

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.08.2021

Coram

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
W.P.No.25922 of 2017
(Suo-Motu PIL)

1. Ministry of Human Resources
Rep. by its Secretary, Union of India,
Parliament House, New Delhi-110 001.
2. Department of Labour and Employment,
Rep. by its Secretary, Government of Tamil Nadu,
Secretariat, Chennai-600 009.
3. Department of Home, Prohibition and Excise Department,
Rep. by its Secretary, Government of Tamil Nadu,
Secretariat, Chennai-600 009.
4. The Director General of Police,
Kamarajar Salai, Mylapore,
Chennai-600 004.
5. The Commissioner of Police,
Greater Chennai, Vepery,
Chennai-600 007.
6. The Deputy Commissioner of Police,

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CCB-Cyber Crime,
O/o. The Commissioner of Police,
Vepery, Chennai-600 007.

7. The Commissioner of Police,
Coimbatore City, Coimbatore.
8. The Superintendent of Police,
Tiruppur.
9. The Commissioner of Police,
Trichy City, Trichy.
10. The Superintendent of Police,
Cyber Crime, CBCID, Chennai.
11. M/s.Volvo Industrial Recruitment,
Rep. by its Authorised Representative,
Regd. No.996, Admn. Office No.51,
P.N.Road, Near New Bus Stand,
Tiruppur-641 602.
12. M/s.Renald Industrial Recruitment,
Rep. by its Authorised Representative,
No.61/15, Nagamarathottam, 1st Street,
Perumanallur Road, Near New Bus Stand,
Tiruppur-641 602.
13. Diamond Industrial Recruitment,
Govt. Regd. No.TN/524/2000-Central Ex.St.No.21/2001,
Rep. by its Authorised Representative,
Admn. Off. 90-C, Krishna Complex, 2nd Floor,
Somanur Road, Mugaval Hospital (Opp),
Sri Vesha Pharmacy (Upstairs),
Karumathampatti, Coimbatore-641 659.
14. M/s.Air-Tech Solution HRD,

Rep. by its Authorities Representative,
22, MNS Complex, Ulaganatha Puram,
Karunanithi Street, Chinthamani Super Market Opp.,
TVS Tolgate, Trichy-620 020.

15. M/s.Reliance Industrial Recruitment,
Rep. by its Autorised Representative,
Admn. Off: 189/1, Kangeyam Main Road,
Near Rural Police Station, Kasipalayam Pirivu,
Nallur, Tiruppur-641 606. ... Respondents

(R11 to R15 were deleted as per Order dated 13.10.2017)

Prayer: Suo Motu (PIL) Writ Petition is filed under Article 226 of the Constitution of India, praying to direct the Respondents 1 to 10 to enquire into and register FIR for proceeding against Respondents 11 to 15 and their authorised representatives for preparing and sending fake interview / appointment letters with an intention to defraud the innocent public with an oblique motive and to make unlawful gain and to proceed in accordance with.

For R1 : M/s.M.E.Saraswathy, SPC

For R2 to R10 : Mr.J.C.Durairaj
Govt. Advocate

ORDER

N.KIRUBAKARAN,J.,
AND
S.VAIDYANATHAN,J.,

This *Suo Motu* Writ Petition in the form of Public Interest Litigation has been filed to direct the Respondents 1 to 10 to conduct a thorough enquiry and register an FIR so as to proceed against Respondents 11 to 15 and their authorised representatives for preparing and sending fake interview / appointment letters with an intention to defraud the innocent public with an oblique motive and to make unlawful gain and to proceed in accordance with law.

2. The issue in this petition crops out of an interview call letter allegedly sent in the name of one of us, which, at the first blush, portrays that the letter had been issued with an ulterior motive to defraud the public at large. A reading of the letter unravels that there is no genuineness in the commitment made by the Company and their intention appears that they wanted to collect money from jobless persons, by falsely promising to secure jobs in private Companies.

3. When the matter was taken up for hearing on 01.10.2017, this

Court directed the Respondents 1 to 10 to conduct an enquiry on the issue and submit a detailed report to this Court in respect of the following aspects:

(i) How many interview cards have been sent by the respondents 11 to 15 ?

(ii) So far, how much money has been collected from those candidates who attended the interview and how much money has been collected/encashed by way of Demand Draft or any other mode and to seize the materials available in the respective offices of the respondents 11 to 15 including cash/Demand Drafts/or any other mode, collected between 01.10.2017 and 03.10.2017?

(iii) How many persons are involved in the above conduct of fake interview ?

(iv) How the Emblems of the Government of India and the

Government of Tamil Nadu have been surreptitiously used by the respondents 11 to 15?

(v) Is there any previous antecedent of similar fake interview conducted by these gangs?

(vi) Whether the fake interview is a part of very big net-work, including the involvement of cyber crime under the relevant provisions of laws, involving to defraud the people throughout the nation?

4. In pursuance thereof, Mr.A.G.Babu, Superintendent of Police, Cyber Cell, CBCID, Chennai had filed a detailed enquiry report on 13.10.2017, and the gist of the report is as follows:

i) Respondents 11 to 15 are genuine Recruitment Agencies and that they have collected nominal fees as registration charges from the candidates seeking recruitment and thereafter collected commission from successful candidates;

ii) One Bharathiraja, aged 25 years, a Diploma holder in Civil

Engineering, applied for a job in Rajiv Awas Yojna as per the advertisement in the Tamil Daily 'Daily Thanthi' and sent an SMS to the Mobile Number 8860518697 in that regard and though he was assured of a job, he was asked to pay a sum of Rs.12,500/-, followed by a reminder to pay the amount. Sensing an act of fraud in the appointment order and finding that Manpower Agencies are cheating job aspirants by sending fake Call letters, Bharathiraja decided to punish them, for which, he had furnished the address of one of us, mentioning his mobile number to various Manpower Agencies, i.e. respondents 11 to 15, including the mobile number, which was mentioned in the Rajiv Awas Yojna advertisement;

iii) The appointment letter received by the said Bharathiraja clearly shows that it is a fraudulent document containing the insignias of the Emblem of Government of India and the State of Tamil Nadu and that the Mobile numbers of the suspected accused were purchased in New Delhi and are operated in and around New Delhi;

iv) It is stated that in August 2017, a lady viz. Kavitha had

contacted the proprietor of Femi Ads from Mobile No.9643189816, stating that she hails from Uttar Pradesh and requested to publish an advertisement and also made payment of a sum of Rs.15,500/- in two instalments through cash deposit machine with ID Code: 04010, Maharajpur, Ghazhaba to her husband's Bank Account on 16.08.2017 and 19.08.2017. Though the said Kavitha, claims to be from Uttar Pradesh, she spoke to the proprietor of Femi Ads in fluent Tamil. Enquiry reveals that the Mobile Number of the said Kavitha had been purchased in the name of one Shivani of New Delhi.

5. On 08.12.2017, the Superintendent of Police, Cyber Cell, CBCID, Chennai had filed yet another report with regard to the progress of the investigation, which unravels that a lady viz., Chitra, who is a native of Tamil Nadu, but, born and brought up at Delhi, played the main role and she disguised herself as Shivani Agarwal and Bhumi Bharti and collected huge amount from the unemployed youths to the tune of approximately Rs.9,28,850/- and swindled the money. In this regard, a case in Crime No.1 of 2017 under Sections 419, 465, 468 and 471 of IPC

was registered by the CBCID, Tirunelveli City on 20.10.2017, pursuant to which, the accused was arrested in Delhi and produced before the local Court and remanded to judicial custody on 04.11.2017 by the Judicial Magistrate, Tirunelveli. Though the accused Chitra named one Prathap @ Raju as co-accused, who had involved in the conspiracy along with her, the identity of the co-accused, viz. Prathap @ Raju, could not be established.

6. Subsequent thereto, one more Investigation Report has been filed by Mr.N.Stephen Jesubatham, Superintendent of Police, Special Investigation Division, CBCID, Egmore, Chennai on 26.04.2018, giving the details of the investigation, a perusal of which unearths that as many as 80 persons, who deposited the money pursuant to the fake advertisement given by the accused, were examined. The main accused viz. Chitra was released on conditional bail on 12.01.2018 as per the orders of the learned Judicial Magistrate-I, Tirunelveli and she has been complying with the said order. As per the statement of the main accused, the co-accused viz. Pratap and Raj printed fake appointment orders, they

were still absconding and all efforts are being made to trace out them.

7. Even though the disgusting and fraudulent activities were carved out and brought to light by Bharathiraja, the method adopted by him, namely, providing the mobile number of a Sitting Judge, was not acceptable. However, considering the fact that there was no criminal intent on the part of Bharathiraja, based on the undertaking given by him to the effect that he will not indulge in such activities in future, this Court specifically directed the respondent police not to register any case against him. Bharathiraja was also directed to extend his fullest cooperation to the respondent Police and to retain his Mobile No.9080023868 till completion of investigation by the Respondent Police. From the enquiry report, it was obvious that there was no involvement in the offence of job racketing by the respondents 11 to 15, which are real Recruitment Agencies, their names were ordered to be deleted from the array of Respondents.

8. On the previous hearing, viz., 12.08.2021, it was represented by

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the learned Government Advocate (Crl.Side) that after registration of an FIR in this case, one accused, namely, Chitra was arrested and released on bail. Though she had hinted the involvement of some other accused in the offence, there was no identity of the co-accused, pursuant to which, there was a slight backlog in the progress of investigation and the Respondent Police could not file the Charge Sheet.

9. The FIR in this case was registered as early as on 20.10.2017. Even though a lady accused was nabbed, remanded to custody and subsequently, released on bail by the Court below, still the investigation moves in a snail-paced and dawdling manner, as the whereabouts of other co-accused are not traceable. Therefore, we are of the view that the Respondent Police, instead of spending time in search of other accused and keeping in abeyance a criminal case without any progress for quite a long time, shall split up the case in respect of the accused Chitra and complete all other formalities, such as filing of charge sheet before the concerned jurisdictional Magistrate (*within a month from today*), if not already filed, cooperating for smooth conduct of the Trial in the case, etc.

It is needless to mention here that as soon as other accused is/are arrested, they shall be proceeded with separately for the criminal intimidation. After filing of charge sheet, the concerned Trial Court shall proceed with the trial of the case without adjourning the case beyond seven working days at any point of time and complete the Trial, as expeditiously as possible, but not later than six months from the date of filing of charge sheet.

10. One of us (Justice S.Vaidyanathan), while sitting singly, dealt with the issue of fake employment elaborately in the case of *A. Perumal vs. State and Others*, reported in *2015 (2) MLJ (Crl) 669* and observed as follows:

“21. The very term "unemployment" will sound the death knell for the future of the youth of this nation. Every individual would like to stand on his own legs to avert the reverberations of the said word "unemployment". Such untiring pursuit for employment by the youth is taken advantage of by certain sections.

22. It is unfortunate that, now-a-days, everywhere in the country, bogus manpower consultant agencies and fake recruitment agencies are mushrooming with the main illegal object of luring the unemployed youth with employment in

government sectors as well as in foreign countries. The youth too, without knowing the hidden agenda, are falling prey to such temptations of lucrative jobs and paying huge amounts even by selling the properties held by their families or availing loans from financial institutions with high rate of interest. While in some cases, the consultancies or agencies would disappear overnight with the amount collected from the victims, in some other cases, they used to issue fake appointment letters to the victims, who would know about the fraud played on them only at the time of joining the post. If ultimately, he is cheated, his entire future will be in peril and it is not easy to restore normalcy in life by overcoming from the situation. In my firm view, these white-collar crimes, which have drastic effects, should be dealt with iron hands and severe punishment should be awarded to the culprits. The innocent persons who, later realized that they were cheated, used to approach the concerned police only and ventilate their grievances by lodging the complaints and request to apprehend the persons and recover the amount.”

11. There is one another scam called as “Nigerian 419 Scam”, in which, the criminals, who indulge in such activities, are generally regarded as Nigerian Scammers and 419 refers to Article 419 of their country's (Nigeria) Criminal Code, concerning fraud. The scammers used to send mass letters, messages and emails with the sole intention to defraud foolish and greedy recipients, who easily fall into their tricks. The said offence is also named as an advance-fee fraud, in which the victim is convinced to advance money to a stranger with the false

promise that a much larger sum of money will be returned to him or her. Of course, no money would be disbursed to the victim and those, who are victimized in the advance fee fraud, would likely be further targeted for additional payments, claiming that a second or third advance is absolutely required to part with the promised money. The modern version of the scam usually takes place via Email correspondence and the so-called criminals will also make up a plausible story to explain as to why a fee is needed in advance. The Email may claim that a few hundred dollars are needed as an “application fee” to get back the large sum already won and another common claim is that the wire transfer of such a large sum of money involves fees that must be paid in advance. Ultimately, innocent people will lose their self-acquired and hard earned property due to their foolish act.

12. Of late, several unemployed youth are being cheated by job racketeers and anti social elements, especially taking advantage of the present pandemic situation, where thousands of people have lost their jobs. The gangs at first target credulous unemployed youth and lure them with attractive job offers both at Central and State Governments and

some times in reputed private Organizations. Believing their deceitful words and on account of repercussion of poverty, such youth easily fall prey into their wickedness and transmit the amount to their account and by the time, they realize that they are cheated, everything would have almost gone out of their hand, which would further add fuel to the fire and anguish in their life, leading to commit suicide as a last resort. The method of minting money by utilizing the unemployment problem is mushrooming in the recent past and though the amount sought to be transferred can be meagre, it will get doubled or multiplied, when thousands of people transfer the amount in their favour.

13. Recently, we have come across an unpleasant incident, which had taken place in the High Court premises itself that an accused by name Raman (name changed), posing himself to be a staff of particular section, in which already a staff with the same name has been working, collected monies from various persons in the garb of securing jobs in the Madras High Court. The persons, who were cheated started visiting Raman, who has been actually working in the High Court and several

enquiries were made about his integrity. The real Raman, upon sensing fraudulent act of some unknown accused, lodged a complaint with the Police to prove his innocence, even though he was neither a victim nor connected with such collection of amount at all. Based on his complaint, a real culprit was arrested, who, by way of impersonation and taking advantage of the similarity in name, cheated several persons as per his own confession statement before Police and the said case is under progress now, that too, after intervention of a learned Judge (as otherwise, the case would have been thrown to dustbin) and in the said case, there was also a cloud of suspicion of involvement of a Head Constable / Writer working in the Police Department itself, as pointed out by the Complainant.

14. In fine, in order to overcome the growing menace of job racketing and tackle the unemployment problem, we suggest the Government both at Centre and Tamil Nadu to promote entrepreneurs and create self-employment opportunities to youth, depending upon their skills, so that the future generation of this Country can be safeguarded

from falling prey to such money mongering vultures. The Appropriate Governments should think of periodically conducting awareness programmes to encourage self-employment schemes and must extend its helping hands to striving youth for getting loans from Banks and such youth may be given substantial reduction in tax benefits. Of course, it is true that every unemployed youth will thrive for getting a Government job, but at the same time, it should be borne in mind that their young age should not be wasted in equipping themselves and preparation for Government jobs, instead they can create their own new businesses and job opportunities through self-employment.

15. With the above observation and direction, ***this Suo Motu Writ Petition is disposed of.*** It is made clear that the progress of the investigation, trial, arrest of co-accused, etc., shall have to be intimated to the Registrar Judicial of this Court every now and then, as a serious scam of job racketing is involved in this case and a fake interview call letter has been issued in the name of a Sitting Judge of this Court. In case any lethargic attitude is shown in the investigation of this case by the

Respondent Police, this Court will never hesitate to initiate contempt proceedings against such erring Officials.

16. This Court wants to reiterate that Bharathiraja, who (though) was the root cause to let the cat out of the bag, had given the mobile number of a Judge and address out of despair and dejection, so as to draw the attention of the Police Officials to book the accused and he is once again warned not to adopt this type of strategy in future. Bharathiraja shall cooperate with the enquiry, investigation and trial of the case, as and when called for. No costs.

List this matter for reporting compliance in the month of
February, 2022.

सत्यमेव जयते

[N.K.K.,J.]

[S.V.N.,J.]

19.08.2021

Index: Yes / No

Internet: Yes / No

Speaking Order / Non Speaking Order

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To:

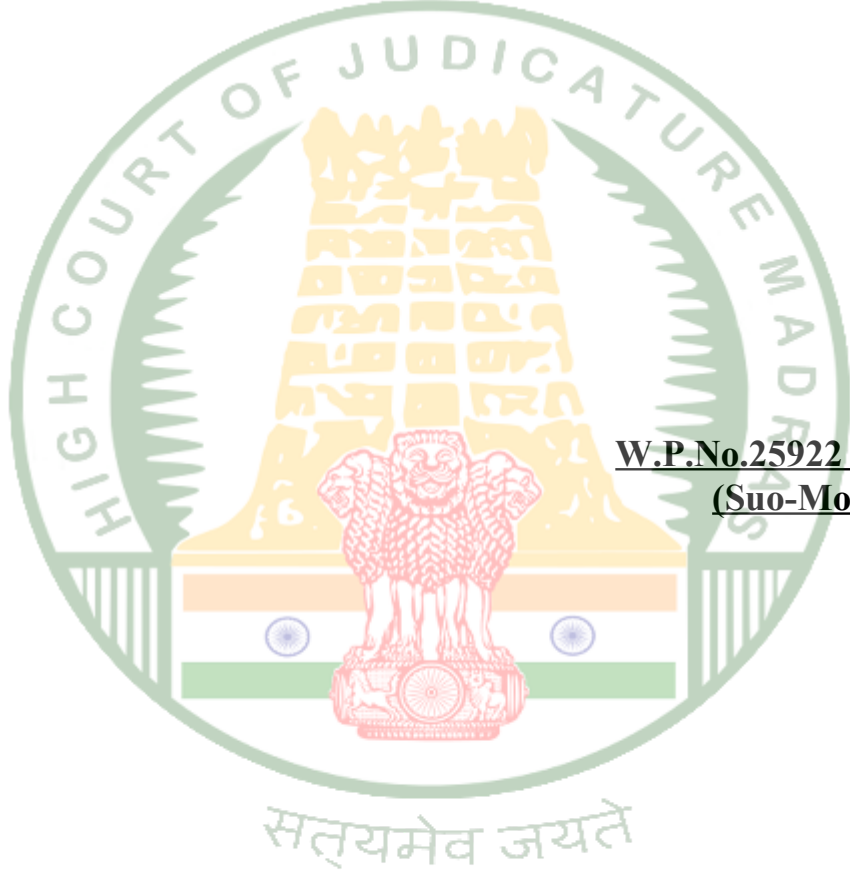
1. The Secretary,

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