made him nude. The complainant specifically stated that he had suffered blood injuries and the 1st respondent, namely, the Inspector of Police along with others, had cleaned the blood stained floor by pouring water. Even in the complaint, it was pointed out that he was released along with his father at 12.30 p.m., and thereafter they went to the Kovilpatti Government Hospital and informed the incident to the Medical Officer who recorded the same in the Accident Register.

(5) After issuing summons to the respondents therein, the SHRC conducted an enquiry. The petitioner before this Court was also enquired as a witness. Stating that the petitioner's version during examination was quite contrary to the entries in the Accident Register about the wounds, the Commission concluded that the petitioner has given statement before the Commission in collusion with the respondents in the complaint. Stating that the police officials against whom the complaint was lodged, had admitted before SHRC about the blood injuries, the SHRC came to the conclusion that the petitioner should also be made liable for violation of



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human rights. The recommendation of SHRC to the Secretary to Government is that disciplinary action should be taken against the petitioner herein who was working as a Doctor at Kovilpatti Government Hospital at the time of the incident.

(6) From the entire evidence, this Court is of the view that there is no allegation against the petitioner herein for committing any human right violations. In the absence of any pleading in the complaint, merely based on the inference drawn by the Commission in the course of proceedings, the Commission cannot hold one of the witness guilty of human right violation and making recommendation. The Commission has no jurisdiction to punish the witness based on his statement. If this practice is encouraged, it will result in unnecessary embarrassment to the persons who are called upon to give evidence in any complaint. First of all, the petitioner was not given an opportunity to explain his statement. In this case, the petitioner was found guilty for deposing false evidence as his statement is contrary to the entries in the Accident Register by another doctor. The Commission has given finding without an issue being raised before it. This Court finds no material against the petitioner herein to hold



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him guilty of violation of human rights and the decision making process to arrive at conclusions is irregular in the sense that the findings are not only against principles of natural justice but also contrary to the settled principles of law.

(7)Therefore, this Court finds that the impugned order insofar as the recommendation against the petitioner is unsustainable.

(8)Hence, the writ petition stands **allowed** and the order of the SHRC in SHRC.No.6673/2011 dated 29.04.2016 **insofar as the findings and recommendations for initiation of disciplinary action as against the petitioner herein** and the consequential proceedings of the 5th respondent in Na.Ka.No.5830.N1/2016 dated 02.03.2017 **are hereby quashed.** Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [N.S., J.]
19.06.2024

AP
Internet : Yes



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To

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3. The Registrar
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S.S. SUNDAR, J.,
and
N.SENTHILKUMAR, J.,

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