

Devan Ramachandran, J.

I.A.No.3 of 2021 in W.P.(C)No.16674 of 2021 H

Dated this the 2nd day of December, 2021

ORDER

As any other case, the afore writ petition will be surely heard and disposed of by this Court, evaluating the pleadings, materials and documents on record.

2. No one, much less the parties to a *lis*, can dictate to this Court how and in what manner it is to be decided. They can make their case through pleadings and submissions, but can never insist that this Court deliver judgment in the manner they require.

3. This application is unusual, never seen before in other cases, but surely filed with a design in seeking that this court dispose of the afore writ petition, in the manner as sought for therein, even before it has been finally heard or pleadings of the parties completed.

4. The overbearing and recriminatory tenor of the averments in the affidavit, sworn to by a very senior ranking officer, in support of this application, is conspicuous and it reads like an argument note, to insist that this Court deliver judgment in a certain way.

5. Disturbingly, clearly misdirecting asseverations have been made in the affidavit – Eg:

(a) **'No materials are on record to show any allegations against the high ranking police officers above the rank of Commissioner of Police'** (*sic*), when it is unequivocally admitted by the State Police Chief in his affidavit and in the submissions and documents made and placed on file by him, that an Inspector General has been placed under suspension for his alleged nexus with the fifth respondent; and that the then State Police chief and an Additional Director General had made 'unscheduled visit' to the residence of the said respondent in the year 2019, subsequent to which, on his application made to the said State Police Chief, he was given police protection;

(b) **'There are no material before the court to show the involvement of an association of expatriates was in the public domain or not'** (*sic*), when the materials on record placed by the sixth respondent himself unambiguously affirms that the former State Police Chief and the Additional Director General were introduced to the fifth

respondent by a lady residing in Italy, who is the coordinator of an expatriate Association.

6. To make it worse, the affidavit adopts an unmistakably condescending tone with reference to orders and observations of this Court – Eg:

(a) *'There may be many things on the public domain in connection with the affairs of the fifth respondent, both facts and fiction'* (sic), made with reference to the observations of this Court in the order dated 29.10.2021, even after the seventh respondent affirmed to its veracity as said above;

(b) *'In so far as violations of the provisions of the Act (though no one has raised an issue in this regard except the observation of this Court in the open court on the basis of certain issues aired in the public domain which are not part of records)'* (sic), made insinuatingly to ascribe motives to this Court, when a legitimate and to-be-expected question – as would be asked by anyone – was put to the learned Director General of Prosecutions as to why the then State Police Chief or the Additional Director General of Police (HQ)

did not, after visiting the fifth respondent on 'an unscheduled visit', suspect that the said respondent was holding alleged artifacts and antiquities, without sanction of the Antiquities and Art Treasures Act, 1972.

7. Pertinently, the affidavit then virtually accuses this Court averring '*It is submitted with all due respect, that in matters which are beyond the pleadings of the petitioner are taken up and discussed those are likely to adversely affect the ongoing investigation and the only beneficiary will be the accused in these crimes. Any open discussion or consideration of critical informations and leads in the ongoing investigation will provide undue advantage to the accused and thereby the criminal investigation now undertaken by the police itself would be put to peril*'. These averments are not merely incorrect, but unfortunate because, the various orders in this case would luculently show that this Court was only acting strictly edified on the averments, materials and documents placed on record by the official respondents themselves and no other; and that no 'critical information' - which were even

whisperingly stated by the learned Director General of Prosecutions to be confidential - was discussed or considered by this Court. In fact, today, at the Bar, I requested the learned Director General of Prosecutions to point out from any of the orders of this Court that the line was crossed, but he was unable to do so and was forced to admit that everything recorded by this Court is borne by the affidavit or the documents filed and produced by the official respondents themselves.

8. An application of this nature – which, in my firm view, is intended to browbeat this Court and force a particular result – should not have been advised or attempted and more so, never pressed with the vehemence today exhibited at the Bar by the learned Director General of Prosecutions, praying that this writ petition be closed today itself.

8. This application, with the prayer that this Court close this writ petition in the manner prayed for in it, is not maintainable and is consequently dismissed.

Though this Court would have been fully justified to impose exemplary costs against the petitioners, to compensate for the judicial

time forced to be spent by this Court on this application, I choose not to do so solely being aware of its repercussions on them.

tkv

Sd/-
Devan Ramachandran, Judge