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W.P.No.33454 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 04.11.2025

PRONOUNCED ON: 21.11.2025

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

W.P.No.33454 of 2022

and WMP.Nos.32893 & 32894 of 2022

1.K.Madeswaran, M/A 55 years,
S/o.M.Kaliappan,
Inspector of Police,
K-3 Aminjikarai Police Station,
Chennai

2.M.Jainul Arabu, F/A 32 years,
W/o. M.Mohammed Farook,
Sub-Inspector of Police,
K-10 Koyambedu Police Station,
Chennai

... Petitioner

Vs.



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1.The Registrar,
State Human Rights Commission, Tamil Nadu
“Thiruvaramangam”,
No.143, P.S.Kumarasamy Raja Salai,
(Greenways Road), Chennai-600 028

2.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009

3.P.Prem Singh,
S/o.V.Palvelladurai,
Plot No.2 Lakshmi Ammal Street,
Ayyavoo Colony, Aminjikarai,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records pertaining to the impugned order in SHRC No.2235 of 2020 dated 22.08.2022 on the file of the 1st respondent and quash the same as illegal.

For Petitioners	: Mr.S.Shanmugavelayutham
	Senior Counsel for
	Ms.S.Thanika



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For Respondents

: Mr.N.Subramanian,
Standing counsel for R1

Mr.R.Kumaravel,
Additional Government Pleader
for R2

Mr.D.Murthy for R3

ORDER

M.S.RAMESH, J.

The order of the State Human Rights Commission (SHRC), hereinafter referred to as 'Commission' in Case No.2235 of 2020 dated 22.08.2022, recommending the Government to pay a compensation of Rs.50,000/- to the complainant and consequentially, recover the same from the petitioners herein, as well as the recommendation for initiating disciplinary proceedings against the petitioners, is put under challenge



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before us.

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2. The grievance of the third respondent / complainant before the Commission was with regard to a property dispute, alleging encroachment and trespass of his land by third parties over his land. The complainant appears to have also filed a Writ Petition before this Court in W.P.No.4116 of 2012 against the Metro Water Authorities and had obtained an order of interim stay. In this background, when the complainant's wife had given a complaint on 13.12.2019 to the Police / petitioners herein, no action was taken against her complaint. On the other hand, based on a complaint against the third respondent / complainant, the Police had arrested the complainant and remanded him to judicial custody on 22.01.2020. The inaction on the part of the petitioners, in failing to register the complaint and take action on the same, has been projected as violation of human rights of the complainant.



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3. The Commission, in Paragraph 13 of the impugned order, had recorded the main allegation of the complainant that, though his wife Sathiyapriya lodged a complaint to the petitioners on 13.12.2019 against one Moorthy, no action was taken by them. It was further recorded that another complaint to the Deputy Commissioner of Police on 14.12.2019, was also not acted upon. The complainant also had filed a petition under Section 156(3) of Criminal Procedure Code for registration of the complaint, in which, the concerned Court had directed for registration of a criminal case against the SHO / petitioners herein for the offence under Section 166 A of Indian Penal Code for non- compliance of Section 154 of Criminal Procedure Code.

4. In consideration of all these aspects, the Commission had come to the conclusion that the petitioners had failed to register a case against the persons named in the complaint and their inaction against the culprits. It is in



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this background that the Commission had come to the conclusion that the petitioners herein had failed to follow the procedures laid down in law, in registering the complainant and had thereby violated human rights of the complainant, as well as the guidelines of NHRC and SHRC and the judgment of the Hon'ble Supreme Court in *Arnesh Kumar vs. State of Bihar*, reported in [(2014) 8 SCC 273].

5.This Court has been consistently confronted with orders of the Commission, making recommendations for compensation to the complainant and recovery from the erring police officers, for not registering a complaint or for failing to take action against the persons accused in the complaint, as well as the recommendation for initiation of disciplinary proceedings against the Police Officers in such cases.



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6. The consequential issue that arises for our consideration is as to

whether such inaction on the part of the Police Officers, in failing to register a complaint or take action on the complaint, would amount to violation of the complainant's human rights ?

7. Section 2(d) of the Protection of Human Rights Act, 1993

(hereinafter referred to as 'the Act') defines “human rights” as follows:

““Human Rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India;”

8. Under Section 12 of the Act, the functions of the Commission are provided for as under:

“12.Functions of the Commission.--The Commission shall perform all or any of the following functions, namely:-

(a) inquire, suo motu or on a petition presented to it



by a victim or any person on his behalf [or on a direction or order of any court], into complaint of--

(i) violation of human rights or abetment thereof; or

(ii) negligence in the prevention of such violation, by a public servant;

(b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;

[(c) visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government;]

(d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for



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their effective implementation;

(e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures;

(f) study treaties and other international instructions on human rights and make recommendations for their effective implementation;

(g) undertake and promote research in the field of human rights;

(h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;

(i) encourage the efforts of non-governmental organisations and institutions working in the field of human rights;

(j) such other functions as it may consider necessary for the promotion of human rights.”



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9. In exercise of the powers under Section 10 (2) read with Section 29

of the Act, the State Human Rights Commission, Tamil Nadu (Procedure)

Regulations, 1997 was enacted. Regulation 9 therein, sets forth circumstances under which the commission may not entertain a complaint.

This Regulation 9 reads as follows:

“9.Complaints not ordinarily entertainable.--The Commission may dismiss in limini complaints of the following nature:-

- (a) Vague, anonymous or pseudonymous or illegible trivial or frivolous;*
- (b) Barred under Section 36(1) of the Act;*
- (c) Barred under Section 36(2) of the Act;*
- (d) Relates to civil dispute, such as property rights, contractual obligations;*
- (e) Relates to service matters or labour or industrial disputes;*
- (f) Allegations do no make out any specific violation*



of human rights;

(g) Matter is sub judice before a Court or Tribunal;

(h) Matter is covered by a judicial verdict or decision

of the Commission;

*(i) Where copy of the complaint addressed to some
other authority is received by the Commission;*

(j) Matter is outside the purview of the Commission.”

10. In the light of the above relevant provisions and for the purpose of this case, we shall now deal with the issue in hand, namely, as to whether the inaction on the part of the Police Officials for registering / enquiring a complaint would amount to violation of human right ?

11. The Constitution Bench of the Hon'ble Supreme Court of India in ***Lalita Kumari vs. Government of Uttar Pradesh and others***, reported in [(2014) 2 SCC 1], had an occasion to exhaustively deal with the procedures



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to be adopted by a Police Officer on receipt of a complaint and the inaction on their part to register a complaint, which reveals commission of a cognizable offence.

12. The facts of the case in *Lalita kumari (supra)* are almost akin to the case of the complainant before the Commission. In *Lalita Kumari*, a Writ Petition under Article 32 of the Constitution was filed by Lalita kumari, through her father, and her grievance was that though a written report was submitted by her before the Officer-in-charge of the Police Station concerned, no action was taken on the same. Thereafter, when the matter was escalated to the Superintendent of Police, an F.I.R was registered. Even thereafter, steps were not taken on the registered case.

13. The question that was dealt with by the Constitution Bench was



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with regard to the interpretation of Section 154 of Cr.P.C and incidentally to

consider Sections 156 & 157 of Cr.P.C also. The Constitution Bench had

elaborately discussed the issue in hand and sets forth various directions to

the manner in which a complaint before the Police should be dealt with. In

Paragraph 120.4, a finding was rendered as follows:

“120.4. The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.”

14.The term '*action*' referred to above apparently would refer to a departmental action against the erring police officer and cannot be interpreted to include a complaint before the Human Rights Commission, since the Commission is only empowered to make recommendations and not punish the erring officials.



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15. We are constrained to hold thus, in view of Section 18 of the Act, the scope of which elaborately dealt with by a Hon'ble Full Bench of this Court in the case of *Abdul Sathar vs. Principal Secretary to Government, Home Department and others*, reported in [(2021) SCC OnLine MAD 16611]. The relevant portion of the said judgment reads as follows:

“506.

(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 the recommendation. 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.”

16. In cases when a Police Officer fails to register a complaint that makes out a cognizable offence or does not take any action on the same, the same may amount to a dereliction of duty on the part of the concerned Police Officer and may even be construed to be a misconduct. By applying the ratio laid down in ***Lalita Kumari***, when a police officer fails to act on a complaint which discloses the commission of a cognizable offence, a departmental action may be warranted on the erring official.

17. When ***Lalita Kumari*** has set forth the mode of action against such erring official, the consequential issue that may crop up is as to whether the Commission would be empowered to simultaneously entertain a complaint of inaction by a Police Officer. The answer to the same is in the negative in



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view of Regulation 9 (h) of the State Human Rights Commission Tamil Nadu (Procedure) Regulations, 1997, which has already been extracted above. For the sake of brevity, the Regulation excludes complaints, touching upon matters covered by a Judicial verdict. In other words, when **Lalita Kumari** clearly holds the action to be taken against an erring police officer, a simultaneous complaint before the Commission, may not be entertainable in view of the Regulation cited above.

18. There is yet another aspect of the matter. Section 2d of the Act restricts human rights to mean the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by Courts in India.

19. As discussed above, the inaction on the part of the Police to register a complaint that discloses a cognizable offence, can, at the most,



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amount to dereliction of duty on the part of the Police Officer or a misconduct, and by no stretch of imagination, could it be an action which violates the right guaranteed by the Constitution. On this ground also, the Commission may not have the authority to proceed against such complaints against the Police Officers or other public servants.

20. In the light of the all foregoing discussion, we hereby answer the issue in hand by holding that the failure on the part of Police Official to take action on a complaint given by the aggrieved party, would not amount to “violation of human right” as defined under Section 2d of the Act and any complaint in this regard shall not be entertained by the Commission.

21. Coming to the facts of the present case, the grievance of the complainant before the Commission was only owing to the inaction on the



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part of the petitioners herein, in registering the complaint, for which the

Commission had made certain recommendations, which we had already referred to in the preceding portion of our orders. In the light of our findings and discussions, the order of the Commission which is impugned before us cannot be sustained.

22. In the result, the impugned order in SHRC No.2235 of 2020 dated 22.08.2022 is quashed. Accordingly, this Writ Petition stands allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

[M.S.R., J] [R.S.V., J]

21.11.2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

Anu

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To

1.The Registrar,
State Human Rights Commission, Tamil Nadu
“Thiruvarangam”,
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(Greenways Road), Chennai-600 028

2.The Principal Secretary to Government,
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M.S.RAMESH, J.
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R.SAKTHIVEL, J.

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Pre-delivery order in
W.P.No.33454 of 2022
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