IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.44644 of 2016

1.S.Mukanchand bothra (Died)

2.M.Gagan Bothra
S/o.Late Shri.S.Mukanchand Bothra

(P – 2 Substituted as Legal Representative
of Deceased sole petitioner vide order dated
20.10.2022 made in W.M.P.No.27365/2022
in W.P.No.44644 of 2016) ...Petitioner

Vs.

1.The Chief Secretary,
Government of Tamil Nadu,
O/o.The Secretariat, Chennai.

2.V.Mohanraj

3.Secretary to Government,
Transport Department,
The Secretariat, Chennai - 09.

(R3 is impleaded as per order dated
25.01.2017 in W.M.P.No.1316/2017
in W.P.No.44644 of 2016) ..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus or any other appropriate writ or order or direction in the nature of a writ for the following reliefs:-

a) Why action should not be taken against the 1st respondent (the the Chief Secretary) for not conducting any departmental enquiry for such a long time from 2013 till today against the 2nd respondent inspite of the 2nd respondent cheating so many persons and inspite of a CCB case of cheating being registered against the 2nd respondent and inspite of my representation dated 22-09-2016 and

b) directing the 1st respondent to enquire and initiate departmental action under service rules against the 2nd respondent based on my representation dated 22-09-2016.

c) directing the 1st respondent to temporary suspend the 2nd respondent till the disposal of the representation dated 22-09-2016 through departmental action under service rules to prevent further cheating of people by the 2nd respondent.

d) any other order or directions as this Hon'ble Court may think deem fit and proper in the circumstance of the case and thus render justice.

For Petitioner : Mr.Gagan Bothra
(Party-in-Person)

For R1 & R3 : Mr.J.Ravindran
Additional Advocate General
Assisted by
Mr.P.Sathish
Additional Government Pleader

ORDER

The following reliefs are sought for in the present writ petition:

a) Why action should not be taken against the 1st respondent (the the Chief Secretary) for not conducting any departmental enquiry for such a long time from 2013 till today against the 2nd respondent inspite of the 2nd respondent cheating so many persons and inspite of a CCB case of cheating being registered against the 2nd respondent and inspite of my representation dated 22-09-2016.

b) directing the 1st respondent to enquire and initiate departmental action under service rules against the 2nd respondent based on my representation dated 22-09-2016.

c) directing the 1st respondent to temporary suspend the 2nd respondent till the disposal of the representation dated 22-09-2016 through departmental action under service rules to prevent further cheating of people by the 2nd respondent.

d) any other order or directions as this Hon'ble Court may think deem fit and proper in the circumstance of the case and thus render justice.

2. The original writ petitioner Mr.S.Mukanchand Bothra died during the pendency of the writ petition and his son Mr.Gagan Bothra impleaded himself as a petitioner.

3. The petitioner in person made a submission that the complaint given by his father was not acted upon nor a Criminal Case was registered against the accused persons in the manner known to law. Thus, his father was constrained to move the present writ petition.

4. There are several allegations against the 2nd respondent even before filing of the writ petition and the first respondent has failed to initiate appropriate action against the second respondent, despite the complaint given by the original writ petitioner.

5. However, the learned Additional Advocate General appearing on behalf of the first respondent filed a Status Report on 27.10.2022, stating that soon after the matter was brought to the notice of the competent

authorities, the Criminal Case was registered without any further loss of time. In this regard, the Status Report states as under:

> *"Based on the complaint petition of Thiru.S.Mukanchand Bothra, Chennai, dated 22.09.2016, the first respondent herein requested the Commissioner of Police, Greater Chennai Police, to take stringent action on the complaint petition of Thiru.M.Mukanchand Bothra, under Criminal Procedure Code immediately and investigate the case by registering FIR and the action taken may be intimated to the Government at the earliest for apprising the same before the Hon'ble Madras High Court vide Government Letter No.1339/2022-1, Public (Special-A) Department, dated 15.10.2022. In response, the Commissioner of Police, Greater Chennai Police has informed that after enquired Thiru.M.Gagan Bothra, S/o.S.Mukanchand Bothra, based on his complaint dated 22.10.2022, a case in Central Crime Branch Cr.No.226/2022 under Section 420 IPC has been registered on 26.10.2022 and taken up for investigation vide Commissioner of Police, Greater Chennai Police, Chennai, Letter No.244/ACOP/CCB/Camp/2022 dated 27.10.2022."*

6. There is a force in the contention of the petitioner that the action

was not taken in time. It is for the first respondent to look into the facts and circumstances and if any lapses committed by the authorities, who was holding the position at that point of time is responsible, then all appropriate actions are to be taken. The public authorities are expected to perform their duties diligently and in the interest of public at large. Whenever a complaint is filed and there is some information, which requires an action, then the authorities competent are bound to act without any loss of time. In the event of failure, it will result in no confidence on the public authorities and such an inaction and omission is unconstitutional. Thus, the delay caused at the instance of the authorities are also to be looked into and such unnecessary and enormous delay in initiating an action is to be avoided in future.

7. In this regard, the first respondent has to initiate all appropriate action to ensure that the actions in these kind of complaints against the public authorities are addressed within a reasonable period of time.

8. However, in the present case, the Criminal Case has already been registered and the petitioner is at liberty to pursue the case for the purpose of

establishing the complaint given by the original complainant.

9. With these observations, the writ petition stands disposed of. No costs.

28.10.2022

Index : Yes
Speaking order:Yes
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To

1.The Chief Secretary,
Government of Tamil Nadu,
O/o.The Secretariat, Chennai.

2.Secretary to Government,
Transport Department,
The Secretariat, Chennai - 09.

S.M.SUBRAMANIAM, J.

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