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W.P.No.5093 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.3.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.5093 of 2022

P.Pugalenthi, Director,
Prisoners Rights Forum

.. Petitioner

VS

1.The State of Tamil Nadu, rep.
by the Secretary to Government,
Home, Prohibition and Excise
Department, Secretariat,
Chennai-9.

2.The Director General of Police and
I.G. Of Prisons, Prison Head Quarter,
Gandhi Irwin Road, Egmore,
Chennai-8.

3.The Superintendent of Prisons,
Central Prison, Madurai-16.

4.The Director, Vigilance and Anti
Corruption, Directorate of Vigilance
and Anti Corruption, No.293,
MKN Road, Alandur, Chennai-16.

.. Respondents



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Prayer: Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing respondent No.4 to commence and complete the investigation into the complaint of the petitioner dated 16 December 2021 relating to the scam in the supply of stationery articles by respondent No.3 - Central Prison, Madurai to various Government Departments including Judicial Department during 2016-2021 within a reasonable time as may be determined by this Court.

For Petitioner : Mr.M.Radhakrishnan

For Respondents : Mr.R.Shanmugasundaram,
Advocate General assisted
by Mr.A.Gopinath,
Government Advocate (Crl.
Side) for R1 to R3

Mr.Hasan Mohammed
Jinnah, State Public
Prosecutor for R4

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

We have heard the learned counsel appearing for the
respective parties.



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2. The public interest litigation has been filed seeking a direction to the fourth respondent to commence and complete the investigation into the complaint of the petitioner dated 16.12.2021 relating to the scam in the supply of stationery articles by the third respondent - Central Prison, Madurai to various Government Departments, including Judicial Department, during 2016-2021.

3. Learned counsel for the petitioner submits that a complaint was made by the petitioner exposing the scam in the supply of stationery articles by the third respondent. The details of the scam with reference to the supply were also given. A representation was also sent to the District and Sessions Courts, Madurai and Ramanathapuram. Further, a representation was sent to the fourth respondent herein, namely the Director of Vigilance and Anti Corruption. However, as the efforts of the petitioner did not yield the result, he is left with no option except to file this writ petition.



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4. It is further submitted by the learned counsel for the petitioner that when the Supreme Court, in the case of *Vineet Narain Vs. Union of India [1998 (1) SCC 226]*, issued specific directions that holders of public offices are entrusted with certain powers to be exercised in public interest alone and therefore, the office is held by them in trust for the people, that any deviation from the path of rectitude by any of them amounts to a breach of trust and must be severely dealt with instead of being pushed under the carpet, that if the conduct amounts to an offence, it must be promptly investigated and the offender, against whom, a prima facie case is made out, should be prosecuted expeditiously, so that the majesty of law is upheld and the rule of law is vindicated and that it is duty of the Judiciary to enforce the rule of law and, therefore, to guard against erosion of the rule of law.

5. It is submitted that if a complaint is made, it is the duty of the Judiciary to issue a direction to the Vigilance and Anti Corruption Department to cause investigation. However, without doing so, simply a letter was sent to the Deputy Inspector General of Prisons, Madurai Range and the District Munsif cum Judicial Magistrate, Kadaladi, in the



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respective cases and till date, no direction has been issued to cause investigation into the complaint made by the petitioner. It is more so when the action is mandated under Article 14 of The Constitution of India. If any complaint is given alleging corruption or exposing the officers with regard to a scam, the respondents are under an obligation to cause investigation into the matter and accordingly, a prayer is made to issue the direction as sought for by the petitioner.

6. We have carefully considered the submissions made by the learned counsel for the petitioner and perused the records.

7. The facts on record show that after obtaining information under the Right to Information Act, 2005, the petitioner made a complaint to various officials, which includes even the District and Sessions Judges of Madurai and Ramanathapuram, seeking investigation into the matter. It is no doubt true that in the complaint, there is an allegation of corruption and scam in the supply of stationery articles.

8. But, the question would be as to whether the direction for



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investigation into the complaint sought for by the petitioner can be given without registration of the First Information Report. It is not a case where the first information was registered based on the complaint made by the petitioner nor on a private complaint under Section 190 of the Criminal Procedure Code. The prayer has been made to direct the fourth respondent to cause investigation pursuant to the complaint made by the petitioner without realizing that the investigation into the matter can be conducted by the Police or Anti Corruption Department only after registration of the First Information Report.

9. In view of the above, the prayer made by the petitioner for causing investigation in the complaint, cannot be granted, as it is not flowing from Article 14 of The Constitution of India to cause an investigation as and when a complaint is given by the individual. Rather, it has to be as per the provisions of law i.e. the Criminal Procedure Code and the Prevention of Corruption Act, 1988.

10. The learned counsel for the petitioner was asked to show the legal position, under which, a direction can be given to cause investigation on the complaint to the administration made by the



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petitioner without registration of the first information report.
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11. The learned counsel did not refer to any provision, but has only referred to Article 14 of The Constitution of India. It is no doubt true that whenever allegation of scam or corruption is made, it has to be dealt with in the manner known to law and not in the manner as prayed by the petitioner. It is more so when the provisions of the Prevention of Corruption Act, 1988 have been amended and Section 17A has been inserted in the Prevention of Corruption Amendment Act, 2018 for the approval of the competent officer. Therefore, we are unable to accept the submissions made by the learned counsel for the petitioner.

12. Accordingly, the writ petition is disposed of with liberty to the petitioner to seek registration of the First Information Report or to file a private complaint invoking Section 190 of the Criminal Procedure Code with regard to the allegations, so that the matter may be taken to a logical conclusion as per the provisions of law. However, the aforesaid direction will not preclude the respondents, if a case is made out, to register a first information report pursuant to the complaint



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made by the petitioner and proceed further as per the provisions of law. There will be no order as to costs.

(M.N.B., CJ.) (D.B.C.J.)
08.3.2022

Index : Yes/No

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