

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

PUBLIC INTEREST LITIGATION

(Under Article 32 of the Constitution of India)

WRIT PETITION (CrI) NO. _____ OF 2020

IN THE MATTER OF:

POSITION OF PARTIES

A.Rajarajan Advocate
National Vice-President
National union of backward classes Sc St &
Minorities,
No 17, Palayakara Street,
Bhuvanagiri post and taluk,
Cuddalore district,
Tamil Nadu.

Petitioner-in-
Person

Versus

1. Shri Edappadi K.Palaniswamy
Honourable Chief Minister of
Tamilnadu i/c Home Ministry
Secretariat, Fort St. George,
Chennai - 600009.

Respondent
No.1

2. Principal Secretary to Government,
Home Department, Secretariat
Fort St. George,
Chennai 600 009.

Respondent
No.2

3 Director General of Police,
State of Tamil Nadu
Dr. Radhakrishnan salai
Chennai 600 004.

Respondent
No.3

4. The Deputy Superintendent of
police, CBCID, Thirunelveli,
State of Tamilnadu.

Respondent
No. 4

5. Joint Director,

Respondent
No. 5

Central bureau of Investigation,
South Zone, III floor,
E.V.K. Sampath building,
College Road, Nungambakkam,
Chennai.

TO
THE HON'BLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE WRIT PETITION OF
THE PETITIONER ABOVENAMED

MOST RESPECTFULLY SHEWETH THAT :-

- 1) That the petitioner is an advocate by profession and he is a public spirited person and is striving to uphold the principles of due process of law by being true to the oath he have taken. The petitioner have filed this Writ Petition in Public Interest.

- 2) The petitioner submit that the petitioner have no personal interest in this case and this writ petition is not filed on behalf of any society or association. The petitioner on on an earlier occasion filed a petition in the nature of public interest litigation seeking justice to sexual assault victims of Pollachi sexual scam and in this public interest litigation no civil dispute is involved between two individuals. The petitioner

also submit that he have filed the above writ petition at my expenses. The petitioner filling this writ petition based on the information and personal knowledge. The petitioner have not given any representation to any authority in relation to subject matter of this writ petition.

- 3) The petitioner filed this writ petition to issue a Writ or direction or order in the nature of Writ of Mandamus directing the 1st Respondent to restrain from holding portfolio of Ministry of Home pending investigation and completion of trail in Crime No.649 and 659 of 2020 presently pending on the file the 4th respondent and further direct the 4th respondent to investigate the role of 1st respondent in screening and safeguarding the accused persons in crime no.649 & 659 of 2020 by misusing his official capacity.

FACTS LEADING TO FILE THIS PUBLIC INTEREST LITIGATION.

That the petitioner submits that on 22.06.2020 at around 9 pm a person namely Mr.Bennicks aged around 31 years died in Kovilpatti Government Hospital and on 23.06.2020 at around 5.40 am a person named Mr.Jeyaraj aged around 63

died in the same hospital and the abovesaid Mr.Bennicks is the son of abovesaid Mr.Jeyaraj

That the petitioner submits that two FIR with crime no.649 & 650 of 2020 u/s 176 (1-A) (i) Cr.P.C was registered at Kovilpatti east police station in relation to the abovesaid twin deaths of Mr. Bennicks & Mr Jeyaraj (hereinafter called as deceased persons) stated above and the purpose of registering such FIR u/s 176 (1-A) (i) Cr.P.C is only to find out the cause of death by the learned Judicial Magistrate which is a mandatory procedure to be complied with under Criminal Procedure Code.

That the petitioner submits that family members of the above said deceased persons alleged that the deceased persons were subjected to severe physical torture by the police personnel belonging to sathankulam police station before remanding them in a criminal case under section 188, 294(b), 353 & 506. (II) IPC with crime number 312 of 2020 and the family members further alleged that the cause of death of the abovesaid deceased persons was due to the severe injuries inflicted by the police personnel when they were in the pre remand custody.

That the petitioner further submits that the deceased family members preferred a complaint dated 23.06.2020 before the Deputy Superintendent of Police who has superintendence power over the sathankulam police station to take necessary action against police personals who indulged in severe physical torture which resulted in a twin death.

That the petitioner submits that the Hon'ble Madurai bench of Madras High Court Suo Moto took cognizance of the above said twin death case and issued certain directions to ensure free and fair investigation but unfortunately the honourable High Court lost sight of the complaint dated 23.06.2020 filed by the victim's family and thereby failed to set the criminal law in motion till 30.06.2020 without giving a direction to register a case under 154 CRPC and to act according to the procedure established by law and also in compliance with the law laid down this honourable court in Lalita Kumari vs government of UP 2014.

That the petitioner submits that on 24.06.2020 the first respondent who is the chief minister of Tamilnadu and who holds the portfolio of ministry of home affairs gave a public statement in the press meet that the deceased persons were

died due to illness and thereby ruled out foul play in the death of above said deceased persons.

That the petitioner submits that the statement dated 24.06.2020 given by the first respondent is highly improper, condemnable and contrary to law because the investigation procedure starting from 154 Cr.P.C and culminating in 173 Cr.P.C. where not even started till 30.06.2020 and the magisterial enquiry to determine the cause of death is at the preliminary stage.

That the petitioner submits that the statement given by the 1st respondent was with the purpose to safeguard the accused persons and thereby to prevent any adverse remark about his government since the accused persons were coming under the ministry held by the 1st respondent and to substantiate this allegations that the 1st respondent actively involved to screen and safeguard the offenders of custodial torture can be construed from the outcome of the 4th respondent investigation.

That the petitioner submits that the 4th respondent who took up the investigation on 1.07.2020 based on the directions dated 30.06.2020 given by the Honourable High Court came to a conclusion that some of the police persons belonging to

the sathankulam police station indulged in physical violence and torture against the deceased persons and the death of the deceased persons were due to the physical torture and injuries inflicted by the some of the police person belonging to the sathankulam police station therefore the 4th respondent altered the FIR registered under 176 CRPC into section 302 IPC and further arrested some of the police persons belonging to the sathankulam police station which includes the erstwhile Inspector and Sub inspector of police of the sathankulam police station.

That the petitioner submits that prima facie it appears that the 1st respondent acting in contrary to law and acting in derogation to the constitutional post he holds, indulged in saving the persons accused of custodial torture which resulted in a twin death.

That the petitioner submits that still the 1st respondent holds the administrative and executive control over the 4th respondent who is the investigation officer in the above said custodial torture and consequent death case.

That the petitioner submits that 1st respondent may also be charged under provisions of IPC offences since he was

actively involved in screening and safeguarding the accused persons involved in 302 IPC by using his official capacity.

That free and fair investigation is not at all possible under administrative leadership of the 1st respondent who is heading the home department and further the role of 1st respondent in screening and safeguarding the persons accused of 302 IPC by using his official capacity have to be investigated.

That free and fair investigation is an implicit fundamental rights guaranteed under article 21 of the constitution of India and the victims family will be in great distress and they have lost two male members of their family therefore it cannot be expected from them to approach this honorable court or the honorable High Court for the prayers sought for in the present writ petition, Further the 1st respondent announced government job to the family member of the deceased persons apart from monetary compensation which will physiologically restrain the victim's family to go against the 1st respondent.

That the petitioner submits that to the best of petitioner knowledge and till the date of filing this writ petition the victim family didn't approached any legal forums except

lodging a complaint dated 23.06.2020 before the deputy Superintendent of Police, therefore this petitioner in the interest of justice and in larger public interest approaches this honorable court and seeking the following remedies, Further the petitioner submits that the Honourable Madurai bench of Madras High Court closely monitors the ongoing investigation and with the purpose not to deviate the Honourable High Court from its monitoring functions from adverting into the larger issues involved in the petition this petitioner prefers this writ petition under article 32 of the constitution of India.

PRAYER

It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a) Issue a Writ or direction or order in the nature of Writ of Mandamus directing the 1st Respondent to restrain from holding portfolio of Ministry of Home pending investigation and completion of trail in Crime No.649 and 659 of 2020 presently pending on the file the 4th respondent and further direct the 4th respondent to investigate the role of 1st respondent in screening and safeguarding the accused persons in crime no.649 & 659 of 2020 by misusing his official capacity.

b) pass such other further order/orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case in the interest of Justice.

DRAWN AND FILED BY

Place: New Delhi
Drawn on: 02.07.2020
Filed on: 03.07.2020

(A.RAJARAJAN)
Petitioner in Person

ANNEXURE P/1