



WP(MD) No.6345 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **15.03.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

W.P.(MD) No.6345 of 2024

S.Kajamydeen

... Petitioner

/vs./

1.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City.

2.The Assistant Commissioner of Police,
O/o. the Assistant Commissioner of Police,
Thirupparangundram ACP Office,
Madurai District.

3.The Inspector of Police,
Thirunagar Police Station,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first Respondent to appoint any other officer not below the rank of Deputy Superintendent of Police/Assistant Commissioner of Police to conduct enquiry of the case in CSR No.413 of 2023 dated 10.11.2023 on the file of the third Respondent Police within the time stipulated by this Court.

For Petitioner : Mr.I.Pinaygash
For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Criminal Side)

ORDER



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The learned Counsel for the Petitioner submitted that the Petitioner had paid Rs.4,00,000/- (Rupees Four Lakh only) to one Gogula Krishnan, who is the acquaintance of the Petitioner for arranging Government job for his son. The Petitioner, who was working in the IT department, seeks Government job for his son in the Madurai Kamaraj University. Believing the words of the said Gogula Krishnan, the Petitioner has transferred the amount of Rs.50,000/- on 04.07.2020 and the amount of Rs.25,000/- was transferred on 05.07.2020 by way of G-pay. Also on 05.07.2020, the transferred a sum of Rs.1,25,000/- to the said Gogula Krishnan's account from this brother's account and also handed over the amount of Rs.2,00,000/- in person. Thus, he totally paid Rs.4,00,000/- to the said Gogula Krishnan. After receiving the money, the said person had not taken any steps to secure the job in the Madurai Kamaraj University. When the Petitioner sought his money back, the said Gogula Krishnan refused to repay the same. Therefore, the Petitioner was forced to prefer a complaint to the third Respondent. After receiving the complaint, the third Respondent issued CSR receipt in CSR No.413 of 2023 on 01.11.2023. Thereafter, the Respective Police did not take any action. Hence, the Petitioner approached this Court by way of filing this petition for issuance of Writ of Mandamus, seeking direction against the first Respondent to appoint any other officer not below the rank of Deputy Superintendent of Police/Assistant Commissioner of Police to conduct enquiry of the case in CSR No.413 of 2023 dated 10.11.2023 on the file of the



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third Respondent Police.

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2. The learned Government Advocate (Criminal Side) on instructions from the Respondents would submit that on enquiry, the said Gogula Krishnan appeared and stated that he had already paid Rs.50,000/- out of Rs.2,00,000/- to the Petitioner and agreed to repay Rs.1,50,000/- to the Petitioner.

3. After hearing the submissions on both sides, this Court is of the view that the submission of the learned Counsel for the Petitioner indicates that there was an illegal contract to secure a Government job, which is against public policy. Giving money for influencing the officers of the State is also a crime. The Petitioner is alleged to have instigated the said Gogula Krishnan for securing a job for the Petitioner's son in Madurai Kamaraj University.

4. Day-in and Day-out, we come across several allegations against politicians and officers of the State. Instead of curtailing the said practice, a common man continues to instigate the ordinary person as agent for politicians or officers in the State to secure the job. Day in and day out, cases increases regarding payment of money (illegal contract), cannot be enforced through Court of law. Instead of registering a case, if the money is paid back by the alleged Gogula Krishnan, the Petitioner will be contented with the same and the



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returned money will be used by the Petitioner once again to influence another person for Government job. Therefore, the attempt of the Petitioner is to secure the job in Government sector. In case, the son of the Petitioner is granted a job in Government service, from day one of his service, he will be misusing his position to get back the amount that he had paid to secure the job, in which case, the State will not be able to control corruption. As a policy, the Government removes the corruption. The Department of Vigilance is appointed only to remove the corrupt officials and it has been doing its job regularly. Also it is to be noted that day in and day out, the papers in India mentions about the persons who were arrayed as accused in corruption cases, particularly those who were in power and those who are in power. Under those circumstances, it is to be considered as the State has a policy not to encourage corruption and against the public policy, the Court of law cannot enforce an illegal contract.

5. As students of law, we are taught in the Law College that a Court of law, which states that an illegal contract or an immoral contract cannot be enforced through Civil Court. The Specific Relief Act also states that the Court shall not entertain a suit against public morality and policy of the State. The same yardstick applies to the Court exercising discretion/jurisdiction under Article 226 of the Constitution of India. The gist of the complaint of the Petitioner itself that the Petitioner needs his money back, which he had paid for



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payment as illegal gratification. In those circumstances, the Respondent Police are directed to recover the money and forfeit it to the account of the State.

Therefore, if similar cases arise in future, the amount that is secured from the accused who are alleged to have promised to provide Government jobs on payment of money, shall be forfeited/lapsed to the State. This will serve the purpose of recruiting talented, educated youth who are competitive in Government sectors, instead of spoiling the system.

6. In view of the above, this Writ Petition stands dismissed. No costs.

15.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Nsr

TO:

1. The Commissioner of Police,
Office of the Commissioner of Police,

<https://www.mhc.tn.gov.in/judis>



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Madurai City.

2.The Assistant Commissioner of Police,
O/o. the Assistant Commissioner of Police,
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Madurai District.

3.The Inspector of Police,
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SATHI KUMAR SUKUMARA KURUP, J.

Nsr

Order made in
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