



2024/KER/54668

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

MONDAY, THE 22ND DAY OF JULY 2024 / 31ST ASHADHA, 1946

WP(C) NO.15486 OF 2016

PETITIONER:

T.J.VARGHESE
S/O.LATE JOHN JOSEPH, AGED 56 YEARS,
RESIDING AT ROCK GARDEN, B.P.ANGADI, TIRUR.

BY ADVS.
SRI.GEORGE CHERIAN (SR.)
SMT.LATHA SUSAN CHERIAN
SMT.K.S.SANTHI

RESPONDENTS:

- 1 KERALA STATE HUMAN RIGHTS COMMISSIONER
PMG JUNCTION, VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM 695033,
REPRESENTED BY ITS REGISTRAR
- 2 STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN 695001
- 3 THE VICAR
ST. MARY'S CHURCH, THAZHEPALAM,
TIRUR, PIN 676101

BY ADVS.
E.G.GORDEN, GOVERNMENT PLEADER
SUSMITHA RAMACHANDRAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
27.06.2024, THE COURT ON 22.07.2024 DELIVERED THE FOLLOWING:



'C.R.'

JUDGMENT

Dated this the 22nd day of July, 2024

Petitioner is aggrieved by the Order dated 21.12.2015 in HRMP No.6402/14/MPM rendered by the Kerala State Human Rights Commission whereby the complaint preferred by him seeking directions against the 3rd respondent was closed. He seeks to set aside the said Order and prays for a direction to the Commission to consider his complaint afresh.

Brief facts:

2. Petitioner had requested the 3rd respondent Vicar of the St. Mary's Church, Thazhepalam, Tirur, to issue him a letter stating that he and his wife are parishners of the said church and are residing within its territorial limits. The said letter, petitioner states, was needed to enable him and his wife to act as Godfather and Godmother respectively during the baptism ceremony of the child of his brother in law. Petitioner had also requested the 3rd respondent to issue a certificate to the effect that his son is a resident member within the parish limits, so as to enable his son to produce the same along with the application for admission to engineering degree courses in colleges run by catholic managements.



The said request for a letter and certificate, petitioner alleges, was refused by the 3rd respondent Vicar for the purported reason that petitioner had preferred petitions and complaints before various courts and commissions against the Vicar and the Bishop of Thamarasserry Diocese which governs the church of the 3rd respondent, *inter alia* alleging financial misappropriation in the construction of a church. Petitioner also alleges that for the same reason, he and his family have been socially ostracized by the 3rd respondent by declining to sacrament and also refusing the annual blessing of the house ceremony which is extended to all other parishioners. He had been told that unless he withdraws the civil suit filed against the church, the certificates will not be issued to him and his family.

Complaint and proceedings before the Commission:

3. Aggrieved by the above said refusal of the 3rd respondent, petitioner preferred Ext. P1 complaint before the Commission *inter alia* alleging that his right to exercise religion which he terms to be part of his fundamental right to life guaranteed under the Constitution of India as well as a part of his composite rights as a human being stands violated. The said complaint was numbered as HRMP No. 6402/14/MPM and pursuant to the notice issued by the Commission,



the 3rd respondent entered in appearance and filed a detailed written statement (Ext.P2). In Ext.P2, the 3rd respondent *inter alia* denied the allegations raised by the petitioner and stated that there was no denial or refusal to issue letter/ certificates. It was pointed out therein that since the petitioner had moved the Courts and Commissions raising allegations regarding the functioning of the 3rd respondent, the petitioner has to now approach the Bishop of Thamarasserry and obtain an approval for issuance of the certificates requested. The 3rd respondent further averred that though this requirement was informed to the petitioner, he had not chosen to approach the Bishop nor has he filed any application before the Bishop for issuance of any certificate.

Order of the Commission:

4. Commission on 21.12.2015 closed the complaint of the petitioner vide Ext. P4 Order which reads as follows:

“ORDER

The petitioner alleges that respondent is denying his right to obtain parish certificates. The District Collector in his report has stated that several cases are pending in different courts.

Hence there is no further action is warranted. Closed.”

**Challenge against the Order:**

5. Petitioner alleges that the above Order of the Commission is cryptic, unreasonable and devoid of any reasoning. He further alleges that he was not afforded any hearing by the Commission before issuing such an Order. Petitioner has thus filed this W.P.(C) seeking to set aside the Order of the Commission produced as Ext.P4 and to issue a direction to the Commission to reconsider his complaint afresh. After the admission of the WP (C), notice was issued by the registry of this Court to the 3rd respondent and it is seen reported duly served on the 3rd respondent. Notice to the 3rd respondent thus stands served and complete. However, no appearance has been entered by or on behalf of the 3rd respondent.

6. Heard Sri.George Cherian, learned Senior Advocate instructed by Smt.Latha Susan Cherian who appeared on behalf of the petitioner and Sri.E.G.Gorden, the learned Government Pleader.

Contentions on behalf of the petitioner:

7. The learned Senior Advocate on behalf of the petitioner submits that Ext.P4 Order dismissing Ext.P1 complaint of the petitioner is not only cryptic and unreasonable, it has been issued without



complying with the basic tenets of natural justice. He submits that Ext.P1 complaint was taken up at three sittings of the Commission held at Malappuram and that on the second sitting, the petitioner was given a copy of the written statement filed by the 3rd respondent. No hearing was held by the Commission on Ext.P1 complaint thereafter. Petitioner had then enquired about the status of his complaint at the office of the Commission and then he was told that his complaint had been disposed of. Since no copy of the Order was issued to the petitioner, he sought for a copy of the Order vide Ext.P3 letter. However, no copy of the Order was issued to him. Thereafter, the petitioner invoked his rights under the Right to Information Act, 2005 and pursuant to the same, a copy of Ext.P4 Order was issued to him along with Ext.P5 letter from the 1st respondent. The learned Senior Advocate submits that it was only then that the petitioner came to know that Ext.P1 complaint had been dismissed by the Commission vide Ext.P4 Order.

8. The learned Senior Advocate then proceeds to assail Ext.P4 Order on more than one grounds. He submits that the only reason, as discernible from Ext.P4 Order, that persuaded the Commission to close Ext.P1 complaint was that the District Collector had purportedly in a report filed before the Commission stating that



“several civil cases are pending in different courts”. The learned Senior Advocate submits that from Ext.P4 Order, neither the details of the report of the District Collector are discernible nor the details of the civil litigations purportedly pending before different courts. Who are the parties to the civil litigations, whether the said civil cases relate to the very same subject matter as that of Ext.P1 complaint or not etc. has not been enquired into by the Commission. The learned Senior Advocate further submits that factum regarding pendency of some civil cases between the parties is not a new revelation at all and it is not the District Collector’s report that pointed out the same for the first time before the Commission. He submits that in Ext.P1 itself, the petitioner had in all bonafides disclosed that a civil case had been filed by him and another parishioner before the Sub Court, Tirur, against the 3rd respondent Vicar regarding a totally different subject matter. An appeal relating to the same is pending before the High Court and the very nature and purpose of the said civil suit had also been explained in Ext.P1 complaint before the Commission, so as to clarify that the said civil suit and Ext.P1 complaint had no commonality whatsoever. Further, the learned Senior Advocate submits that in the written statement (Ext.P2) filed by the 3rd respondent too there is specific admission of the civil suit filed by the



petitioner in Sub Court, Tirur. The learned Senior Advocate thus contends that the sole reason stated in Ext.P4 Order that the District Collector's report reveals pendency of civil disputes is by itself not a reason at all to close the complaint. The Commission, according to the Senior Advocate, ought to have afforded an opportunity of being heard to the petitioner to explain that the civil case and Ext.P1 complaint related to two different subject matters and that the pendency of the former was no reason to close the latter. However, without even hearing the petitioner and blindly accepting the purported report of the Collector about which the petitioner has no knowledge whatsoever, the Commission passed Ext.P1 Order closing the complaint. The learned Senior Advocate thus submits that Ext.P4 Order has been rendered mechanically, without proper application of mind and in total non compliance of principles of natural justice.

Contention of the Learned Government Pleader:

9. *Per contra* Sri.E.G.Gorden, the learned Government Pleader, defended Ext.P4 Order of the Commission and submits that the same does not require any interference at all. He contends that even by the very nature of the relief sought in the complaint, the same was not maintainable before the 1st respondent Commission and hence



was fit to be dismissed *in limine* as empowered under Regulation 17 of the Human Rights Commission (Procedure) Regulations, 2001. The prayer sought for in the complaint being one directing the 3rd respondent Vicar of a Church, the learned Government Pleader submits, the subject matter of the complaint is totally beyond the jurisdictional competence of the Commission to entertain or adjudicate upon. Further, the learned Government Pleader submits that Ext.P4 Order cannot be termed as mechanically passed since it specifically refers to the report of the District Collector wherein the *factum* of pendency of the civil disputes in various courts between the petitioner and the 3rd respondent had been brought to the Commission's notice. Since both the complainant and the 3rd respondent refer to the civil suit between them, the learned Government Pleader submits that there is a specific bar on the Commission entertaining the complaint. The learned Government Pleader thus submits that Ext.P4 Order rendered by the Commission is thus valid, legal and calls for no interference at all.

10. The contention of the learned Government Pleader regarding non-maintainability of Ext.P1 complaint before the Commission for the reason that the subject matter thereof is beyond the competence of the Commission to consider, is countered by the learned



Senior Advocate for the petitioner pointing out that Ext.P1 complaint relates to a religious right of the petitioner which is protected as a fundamental right under Article 25 of the Constitution of India. He also terms it as a facet of right to life of the petitioner as guaranteed under Article 21 of the Constitution. Learned Senior Advocate thus contends that by its very nature, Ext.P1 is a complaint pertaining to the violation of human rights of the petitioner and hence was perfectly maintainable before the Commission.

Discussion and findings:

11. In the light of the contentions put forth by both sides, it would be relevant to examine Section 2(1) (d) of the Protection of Human Rights Act, 1993 defining 'Human Rights'. 'Human Rights' has been defined in Section 2(1)(d) of the Act and reads as follows:

“Human rights means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the international covenants and enforceable by courts in India.”

Section 12 of the Act read with Section 29 empowers the State Commission to inquire *inter alia* into a complaint of violation of 'Human Rights' or abetment thereof. As regards Commission's power to dismiss



a complaint *in limine*, the same is seen stipulated in Regulation 17(h) of the Human Rights Commission (Procedure) Regulations, 2001. It states that the Commission may dismiss *in limine* complaints of the following nature:

- (a) *“Illegible;*
- (b) *Vague, anonymous or pseudonymous;*
- (c) *trivial or frivolous;*
- (d) *barred under sub-section (1) or (2) of Section 36 of the Act;*
- (e) *allegations do not disclose involvement of any public servant;*
- (f) *issue raised relates to civil disputes, service matters, labour or industrial dispute;*
- (g) *allegations do not raise any violation of human rights;*
- (h) *If the matter raised is subjudice before a Court or Tribunal;*
- (i) *the matter is covered by a Judicial verdict/decision of the National Commission or a State Commission;*
- (j) *Where the complaint is only a copy of the petition addressed to some other authority;*
- (k) *Where the petition is not signed or where the original petition is not sent to the Commission;*
- (l) *Where the matter raised is outside the purview of the Commission or on any other ground.”*

Thus the Commission as a quasi judicial body is empowered to inquire *inter alia* into a complaint of violation of ‘Human Rights’ or abetment thereof. It can also dismiss a complaint *in limine* upon noticing any of the vices enumerated in Regulation 17.

12. It is trite law that a quasi judicial authority is duty bound to render a reasoned Order. Lack of reasoning renders its decisions



arbitrary and violative of the Article 14 of the Constitution of India. Supreme Court in **Association for Democratic Reforms and another (Electoral Bond Scheme) v. Union of India** [(2024) 5 SCC 1] has held that equality is a concept that is antithetical to arbitrariness. Equality belongs to the rule of law in a Republic, while arbitrariness belongs to the whim and caprice of an absolute monarch. An unreasoned Order thus violates the arbitrariness facet of Article 14 of the Constitution of India. This Court in **Ambili S. v. Vinod Kumar Pilla** (2023 KHC Online 9005) has after a detailed survey of the precedents on the point, affirming the requirement of rendering reasoned decisions by quasi judicial bodies held as follows:

“The recording of reasons by an administrative or quasi - judicial authority serves a salutary purpose, namely, it excludes chances of arbitrariness and ensures a degree of fairness in the process of decisions making. It would apply equally to all decisions made by such authority and its application cannot be confined to decisions which are subject to appeal, revision or judicial review. At the same time, it is not the requirement that the reasons should be as elaborate as in the decision of a court of law. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. Hence it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in the order passed by an administrative or quasi judicial authority.”

13. Law being thus settled as above, Ext.P4 Order on the face



of it does not reveal that the parties were heard on their respective pleadings. The sole reason stated in Ext.P4 for closing the complaint is that the District Collector has in his report stated that several civil cases are pending in different courts. Reasonableness demanded that the Commission ought to have upon receipt of such a report proceeded to hear the parties, so as to examine whether the subject matter of Ext.P1 complaint and the civil suits mentioned in the District Collector's report pertained to the same subject matter. Such a course, if adopted, would have revealed whether the bar stipulated in Regulation 17 (h) which empowers the Commission to dismiss a complaint *in limine* was attracted as against Ext.P1 or not. It is not revealed from Ext.P4 Order that such an exercise has been rendered by the Commission. The contention of the petitioner that a hearing was not afforded to him so as to explain out the report of the District Collector remains unassailed. Thus Ext.P4 is hit by the vice of arbitrariness for being one rendered in violation of principles of natural justice.

14. Further, the term 'may dismiss *in limine*' as used in Regulation 17(h) cannot be stretched to an extent to justify three line cryptic Orders. The term 'dismiss *In limine*' as used generally in legislative parlance presupposes a dismissal at the very threshold when



the court or forum does not consider the case or complaint worth examining for a reason, which may be other than the merit of such case/complaint [**State of Orissa and another v. Dhirendra Sundar Das and others** [(2019) 6 SCC 270]; **State of Punjab v. Davinder Pal Singh Bhullar and others** [(2011) 14 SCC 770]; **Supreme Court Employees' Welfare Association v. Union of India and another** [(1989) 4 SCC 187]]. A perfunctory three line Order rendered after the completion of filing of pleadings and without hearing the parties can only be termed as unreasonable, mechanically arrived at, without proper application of mind to the issues at hand. It cannot be passed off as a dismissal *in limine*. Dismissal of the complaint simply pointing out one among the twelve enumerated vices in Regulation 17(h) of the Human Rights Commission (Procedure) Regulations, 2001 without any reasoning as to how allegation regarding the said vice was found viable or sustainable to the case at hand, cannot be termed as a dismissal *in limine*.

15. Human Rights Commission being a quasi judicial body is duty bound to comply with the principles of natural justice while disposing of complaints/ petitions filed before it and must afford an



effective opportunity of being heard to the interested parties before proceeding to finally dispose of such a complaint/petition. It is also incumbent on the Commission to ensure that all Orders passed by it disposing of complaint/ petition, either *in limine* or after due appreciation on merits in detail, shall disclose a proper application of mind to the issue at hand and also state sufficient reasons for the decision arrived at. Ext.P4 Order does not reveal that the above mandate had been complied with while issuing the same.

16. As regards the contention of the learned Government Pleader that Ext.P1 complaint does not reveal that any 'human rights' of the petitioner has been violated by the denial of the letter by the 3rd respondent Vicar of the church, and that in so far as the allegations in the complaint does not disclose involvement of any public servant and is hence beyond the jurisdictional purview of the Commission in view of Regulation 17(e) of the 2001 Regulations, I note that Ext.P4 does not state that the complaint has been dismissed on any of the said grounds. Such specific questions regarding maintainability, have not been referred to, considered or even touched upon in Ext.P4 Order. Since Ext.P4 is totally silent on the said questions, any attempt to dwell on the same would be perfunctory and academic.

**Conclusion:**

17. In view of the above, as regards prayer (i) of the W.P. (C), seeking to set aside Ext.P4 Order, I find that Ext.P4 Order to the extent it has been rendered without affording a hearing to petitioner and mechanically without a proper and valid reasoning for the closure of Ext.P1 complaint is arbitrary, unreasonable and hence not sustainable in law. Accordingly, Ext.P4 Order dated 21.12.2015 issued in HMRP No.6402/14//MPM is set aside. Prayer (i) of the W.P.(C) is thus allowed.

18. As regards prayer (ii) of the W.P.(C) which seeks a direction to the 1st respondent to consider Ext.P1 afresh on merits, I note that Ext.P1 complaint was preferred in the year 2014 and Ext.P4 Order had been rendered as early as on 21.12.2015. This Writ petition has been pending before this Court since 2016. A decade has elapsed since the filing of the complaint. The learned Senior Advocate appearing for the petitioner however, submits that grievance of the petitioner in Ext.P1 complaint still subsists. If the petitioner has any subsisting grievance with respect to the subject matter in Ext.P1 complaint, he shall be free to file a fresh complaint before the Commission. The same shall be disposed of in accordance with law. It is hereby clarified that all



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questions regarding maintainability and merits are left open.

Writ Petition is disposed as above. No costs.

Sd/-

SYAM KUMAR V.M.
JUDGE

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APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1 : TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT HUMAN RIGHTS COMMISSION.
- EXT.P2 : COPY OF THE WRITTEN STATEMENT FILED BY THE PARISH PRIEST.
- EXT.P3 : COPY OF THE LETTER DATED 15.2.2016 BY THE PETITIONER.
- EXT.P4 : COPY OF THE ORDER DATED 21.12.2015 ISSUED BY THE COMMISSIONER.
- EXT.P5 : TRUE COPY OF THE LETTER DATED 01.04.2016 ISSUED BY THE PUBLIC INFORMATION OFFICER TO HUMAN RIGHTS COMMISSION.