



WEB COPY



WP No.36373 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2025

CORAM

THE HON'BLE MR.MANINDRA MOHAN SHRIVASTAVA,
CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE G.ARUL MURUGAN

WP No.36373 of 2025

Periyasamy

: Petitioner

versus

- 1.The Government of Tamil Nadu,
rep. By its Secretary to Government,
Public (Law and Order -A) Department,
Chennai 600005
 - 2.The National Human Rights Commission,
rep. By its Deputy Registrar (Law)
Manav Adhikar Bhavan, C Block GPO Complex,
New Delhi
 - 3.The Director General of Police/Head of the Police Force,
Government of Tamil Nadu,
Chennai 600 004
 - 4.The Commissioner of Police,
Salem City, Salem 636 006
 - 5.The District Collector,
Salem District, Salem 636 001
 - 6.The Superintendent of Police,
Salem District, Salem 636 002
- : Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for records of the 1st respondent in passing of its order dated 24.05.2023 in G.O.Ms.No.322 Public (Law and Order-A) Department and quash the same.

For Petitioner : Mr.S. Praveennath Selvam

For Respondents : Mr.Edwin Prabhakar,
State Government Pleader
and Mr.M.Habeeb Rahman
Government Advocate
For respondents 1 and 5

Mrs.M.P.Jaisha
Standing Counsel
For Respondent No.2

Mr.S.Vinoth Kumar
Government Advocate
For respondents 3, 4 & 6.

ORDER

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

Challenge to the order dated 24.05.2023 is premised on the basis that without there being any opportunity of hearing afforded to the petitioner by the National Human Rights Commission, or the State



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authorities, the petitioner has been held liable for the custodial death of an accused. It is submitted that though Magisterial inquiry was conducted, the Magisterial inquiry report is not conclusive. It is further submitted that the text and tenor of the impugned order shows that the respondents have prejudged the issue and only a formality of notice for recovery is to be performed.

2. Learned State counsel on the other hand would submit that the impugned order only directs the competent authorities to give show-cause notice to the petitioner against recovery of compensation and in that proceedings, it would be open for the petitioner to raise all the defence, and also assail the magisterial inquiry report and other adverse materials sought to be used against him, by way of defence.

3. Learned counsel for the National Human Rights Commission submitted that the Commission is only a recommendatory body and had issued show-cause notice to the State. After having received information regarding payment of compensation, proceedings were closed.



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4. We find that the petitioner has approached this Court assailing the order on the impression that the order itself amounts to recovery of compensation against him.

5. The background in which the order impugned has been issued, as reflected from the records of the case, shows that while an accused was under custody of the petitioner, along with some police officials, he received a bullet injury and died. It was alleged that because of the excessive use of force and gun shot injury fired by the petitioner, the accused in custody died. It appears that magisterial inquiry was conducted and the Magistrate has recorded a finding that the death was the result of excessive force used. Further, the National Human Rights Commission has also issued notice to the State authorities to pay compensation.

6. In this background, the impugned order has been issued.

7. The impugned order *per se*, is not an order directing recovery of compensation from the petitioner, as that can be done only upon



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recording of specific finding and affording an opportunity of hearing, and only then liability could be fastened on the petitioner for his alleged act of use of excessive force.

8. Paragraph 9 of the order clearly states that a show-cause notice is required to be issued to the petitioner before recovering compensation.

9. We make it clear that the fact that the State has paid compensation would not be decisive and would not be made a basis to reject the defence if any that may be raised by the petitioner in response to the show-cause notice that may be issued to him.

10. Upon issuance of show-cause notice, it would be open for the petitioner to take all the defences as may be available to him under the law, including the correctness of the magisterial report itself. The competent authority shall examine the defence of the petitioner and pass appropriate order in accordance with law.



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11. In the result, though we are not inclined to quash the order dated 24.05.2023, the petitioner is granted liberty in the manner as stated hereinabove, in the event of issuance of a show-cause notice to him.

12. The writ petition stands disposed of. There will be no order as to costs. Consequently, WMP Nos.40645 and 40646 of 2025 are closed.

(MANINDRA MOHAN SHRIVASTAVA, CJ.) (G.ARUL MURUGAN, J.)
10.12.2025

Index : Yes/No
Neutral Citation : Yes/No
tar



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