



W.P.(MD).No.19603 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.19603 of 2021

Panneer Selvam

... Petitioner

Vs.

1.The Director General of Police of Tamil Nadu,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600 004.

2.The Additional Director General of Police,
Law and Order,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600 004.

3.The Superintendent of Police,
Pudukottai District,
Pudukottai.

4.The Inspector of Police,
Thirugokaranam Police Station,
Pudukottai District.

5.Rasu @ Subburai

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing respondents 1 to 3 to take departmental action against the 4th respondent by considering the



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petitioner's representations, dated 22.01.2021 and 27.09.2021 respectively made to respondents 1 and 3.

For Petitioner : Mr.I.Velpradeep

For R1 – R4 : Mr.D.Gandhiraj
Special Government Pleader

ORDER

The present writ petition has been filed for a Mandamus seeking a direction to the respondents 1 to 3 to take departmental action against the 4th respondent by considering the petitioner's representations, dated 22.01.2021 and 27.09.2021 respectively made to respondents 1 and 3.

2. The petitioner is the owner of two pieces of land, which he purchased on 06.03.2002 and 29.12.2008 by registered sale deeds of Joint Registrar-II, Pudukkottai. The 5th respondent was a tenant under the petitioner's predecessor-in-title one Kandasamy. The litigation which was pending between the predecessor-in-title and the 5th respondent attained finality by the judgment and decree in S.A.No.1594 of 2003, dated 08.03.2018 and thereafter, the possession of the property was delivered to the petitioner by the Principal District Munsif Court, Pudukottai by the order passed in E.P.No.139 of 2003 in O.S.No.502 of



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1995, dated 29.10.2018. Following which, the petitioner is continuously in possession and enjoyment over the same. However, the 5th respondent often disturbed the petitioner's peaceful enjoyment. Hence, the petitioner gave a complaint to the 4th respondent. Instead of registering an F.I.R as against the 5th respondent, the 4th respondent registered an F.I.R in Crime No.523 of 2020 as against the petitioner on the basis of the complaint given by the 5th respondent. Hence, the petitioner has made a representation on 22.01.2022 and 27.09.2021 to the respondents 1 and 3 to take departmental action against the 4th respondent. Since the same was not considered, this writ petition came to be filed.

3. The learned counsel for the petitioner categorically submitted that the attitude of the 4th respondent for having registered F.I.R as against the petitioner instead of registering F.I.R as against the 5th respondent on the complaint of the petitioner is atrocious and he had done it at the instance of the the 5th respondent for illegal means and hence, he pressed for allowing the writ petition.



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4. The 3rd respondent has filed a counter affidavit on the basis of which the Special Government Pleader submitted that, the allegations made by the petitioner as against the 4th respondent is baseless and appropriate criminal action has been initiated as against the petitioner only for the petitioner indulging and demolishing the house which was constructed by the 5th respondent. In view of the criminal activities of the petitioner, the F.I.R came to be registered as against the petitioner. The said controversy had culminated from various civil disputes pending before various Courts between the petitioner and the 5th respondent. Hence, he prayed for dismissal of the writ petition.

5. Heard the learned counsels on either side and perused the material records.

6. The matter in hand is no more res integra and this Court has already dealt with a similar case, in which a third party had sought for departmental action in W.P(MD)No.28162 of 2023, dated 04.03.2024 and the relevant portion of the same is extracted as follows:

7. The Hon'ble Supreme Court of India, in the case of Ranjith Prasad .Vs. Union of India (UOI) and Ors., reported in AIR 2000



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Supreme Court 3469 has dealt with a similar case and the relevant portion of which is extracted as follows:

“9. But a mere busy-body who has no interest cannot invoke the jurisdiction of the Court. In respect of departmental proceedings which are initiated or sought to be initiated by the Government against its employees, a person who is not even remotely connected with those proceedings cannot challenge any aspect of the departmental proceedings or action by filing a Writ Petition in the High Court or in this Court. Disciplinary action against an employee is taken by the Government for various reasons principally for “misconduct” on the part of the employee. This action is taken after a “domestic” enquiry in which the employee is provided an opportunity of hearing as required by the constitutional mandate. It is essentially a matter between the employer and the employee, and a stranger, much less a practising advocate, cannot be said to have any interest in those proceedings. Public interest of general importance is not involved in disciplinary proceedings. In fact, if such petitions are entertained at the instance of persons who are not connected with those proceedings, it would amount to an abuse of the process of Court.”

7. In yet another case of ***Indira Vs. The State of Tamil Nadu & Others*** reported in ***MANU/TN/6206/2022*** seeking direction to the official respondents to initiate departmental proceedings, this Court has dismissed the aforesaid writ petition. The relevant portion of the same is extracted as follows:

“3. In identical circumstances, this Court had dealt with the issue as to the rights of the third parties to seek for departmental action



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against a Government employee, wherein, it has been held that the decision to initiate such departmental proceedings lies within the scope and authority of the concerned disciplinary authority and it is not for the third parties to seek to invoke Article 226 of the Constitution of India for the purpose of directing the authorities to initiate such action. Relying upon a few of such decisions, a learned Single Judge of this Court, in the case of *Sudalaikannu Vs. The Principal Secretary to Government, Municipal Administration and Water Supply Department, Secretariat, Chennai and others*, passed in W.P.(MD). No. 8871 of 2018, dated 26.04.2018, has upheld this ratio in the following manner:

" 8. The learned senior counsel, in response would submit that, the law is well settled in this regard as a third party cannot stand in the way in between the employee and the employer in matters of service disputes, especially in the context of disciplinary proceedings.

9. In this regard, the learned senior counsel would rely upon the judgement of the Hon'ble Apex Court made in the case *Rajnit Prasad vs., Union of India and others* reported in MANU/SC/0905/2000 : (2000) 9 SCC 313. The learned senior counsel has relied upon paragraphs 8, 9 and 10 and the same which reads as under:

"8. It is, no doubt, true that the scope of "locus standi" has been widened by this Court through its various decisions and, that too, in the field of Public Interest Litigation where it has been said that Public Interest Litigation can be initiated not only by filing petitions in the High Court or in this Court in a regular manner but also by means of letters and telegrams addressed to the Court.



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(See : *People's Union for Democratic Rights v. Union of India*, *Bandhua Mukti Morcha v. Union of India*, *State of Himachal Pradesh v. A Parent of a Student of Medical College, Shimla* and *Bangalore Medical Trust v. B.S. Muddappa*.)

9 . But a mere busy-body who has no interest cannot invoke the jurisdiction of the Court. In respect of departmental proceedings which are initiated or sought to be initiated by the Government against its employees, a person who is not even remotely connected with those proceedings cannot challenge any aspect of the departmental proceedings or action by filing a Writ Petition in the High Court or in this Court. Disciplinary action against an employee is taken by the Government for various reasons principally for "misconduct" on the part of the employee. This action is taken after a "domestic" enquiry in which the employee is provided an opportunity of hearing as required by the constitutional mandate. It is essentially a matter between the employer and the employee, and a stranger, much less a practising advocate, cannot be said to have any interest in those proceedings. Public interest of general importance is not involved in disciplinary proceedings. In fact, if such petitions are entertained at the instance of persons who are not connected with those proceedings, it would amount to an abuse of the process of Court.

10. In view of the above, it is not open to the petitioner to challenge the Order of the High Court by which the departmental charge-sheet issued to Dr. U.N. Biswas was quashed. The permission to file the special leave petition is, therefore, refused."....."

8. Obviously even in the instant case, the petitioner is a third party as far as the 4th respondent is concerned and the petitioner as a third party cannot make a representation to the higher authorities of the 4th respondent to initiate



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departmental proceedings as against the 4th respondent. It is all between the employer and employee to initiate departmental action for the discrepancies in their official duties, if any. It is for the respondents 1 and 2 to take a final call as to initiate any disciplinary action as against the 4th respondent, but not at the instance of the petitioner who is a third party.

9. Accordingly, this writ petition is dismissed. However, the petitioner is at liberty to initiate criminal action against the respondents 4 and 5 in a manner known to law. No costs.

19.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

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Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600 004.

2.The Additional Director General of Police,
Law and Order,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600 004.



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- 3.The Superintendent of Police,
Pudukottai District,
Pudukottai.
- 4.The Inspector of Police,
Thirugokaranam Police Station,
Pudukottai District.



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L.VICTORIA GOWRI, J.

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