



W.P.No.43097 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2025

CORAM :

THE HONOURABLE MR. MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.43097 of 2025

&

W.M.P.No.48248 of 2025

Kavitha

..

Petitioner

Vs.

1. The Assistant Registrar
State Human Rights Commission
Tamil Nadu, Greenways Road
Chennai 28.
2. The Principal Secretary to Government
Secretariat, Fort St. George
Chennai 600 009.
3. Director General of Police
Mylapore, Chennai 600 004.
4. Deputy Inspector General of Police
Vellore Range
Vellore.
5. The Superintendent of Police
Vellore District
Vellore 632 002.



W.P.No.43097 of 2025

6. E.Bharanidharan

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorari to call for the records in connection with the order dated 06.05.2025 in SHRC No.900/2017 passed by the State Human Rights Commission, Chennai and quash the same.

For Petitioner : Mr.A.R.Umashankar
For Respondents : Mr.K.Karthik Jagannath
Government Advocate
for Respondents 1 & 2

Mr.R.Muniyapparaj
Additional Public Prosecutor
for Respondents 3 to 5

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

Challenge to the findings of the Commission is founded mainly on the ground that the findings recorded by the Commission are based on evidence which ought to be disbelieved because of certain discrepancies and further that the Commission has not appreciated the evidence in its proper perspective and has recorded a perverse



W.P.No.43097 of 2025

finding.

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2. We have gone through the order passed by the Commission. The findings recorded by the Commission, insofar as the overt act of petitioner is concerned, are based on the statement of complainant himself who was allowed to be cross examined by petitioner. Petitioner was given full opportunity of hearing. Petitioner was not only allowed to file written statement to defend the allegations made against her, but also allowed to enter into the witness box and to lead evidence.

3. The order of Commission reveals that the nature of complaint, evidence led in support of complaint, the statement of petitioner herself and all the defence witnesses, were all taken into consideration and appreciated. The Commission pointedly noted that one Tamilazhagan, Police Constable of Pallikonda Police Station, who was examined as RW2 and who was not respondent in the case before the Commission, admitted in his cross examination that he saw the assault on the complainant made by petitioner and other



W.P.No.43097 of 2025

police official, in the Police Station.

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4. The findings recorded by the Commission that there was violation of human rights of the complainant and custodial torture was inflicted on him, cannot be said to be perverse inasmuch as there is evidence on record which has been believed by the Commission. Not only this, the admission made by petitioner's own witness in defence has also been taken into consideration, which constitutes an admissible evidence of the fact that there was custodial torture.

5. The Commission has taken into consideration the law laid down by the Hon'ble Supreme Court in this regard in the case of **D.K.Basu v. State of West Bengal**, wherein, the following observations were made:

“Any form of torture or cruel, inhuman or degrading treatment would fall within the inhibition of Article 21 of the Constitution, whether it occurs during investigation,

¹ AIR 1997 SC 610



W.P.No.43097 of 2025

interrogation or otherwise. If the functionaries of the Government became law breakers, it is bound to breed contempt for law and would encourage lawlessness and every man would have the tendency to become law unto himself thereby leading to anarchism. No civilized nation can permit such lawlessness to happen. Does a citizen shed off his fundamental right to life, the moment a policeman arrests him? Can the right to life of a citizen be put in abeyance on his arrest? These questions touch the spinal cord of human rights jurisprudence. The answer, indeed, has to be an emphatic “No”. The precious right guaranteed by Article 21 of the Constitution of India cannot be denied to convicts, under trials, detenus and other prisoners in custody, except according to the procedure established by law by placing such reasonable restrictions as are permitted by law.”

6. Similar observations made by this Court in the case of **N.M.T. Joy Immaculate v. State**² were also taken into consideration by the Commission, which reads as under:

² 2002 (1) MWN (Cr.) 237



W.P.No.43097 of 2025

“Custodial crimes, as the dailies and monthly magazines out of the wild truth of atrocities of police due to the excesses exerted upon poor and hapless closely exhibit the violation of human dignity and destruction of human personality. There is no greater affront to human dignity than torture and inhuman treatment, which need to be condemned in strongest terms.”

7. The issue of custodial torture is a serious one because those who are vested with police power, if misuse the authority to torture physically or mentally a person in custody, it is a serious violation of fundamental rights under Article 21 of the Constitution of India and is, in essence, utter violation of human rights. In the case of **Mehmood Nayyar Azam v. State of Chattisgarh**³, the Hon'ble Supreme Court expressed concern on the misuse or abuse of police power. It was held that the police officer should have greatest regard for personal liberty of citizens as they are the custodians of law and order and hence, they should not flout the law by resorting to bizarre acts of lawlessness. Pertinent observations in this regard were also made that custodians of law

³ 2012 (4) CTC 781



W.P.No.43097 of 2025

and order should not become depredators of civil liberties, for their duty is to protect and not to abduct.

8. The Commission issued notice to petitioner and afforded a reasonable opportunity of hearing. Petitioner was also allowed to file written statement of defence, to cross examine the complainant and his evidence and also given an opportunity to examine herself in her defence and lead evidence.

9. It is not a case where any vital evidence, which would otherwise have affected the ultimate conclusion, was completely omitted from consideration by the Commission. Nor it is a case where the conclusions have been arrived at by the Commission based on no legal admissible evidence. No case of any prejudice or bias is made out. In the absence of there being any error of jurisdiction, in the sense that either the order lacks jurisdiction or suffers from patent illegality or irregularity in exercise of jurisdiction or excess of jurisdiction, this Court would be extremely loath to interfere with the order, in exercise of its certiorari jurisdiction.



W.P.No.43097 of 2025

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10. The contours of certiorari jurisdiction are well defined and succinctly stated by the Supreme Court in several decisions. The Constitution Bench of the Supreme Court, in the case of **Syed Yakoob v. K.S.Radhakrishnan and others**⁴, made the following pertinent observations:

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Art. 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or Tribunals; these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or in excess of it, or as a result of failure to exercise jurisdictions. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard

⁴ AIR 1964 SC 477



W.P.No.43097 of 2025

to the party affected by the order; or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as a result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that



W.P.No.43097 of 2025

a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ court. It is within these limits that the jurisdiction conferred on the High Courts under Art. 226 to issue a writ of certiorari can be legitimately exercised (Vide Hari Vishnu Kamath v. Syed Ahmed Ishaque MANU/SC/0187/1954 : [1955] 1 SCR 1104, Nagendra Nath Bora v. The Commissioner of Hills Division and Appeals, Assam MANU/SC/0101/1958 : [1958] 1 SCR 1240, and Kaushalya Devi v. Bachittar Singh MANU/SC/0219/1959 : AIR 1960 SC 1168.”

11. In a recent judicial pronouncement in the case of **Central Council for Research in Ayurvedic Sciences and others v.**



W.P.No.43097 of 2025

Bikartan Das and others⁵, the aforesaid view was reiterated and the legal position has been made clear in this regard. Their Lordships in the Hon'ble Supreme Court, after elaborate discussion and after quoting English laws, held that writ of certiorari is a high prerogative writ and should not be issued on mere asking. In paragraphs 64 and 65, their Lordships held as under:

“64. Thus, from the various decisions referred to above, we have no hesitation in reaching to the conclusion that a writ of certiorari is a high prerogative writ and should not be issued on mere asking. For the issue of a writ of certiorari, the party concerned has to make out a definite case for the same and is not a matter of course. To put it pithily, certiorari shall issue to correct errors of jurisdiction, that is to say, absence, excess or failure to exercise and also when in the exercise of undoubted jurisdiction, there has been illegality. It shall also issue to correct an error in the decision or determination itself, if it is an error manifest on the face of the proceedings. By its exercise, only a patent error can be corrected but not also a wrong decision. It should be well

⁵ (2023) 16 SCC 462



remembered at the cost of repetition that certiorari is not appellate but only supervisory.

65. A writ of certiorari, being a high prerogative writ, is issued by a superior court in respect of the exercise of judicial or quasi-judicial functions by another authority when the contention is that the exercising authority had no jurisdiction or exceeded the jurisdiction. It cannot be denied that the tribunals or the authorities concerned in this batch of appeals had the jurisdiction to deal with the matter. However, the argument would be that the tribunals had acted arbitrarily and illegally and that they had failed to give proper findings on the facts and circumstances of the case. We may only say that while adjudicating a writ-application for a writ of certiorari, the court is not sitting as a court of appeal against the order of the tribunals to test the legality thereof with a view to reach a different conclusion. If there is any evidence, the court will not examine whether the right conclusion is drawn from it or not. It is a well-established principle of law that a writ of certiorari will not lie where the order or decision of a tribunal or authority is wrong in matter



W.P.No.43097 of 2025

*of facts or on merits. (See: King v. Nat Bell Liquors Ltd.,
(1922) 2 AC 128 (PC))”*

12. In the light of the above, we have to hold that petition is devoid of any merit and is, therefore, dismissed. There shall be no order as to costs. Consequently, the interim application is also dismissed.

(MANINDRA MOHAN SHRIVASTAVA, CJ) (G.ARUL MURUGAN,J)
17.11.2025

Index : Yes
Neutral Citation : Yes

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W.P.No.43097 of 2025

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W.P.No.43097 of 2025

THE HON'BLE CHIEF JUSTICE
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G.ARUL MURUGAN,J.

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W.P.No.43097 of 2025

17.11.2025