

(1989) 03 MAD CK 0019

In the Madras High Court

Case No : Writ Petition No. 2790 of 1989

B. Jegnathan

APPELLANT

Vs

State of Tamil Nadu and another

RESPONDENT

Date of Decision : 06-03-1989

Acts Referred:

Commissions of Inquiry Act, 1952 — Section 3
Constitution of India, 1950 — Article 226

Citation : AIR 1990 Mad 69 : (1989) 1 LW 464

Hon'ble Judges : Sivasubramaniam, J

Bench : Single Bench

Judgement

1. This writ petition has been filed for issue of a Writ of Mandamus to direct the first respondent to appoint a Commission of Enquiry against the

previous Government to find out irregularities, about of power, corruption, loss of revenue, u/s 3 of the Commissions of Inquiry Act, 1952.

2. The petitioner, who is a practising Advocate, has raised the following contentions in the affidavit filed in support of this petition;--He is filing this

writ petition as a public interest litigation, since he feels that it is the duty of all the persons to help the Court to the best of their ability in ascertaining

the truth and for moulding the appropriate relief. The accountability of the executive to the people through the judiciary cannot be set at naught by

any self-induced doubts regarding the jurisdiction of the Court or the propriety of the Court to entertain matters raising questions of annihilations of

constitutional values by the executive. After the death of the Ex-Chief Minister Thiru M.G. Ramachandran, a new Cabinet was formed under the

head of Mrs. Janaki Ramachandran for a short period. Because of the rivalry in the ruling A.I.A.D.M.K. party, President's Rule was imposed in the

State and the Assembly was dissolved. Thereafter, the former Ministers and other members of the party gave open statements in all the newspapers regarding large corruption charges against each other. The Governor of Tamil Nadu found some illegalities and corruptions and took action against some of the Government Officials. After the recent elections, the present Chief Minister Thiru M. Karunanidhi presented the entire details of abuse of power, corruption, fraud in the revenue of the Government before the Legislative Assembly of Tamil Nadu. The petitioner came to know about these details through the media, and finding that there were large scale corruptions during the terms of the previous Ministry, the petitioner has come forward with this writ petition.

3. The petitioner contended that as a person interested in the welfare of the people of Tamil Nadu, he is entitled to maintain this writ petition. He relied on certain observations of the Supreme Court in *S.P. Gupta Vs. President of India and Others*, and submitted that where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reasons by reason of violation of any constitutional or legal right or any burden is imposed in contravention of any constitutional or legal provision or without authority of legal provision or without authority of law and such class of persons are unable to approach the Court for relief, any member of the public can maintain an application for an appropriate direction, order or writ in the High Court under Article 226 of the Constitution of India, is unnecessary to decide this question at this stage, since the present writ petition is disposed of on other grounds.

4. The petitioner has set out various charges of corruption and abuse of power against the previous Government in paragraph 8 of his affidavit and it is unnecessary to give those details here. He submitted that the said charges have got great public importance and, therefore they have to be enquired not by commission and the loss of revenue has to be recovered from the persons who were responsible for such loss. The petitioner further contended that the Government should be directed to furnish all the relevant documents to this Court to render justice against illegalities and on such production of records and other materials, it is the duty of the Court to appoint a Commission in order to unearth the irregularities committed by the previous Government. According to him, it is absolutely

necessary to protect the public money and their rights and apart from that, it would be a warning to the younger generations involved in public life to work for the welfare of the people and not for their personal ends.

5. I have carefully considered the submissions made by the petitioner. Though I appreciate the spirit in which he has come forward with this writ

petition, I feel that the present writ petition is premature. Admittedly, the petitioner has no personal knowledge about any of the irregularities

described by him in the writ petition. He has rushed to the Court solely on the basis of the news paper report. It appears the Hon'ble Chief

Minister disclosed in the Legislative Assembly that certain serious irregularities were committed by the previous Government and enormous public

money has been allowed to draw in out from the State finance to fill up the pockets of certain private individuals. I find that it was a general

statement and no specific instances were detailed. From the reports, it is seen that the present Government is seriously going into the various

doubtful transactions taken place during the term of the previous Government. They are yet to gather sufficient materials and adequate evidence, in

order to take appropriate action against the concerned persons. The entire matter is in a fluid state and considering the magnitude of the task, it is

not possible for the Government to launch any action immediately. The petitioner was originally apprehensive that the Government may not take any

steps in this regard. However, at the end, he himself was satisfied that the time is not yet ripe for appointing a Commission.

6. Apart from that, the question remains whether this Court can have jurisdiction to direct the Government to appoint a Commission of

Inquiry. Section 3 of the Commissions of Enquiry Act, 1952 provides as follows:--

3. Appointment of Commission:--(1) The appropriate Government may, if it is of opinion that it is necessary so to do, and shall it a resolution in this

behalf is passed by the House of the People or, as the case may be, Legislative Assembly, of the State, by notification in the Official Gazette, appoint

a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance and performing such functions and

within such time as may be specified in the notification, and the Commission so appointed shall make the inquiry and perform the functions

accordingly.

From the above said provisions, it is seen that a Commission of Inquiry can be appointed by the appropriate Government if it is of opinion that it is

necessary to do so, and if a resolution in this behalf is passed by the Legislature, the Government is bound to appoint such Commission. Therefore, I

do not know how this Court can have jurisdiction to direct the appointment of a Commission. However, learned counsel relied on a decision of the

Andhra Pradesh High Court in *Dhronamraju Satyanarayana Vs. N.T. Rama Rao and Others*, and another decision of the Madhya Pradesh High

Court in *Church Children Welfare Society Lottery case* wherein the High Court said that it is necessary not only to clean the stables but also to

maintain the rule of law that no person or official is above law. Again, I find that this question also need not be considered at this stage.

7. In the result, I find that the time is not ripe for appointing any commission of Inquiry and it is entirely a matter for the State Government to take a

decision in this regard. It is a matter which is bristled with many difficulties, and therefore, this Court should not interfere with such matters at this

stage. Accordingly, this writ petition is dismissed.

8. Petition dismissed.