



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-02-2025

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**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

W.P. No.10886 of 2024

1. G. Palaniselvam

2. A. Vijayapandian

... Petitioners

-VS-

1. The Registrar,
State Human Rights Commission,
No.143, P.S. Kumaraswamy Raja Salai,
Greenways Road,
Chennai - 600 028

2. The Additional Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Secretariat, Saint George Fort,
Chennai - 600 009.

3. V. Parthasarathy

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India
praying for the issuance of a Writ of Certiorari, or any other appropriate



writ, or order of direction for calling the records in SHRC Case No.9849/2015/C3 and quash the order passed by the first respondent in SHRC Case No.9849/2015/C3 dated 09.03.2022.

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For Petitioner : Mr. R. Naresh Kumar
For Respondent 1 : Mr. S. Wilson
For Respondent 2 : Mr. T. Chandrasekaran,
Special Government Pleader
For Respondent 3 : Mr. Ravindran Venkatachalapathy,
(For Mr. N. Krishnamoorthy)

ORDER

[Order made by K. RAJASEKAR, J.]

This writ petition has been filed challenging the order passed by the State Human Rights Commissioner in SHRC Case No.9849/2015/C3 dated 09.03.2022, wherein the SHRC has held that the writ petitioners herein have violated the human rights of one Parthasarathy (Respondent No.3 herein) and ordered compensation and to take departmental action against the writ petitioners herein.



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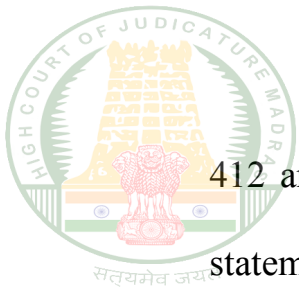
2. The case of the petitioners is that the respondent No.3 had preferred a complaint with the State Human Rights Commission, Tamil Nadu dated 11.09.2015, stating that on 12.07.2015 at about 11:30 p.m., the third respondent i.e., Parthasarathy and his son were beaten up by his neighbors and in this regard, he lodged a written complaint against them to the second petitioner herein, who was then Sub-Inspector of Police of R-8 Police Station on 13.07.2015. On the same day, the second petitioner came to the said Parthasarathy's house, beaten him and taken him to the police station, where he was illegally detained and kept in a dark room for about 5 hours, where he was not even given water to drink. The Parthasarathy's son came to the police station to see his father and the first petitioner, who was the then Inspector of Police had joined with the second petitioner and detained him illegally, thereby both Parthasarathy and his son were subjected to physical and mental torture. At about 06:30 p.m., on the intervention of an Advocate of Mr. Parthasarathy, the petitioners had released the detainees. In this regard, the third respondent had lodged a complaint before the Commissioner of Police, Vepery, by way of a letters dated 01.08.2015 and 6.08.2015. The third respondent and his family members were continuously threatened by the petitioners. Hence, the



respondent No.3 has come forward with lodging the complaint against the petitioners before the State Human Rights Commission, Tamil Nadu.

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3. Based on the above complaint, State Human Rights Commission has taken cognizance of the matter and issued notice to the petitioners herein. They filed a counter before the Human Rights Commission wherein they have denied the allegations and averments placed before the Human Rights Commission. The petitioners further stated that the third respondent is a Government Servant, working as Revenue Inspector in Taluk Office, Ayanavaram and by influencing his official position in the Revenue Department, he created various problems to the public in his locality i.e., Lakshmiapuram Street, hence several complaints have been received against him in R-8 police station. On 13.07.2015, a complaint was preferred by the third respondent against one Kulanthaivelu and Karthik, who are residing opposite to the third respondent's house stating that there was a quarrel and physical altercation between him and the said Kulanthaivelu and Karthik on 12.07.2015, similarly the said Kulanthaivelu also preferred a counter complaint against the third respondent. Both these complaint were taken up for enquiry in C.S.R. Nos.



412 and 413 of 2015. The third respondent herein has voluntarily given statement in writing that he will not indulge in any quarrel in future, and no further action was necessary on his petition. The opposite party Kulanthaivelu also put it in writing that no further action was necessary on his petition, therefore both the petitions were disposed off. They further stated that there is no unlawful detention or custodial violence as narrated by the third respondent.

4. Based on the pleading and evidence recorded before the Commissioner, the Commission has found that there is ample evidence against the petitioners herein regarding the allegation of harassment of the third respondent herein and ordered compensation by an order dated 09.03.2022 and concluded as follows:

"(a) The Additional Chief Secretary to Government, Home, Prohibition and Excise Department, Secretariat, Chennai shall pay a compensation of Rs.35,000/- (Rupees Thirty Five Thousand only) to the complainant Mr. V. Parthasarathy, No.28, Lakshmipuram, Vadapalani, Chennai-26, within 8 weeks from the date of receipt of this order.



(b) *After making such payment, the Additional Chief Secretary to Government, Home Department, Secretariat, Chennai may recover a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) from the first respondent Mr. Vijayapandian and a sum of Rs.10,000/- (Rupees Ten Thousand only) from the second respondent Mr. Palaniselvam.*

(c) *The Additional Chief Secretary to Government, Home Department, Secretariat, Chennai may take departmental action against the respondents and also a sensitized training programme may be conducted for the Policemen to maintain cordial relationship between public and Police Department."*

5. Aggrieved over the awarding of compensation, the petitioners, who was first and second respondents before the State Human Rights Commission, Tamil Nadu have filed this petition seeking writ of certiorari for setting aside the order of State Human Rights Commission dated 09.03.2022.

Submissions on behalf of the petitioners:

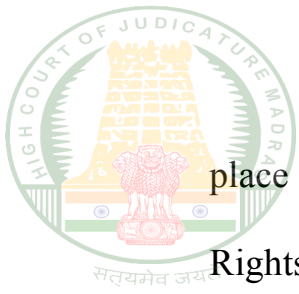
6. The learned counsel appearing for the petitioners submitted that purely on suspicion, the Human Rights Commission without any evidence accepted the case of the third respondent. He further submitted



that there is no violation of any human rights and it is the duty of the police to call the persons to the police station for conducting enquiry. In this case, based on the complaint, and after due enquiry, the parties were advised to maintain law and order, by obtaining proper undertaking letter from both sides, they were allowed to go from the police station. The third respondent by using his official position lodged a false complaint against the petitioners alleging that they had harassed him. He further contended that both the petitioners were examined as witnesses before the Human Rights Commission and there is no corroborative evidence to substantiate the case of the third respondent and the finding of the Commission is not sustainable as it is based on no evidence. Therefore, the order passed by the State Human Rights Commission is liable to be set aside and prays to allow the writ petition.

Submissions on behalf of the third respondent:

7. The learned counsel for the third respondent submitted that both sides have adduced evidence and after appreciating the evidence placed on record, more particularly the evidence relating to the events taken

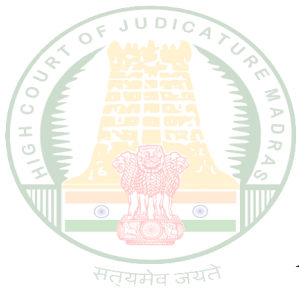


place inside the police station have been established before the Human Rights Commission by the third respondent. There is no infirmity in the order and prays to dismiss this writ petition.

Discussions and Conclusion:

8. We have considered the submissions made on both sides and also perused the records.

9. The Full Bench of this Court in *Abdul Sathar Vs. Principal Secretary to Government and others [2021 (3) CTC 129]*, while answering the reference that, whether the decision made by State Human Rights Commission under Section 18 of the Protection of Human Rights Act, 1993, is only a recommendation and not an order or adjudication capable of immediate enforcement or otherwise, and the entitlement of officers to challenge the order passed under Section 18 of the above act, under Article 226 of the Constitution and if so, as to which extent observed in Paragraph No.490 as follows:



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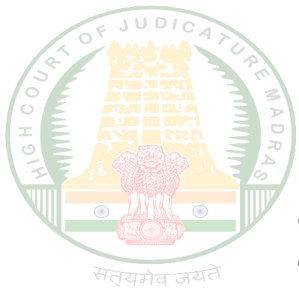
"(i) Whether the decision made by the State Human Rights Commission under Section 18 of the Protection of Human Rights Act, 1993, is only a recommendation and not an adjudicated order capable of immediate enforcement, or otherwise?

Ans: The recommendation of the Commission made under Section 18 of the Act, is binding on the Government or Authority. The Government is under a legal obligation to forward its comments on the Report including the action taken or proposed to be taken to the Commission in terms of Sub Clause (e) of Section 18. Therefore, the recommendation of the H.R.Commission under Section 18 is an adjudicatory order which is legally and immediately enforceable. If the concerned Government or authority fails to implement the recommendation of the Commission within the time stipulated under Section 18(e) of the Act, the Commission can approach the Constitutional Court under Section 18(b) of the Act for enforcement by seeking issuance of appropriate Writ/order/direction. We having held the recommendation to be binding, axiomatically, sanctus and sacrosanct public duty is imposed on the concerned Government or authority to implement there commendation. It is also clarified that if the Commission is the petitioner before the Constitutional Court under Section 18(b) of the Act, it shall not be open to the concerned Government or authority to oppose the petition for implementation of its recommendation, unless the concerned Government or authority files a petition seeking judicial review of the Commission's recommendation, provided that the concerned Government or authority has expressed their intention to seek judicial review to the Commission's recommendation in terms of Section 18(e) of the Act.

...

(v) Whether Officers of the State who have been found to be responsible by the State Human Rights Commission for causing violation of human rights under Section 18 of the Protection of Human Rights Act, 1993, are entitled to impeach such orders passed by the Commission in proceedings under Article 226 of the Constitution and if so, at what stage and to which extent?

Ans: As we have held that the recommendation of the Commission under Section 18 of the Act is binding and enforceable, the



WEB COPY

WP No.10886 of 2



Officers/employees of the State who have been found responsible for causing violation of human rights by the Commission, are entitled to assail such orders passed by the Commission by taking recourse to remedies of judicial review provided under the Constitution of India. It is open to the aggrieved officers/employees to approach the competent Court to challenge the findings as well as recommendations of the Commission."

10. The Commission after taking cognizance of complaint, allowed the respondents in the complaint to file their counter and thereafter on the side of complainant/ third respondent herein himself was examined as P.W.1 and 16 documents i.e., Exs.P.1 to P.16 were marked. On the side of respondents/ the writ petitioners Vijaypandian, Sub-Inspector of Police and Palaniselvam were examined as R.W.1 and R.W.2, respectively and 9 documents i.e., Exs.R1 to R.9 were marked.

11. In the impugned order, the Commission has recorded a specific finding that the police have registered two C.S.R. Nos.412 and 413 of 2015 based on the complaint given by the third respondent and another one Kulanthaivel. The third respondent had lodged the complaint immediately, after undergoing treatment and he has also produced the medical records such as the Admission Register and Medical case sheet along with his complaint, which shows that the third respondent had suffered serious



injuries, whereas the petitioners belatedly registered the CSR, and the reason for the delay in registering the CSR has not been explained nor it is justified. That being the case, the Commission has held that the third respondent was not properly dealt by the petitioners herein. Though, the petitioners claim that the matter was compromised between the parties and agreed to a peaceful settlement, this claim has been disproved based on the fact that, the third respondent has immediately taken the complaint to the superior Police Officers and to the Human Rights Commission, alleging his ill-treatment by the petitioners herein.

12. The Commission has also observed that though there are allegation against the third respondent that he is acting high handedly in his area, but the same is not a ground to ill-treat him in the police station by the petitioners. The Human Rights Commission further held that the police have shown bipartition attitude towards the third respondent and not acted in a sensitive manner, while dealing with the person like the third respondent. Based on this evidence and the discussion, the Commission accepted the case of the third respondent and held that the petitioners herein have violated the human rights of the third respondent.



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13. The discussion and the reasons given by the State Human Rights Commission shows that based on the evidence and also after affording opportunities to both sides, finding of fact has been recorded. The Power of Judicial Review of this Court invoking Article 226 of Constitution of India in the nature of writ of certiorari is a supervisory jurisdiction and this Court cannot act as an appellate Court as held by Supreme Court in *Syed Yakoob Vs. K.S.Radhakrishnan and Others [1964 SCR (5) 64]*. Since we find that ample evidence has been placed before the Commission and the same has been accepted by the Commission, we are not inclined to interfere in the said finding and consequent order of payment of compensation to the third respondent.

14. Accordingly, this writ petition fails and the same is dismissed. There shall be no order as to costs.

(S.M.SUBRAMANIAM,J.) (K.RAJASEKAR,J.)

12-02-2025

Index : Yes/No



Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

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State Human Rights Commission,
No.143, P.S. Kumaraswamy Raja Salai,
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2. The Additional Secretary to Government,
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WEB COPY

WP No.10886 of 2



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