



W.P(MD)No.13886 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 02.08.2024

Pronounced on : 08.05.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13886 of 2024

P.Chinnaraja

... Petitioner

Vs.

The District Collector,
Collectorate,
Sivagangai District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Mu.Mu.T2/9948/2023 dated 29.05.2024 issued by the respondent and set aside the same as illegal and further direct the respondent to disburse the bill of the petitioner forth with.



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For Petitioner : Mr.K.Sivabalan,
For M/s.Aran Legal Consultancy.

For Respondent : Mr.P.Thambi Durai,
Government Advocate.

ORDER

Heard both sides.

2.The petitioner herein was appointed as Special Public Prosecutor vide proceedings dated 10.08.2019 issued by the District Collector / District Magistrate, Sivagangai to appear in Spl.S.C.No.65 of 2018 on the file of the Special Court for trial of cases under SC / ST (POA) Act, 1989, Sivagangai. The petitioner states that he took charge as Special Public Prosecutor for the above case on 19.08.2019 and that he appeared in person in the Special Court on as many as 145 hearings. He had examined as many as 31 witnesses and marked 97 exhibits and 20 material objects. He also examined 8 court witnesses and marked 19 court exhibits. He cross-examined five defence witnesses. The petitioner states that all the 27 accused were convicted and sentenced to life imprisonment.

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3.The grievance of the petitioner is that the bill submitted by him was rejected arbitrarily by the respondent vide communication dated 29.05.2024. Questioning the same, this writ petition came to be filed.

4.One reason that has been set out in the impugned communication is that the bill should be duly certified by the Special Judge. In this case, the learned trial Judge can certify only as regards as the appearance of the counsel before him in the case concerned. Such a certification has already been done by the learned trial Judge. There is nothing more to be done by the learned trial Judge. The learned trial Judge cannot go into the issue of quantum of fee payable to the petitioner. Therefore, the petitioner's bill could not have been rejected by calling upon him to re-submit the bill after getting due certification from the trial Judge.

5.The respondent had mentioned that G.O.(Ms)No.36 dated 12.01.2011 had stipulated a payment of maximum daily fee of Rs.1,000/- to law officers. The said government order obviously may not have any application to the case on hand. The petitioner was appointed as Special



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Public Prosecutor. It is quite possible that the terms of the engagement were not duly settled. But that cannot be a ground for offering him to pay only an awful low sum of Rs.1,000/- for daily appearance. The respondent can make a distinction between effecting hearing and non-effective hearing. If necessary, the respondent herein can treat the case on hand as a special case. The quantum of fee payable to the petitioner shall be reasonably and appropriately re-worked. The respondent can take note of the fees paid to similar cases. It is not as if only in the case on hand, a Special Public Prosecutor was appointed. In very many cases arising under SC / ST (POA) Act, 1989, Special Public Prosecutors are appointed. The respondent will get guidance from the similar cases and treat the petitioner on the same basis. This exercise will be carried out by the respondent and the fees payable to the petitioner shall be paid within a period of eight weeks from the date of receipt of a copy of this order. It is open to the petitioner to accept the payment offered by the respondent and re-agitate the issue before this Court, if the quantum settled by the respondent is not acceptable to him.



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6. With the aforesaid liberty to the petitioner and direction to the respondent, the impugned order is set aside. The writ petition is allowed on these terms. No costs.

08.05.2025

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

The District Collector,
Collectorate,
Sivagangai District.



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G.R.SWAMINATHAN, J.

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**Pre-Delivery Order in
W.P(MD)No.13886 of 2024**

08.05.2025