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WP No. 15850 of 2018 etc. batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 23-06-2026

PRONOUNCED ON: 27-07-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

WP No. 15850 of 2018 and WP(MD) Nos. 16976, 15031,

14381 & 14382 of 2018

AND WMP No. 18853 of 2018 and WMP (MD) Nos.14957, 13569,

13014 and 13015 of 2018

WP No.15850 of 2018

S.Kandakumar,
S/o.K.Subbanna, Inspector of Police, (C.B.C.I.D.
Virudhunagar at the relevant point of time)

..Petitioner(s)

Vs

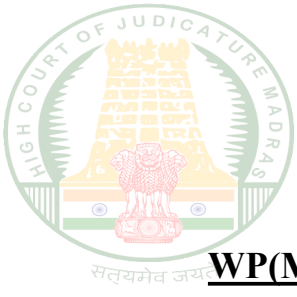
1.The Principal Secretary to
Government, Home Department,
Fort St. George, Chennai-09.

2.The Registrar
State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai, Greenways
Rd, Chennai-28

3.R.Jaishankar,

4.R.Ponmuthuraj

..Respondent(s)



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WP(MD) No. 16976 of 2018

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Sangiliraj
Head Constable, PEW,
Srivilliputhur, F1, Police Quarters, North
Malaiadipatti, Rajapalayam Virudhunagar District.

..Petitioner(s)

Vs

1.The State Human Rights Commission
Rep. by its Registrar,
143 - P.S. Kumarasamy Raja Salai,
Greenways Road, Chennai - 600 028.

2.Jaishankar

3.Ponmuthuraj

4.S. Kandhakumar
Inspector Of Police, CBCID,
Virudhunagar District.

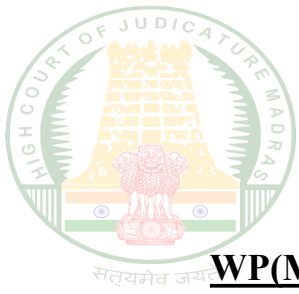
5.E. Irinthagabala
Women Sub-Inspector of Police,
CBCID, Virudhunagar District.

6.Gurusamy
Sub-Inspector Of Police,
CBCID, Virudhunagar District.

7.B. Alagupandi
Police Constable,
CBCID, Virudhunagar District.

8.V. Vanaveerapandian
Police Constable,
CBCID, Virudhunagar District.

... Respondents



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WP(MD) No. 15031 of 2018

WEB COPY E. Irin Thangabala

..Petitioner(s)

Vs

1.The Registrar (LAW)
The State Human Rights Commission,
Tamil Nadu, Thiruvaramam, No.143, P.S.
Kumarasamy Raja Salai (Greenways Road),
Chennai-600 028.

2.R. Jaishankar

3.R. Ponmuthuraj

..Respondent(s)

WP(MD) No. 14381 of 2018

Thiru. Gurusamy
Sub Inspector of Police, S/o. Rengasamy, 2/598-3,
Bharathi Nagar, Reserve Line, Sivakasi.

..Petitioner(s)

Vs

1.The State Human Rights Commission
Rep. by its Registrar,
143-P.S.Kumarasamy Raja Salai,
Greenways Road, Chennai-600 028.

2.Jaishankar

3.R.Ponmuthuraj

4.Thiru. S. Kandakumar
Inspector of Police, CBCID Virudhunagar

5.Tmt. E. Irin Thangabala
Women Sub-Inspector of Police, CBCID
Virudhunagar



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6.Thiru. Sangiliraj
Police Constable, CBCID Virudhunagar

7.Thiru. B. Alagupandi
Police Constable, CBCID Virudhunagar

8.Thiru. V. Vanaveerapandian
Police Constable, CBCID Virudhunagar.
(R4 to R8 are deleted vide order dated 15.10.2019
made in WP(MD).No.14381 and 14382 of 2018 by
TSSJ and KRJ)

..Respondent(s)

WP(MD) No. 14382 of 2018

Thiru B. Alagupandi

..Petitioner(s)

Vs

1.The State Human Rights Commission
Rep. by its Registrar, 143-P.S.Kumarasamy Raja
Salai, Greenways Road, Chennai-600028.

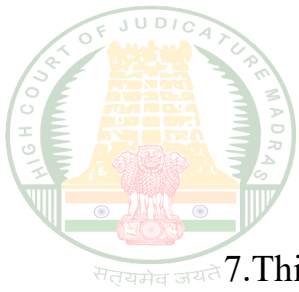
2.Jaishankar

3.R.Ponmuthuraj

4.Thiru. S. Kandakumar
Inspector of Police, CBCID Virudhunagar

5.Tmt. E. Irin Thangabala
Women Sub-Inspector of Police, CBCID
Virudhunagar

6.Thiru. Sangiliraj
Police Constable, CBCID Virudhunagar



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7.Thiru. Gurusamy

Sub Inspector of Police, CBCID Virudhunagar

8.Thiru. V. Vanaveerapandian

Police constable, CBCID Virudhunagar. (R4 to R8 are deleted vide order dated 15.10.2019 made in WP(MD).No.14381 and 14382 of 2018 by TSSJ and KRJ)

..Respondent(s)

Prayer in WP No.15850 of 2018: Writ Petition filed under Articles 226 of the Constitution of India, for issuance of a writ of certiorari, calling for records relating to the 2nd respondent's order made in S.H.R.C. No.810/2009 dated 21.05.2018 to quash the same.

Prayer in WP(MD) No. 16976 of 2018: Writ Petition filed under Articles 226 of the Constitution of India, for issuance of a writ of certiorari, calling for the records relating to order passed by the 1st respondent in his proceedings in S.H.R.C.No. 810 of 2009 dated 21.05.2018 and Quash the same as illegal.

Prayer in WP(MD) No. 15031 of 2018: Writ Petition filed under Articles 226 of the Constitution of India, for issuance of a writ of certiorari, calling for the entire records pertaining to the order passed by the 1st respondent in S.H.R.C. No.810 of 2009 vide order dated 21.05.2018 and quash the same in so far as the petitioner is concerned.

Prayer in WP(MD) No. 14381 of 2018: Writ Petition filed under Articles 226 of the Constitution of India, for issuance of a writ of



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certiorari, calling for the records relating to order passed by the 1st respondent State Human Rights Commission in S.H.R.C. No.810 of 2009 dated 21.05.2018 in so far as petitioner is concerned and quash the same.

Prayer in WP(MD) No. 14382 of 2018: Writ Petition filed under Articles 226 of the Constitution of India, for issuance of the writ of certiorari, calling for the records relating to order passed by the 1st respondent State Human Rights Commission in S.H.R.C. No.810 of 2009 dated 21.05.2018 in so far as petitioner is concerned and quash the same.

WP No.15850 of 2018

For Petitioner(s):	Mr.P.G.Santhoshkumar
For Respondent(s):	No Appearance (for R1) Mr.S.Karthikeyan (for R2) Mr.S.Venkatesh (for R3 & R4)

WP (MD) No.16796 of 2018

For Petitioner(s):	No Appearance
For Respondent(s):	Mr.S.Karthikeyan (for R1) Mr.S.Venkatesh (for R2 & R3) No Appearance (for R4 to R8)

WP (MD) No.15031 of 2018

For Petitioner(s):	Mr.D.Senthur Kugan for Mr.R.Anand
For Respondent(s):	Mr.S.Karthikeyan (for R1) Mr.S.Venkatesh (for R2 & R3)



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WP (MD) No. 14381 of 2018

For Petitioner(s):

Mr.K.Balasubramaniam
for Mr.A.Sivasubramanian

For Respondent(s):

Mr.S.Karthikeyan (for R1)
Mr.S.Venkatesh (for R2 & R3)
R4 to R8 deleted vide Court order dated
15.10.2019.

WP (MD) No. 14382 of 2018

For Petitioner(s):

Mr.K.Balasubramaniam
for Mr.A.Sivasubramanian

For Respondent(s):

Mr.S.Karthikeyan (for R1)
Mr.S.Venkatesh (for R2 & R3)
R4 to R8 deleted vide Court order dated
15.10.2019.

Common Order

(Order of the Court was delivered by Sunder Mohan J.)

The captioned writ petitions have been filed by the police officers working in various positions challenging the order dated 21.05.2018 passed by the State Human Rights Commission [hereinafter referred to as, '*the Commission*'] in S.H.R.C.No.810 of 2009 holding them guilty of human rights violations.

(2) The facts leading to the filing of the above writ petitions are as follows:



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(a) A case was registered for offences under Sections 302 and 380 of the IPC by the Rajapalayam South Police Station in Cr.No.637 of 2006 for the murder of one Ganesan, his wife viz., Kala and their two children. Thereafter, the case was transferred to CBCID for further investigation.

(b) It is the case of the complainants viz., R.Jaishankar [hereinafter referred to, as '*the 1st complainant*'] and R.Ponmuthuraj [hereinafter referred to, as '*the 2nd complainant*'], who are respondents 3 and 4 in W.P.No.15850 of 2018 and respondents 2 and 3 in other four Writ Petitions filed before the Madurai Bench of this Court that the petitioner in WP No.15850 of 2018, the Inspector of Police, CBCID, along with his team came to the office of the 2nd complainant and forcibly took him and went to the room where the 1st complainant stayed and took both of them first to E3-Teynampet Police Station, thereafter to Zam Bazaar Police Station; that they took both the complainants in a car from the said Police Station to Koyambedu Bus Stand and from there to Madurai CBCID office, ostensibly for the purpose of investigation in the murder case.



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(c) It is the further case of the complainants that at the CBCID Office at Madurai and at Theni, the complainants were kept in illegal custody and subjected to custodial torture, made to confess about their guilt in the murder case wherein the complainants' aunt, uncle and their two children were murdered.

(d) The father of the complainants, who was examined as PW3 before the Commission, sent a telegram to CBCID on 12.12.2008 alleging that his two sons were forcibly taken by the police. On 13.12.2008, a relative of the complainants, viz., PW4 lodged a complaint before the Inspector of Police, E3 Teynampet Police Station stating that a few persons claiming themselves to be police officials had abducted the complainants.

(e) On 16.12.2008, a Habeas Corpus Petition was filed by the father [PW3] before this Court alleging illegal detention by the Inspector of Police, CBCID, who is the petitioner in WP No.15850 of 2018, and his team. On 12.01.2009, this Court had closed the Habeas Corpus Petition by recording the submission of the learned Additional Public Prosecutor that the complainants were called for enquiry and sent away; and by



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further observing that the petitioner's counsel had not disputed the said fact.

(f) On 27.01.2009, the complaint which gave rise to the impugned order was lodged by the complainants before the Commission praying for compensation due to the illegal custody and custodial violence.

(g) Before the Commission, the complainants were examined as PW1 and PW2; their father was examined as PW3; and the cousin of the complainants, was examined as PW4. They had marked six documents including the telegram and the CSR Receipt issued by E3 Teynampet Police Station. The other documents filed were summons issued by the CBCID office to the complainants' father and mother. The petitioners, who are the respondents before the Commission, filed their counter and also examined themselves as witnesses.

(h) It was the case of the petitioners before the Commission that they had never taken the complainants for enquiry and that the allegations have been invented only to shield the complainants and thwart any action



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against them in the murder case that was being investigated. They also pointed out to certain contradictions in the evidence of the complainants on certain vital facts.

(i) During the course of enquiry, the Commission also directed the production of general diary relating to the station, viz., CBCID, Thallakulam from 01.12.2008 to 01.01.2009, register of train warrant details, register of work allotted to the police officials and few other documents.

(j) The Commission, after considering the evidence, by the impugned order dated 21.05.2018, had recommended payment of compensation of Rs.3 Lakhs each to the complainants to be recovered from the petitioners herein, who were arrayed as respondents 2 to 6 before the Commission.

3. The learned counsels for the petitioners would submit that the allegations are vague; that the Commission had no authority to direct payment of compensation and their findings can only be recommendatory



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in nature; and that in any case, the Commission had recorded that there was no direct evidence to establish illegal custody and violence during custody and therefore, ought to have disbelieved the case of the complainants, even as regards abduction.

4. Mr.S.Venkatesh, learned counsel appearing for the complainants, however, would submit that the Commission had considered the evidence in the right perspective and found a part of the complaint to be true, viz., illegal abduction and rightly awarded compensation, and in the absence of any procedural irregularity, this Court may not interfere in the writ proceedings, as scope of judicial review is limited.

5. We have carefully considered the rival submissions and perused the records.

6. A Full Bench decision of this Court in *Abdul Sathar v. Principal Secretary and others*, reported in 2021 SCC OnLine Mad 16611, was brought to our notice, wherein it was held that the recommendation of the



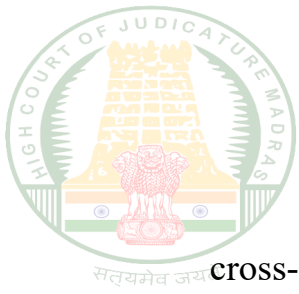
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Commission is binding and the officers who have been found guilty of violation of human rights can challenge the orders by invoking Article 226 of the Constitution of India.

7. It is the specific case of the complainants that they were taken into custody on 12.12.2008 and kept under illegal custody till 26.12.2008. A telegram was sent by the complainants' father to the CBCID on 12.12.2008. It is their case that this telegram was not received by the CBCID and it was returned. It is also not in dispute that a writ petition was filed in HCP No.2056 of 2008, before this Court. In the said writ petition, this Court had recorded the fact that the 2nd respondent therein viz., the Inspector of Police, CBCID, had admitted taking the petitioners therein/complainants for enquiry and sending them after the enquiry. The complainants have not alleged before the Division Bench either illegal custody or custodial violence.

8. Further, admittedly, no medical evidence was produced by the complainants to substantiate the assaults said to have been made by the police officials. In fact, PW2, the 2nd complainant had admitted in the



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cross-examination that he and PW1, the 1st complainant made a statement on 26.12.2008 before the Inspector of Police, E3 Teynampet Police Station that they had voluntarily gone to various places, implying that they were not kept under illegal custody. But PW2 would add that the police officials had forced him to make such a statement.

9. However, neither the complainants nor their father had mentioned about this fact to the Division Bench which heard the Habeas Corpus Petition or in their complaint and proof affidavit before the Commission. The fact that they were threatened to withdraw the complaint was stated for the first time in the cross-examination when the statement made by PW2 to the Inspector of Police, was pointed out to him.

10. In the complaint, a general allegation has been made as against seven respondents. In the proof affidavit, a reference is made to respondents 2 to 5 who are petitioners in the above writ petitions, that on 12.12.2008, they took both the complainants i.e., the 2nd complainant from his office and the 1st complainant from his room, to their office, but



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there is no reference to the presence of the 6th respondent-Irin Thangabala, who was shown as 3rd respondent in the final order.

11. The array of the respondents are different in the complaint as well as in the order. It is not as if the complainants had identified the respondents/petitioners herein before the Commission. They just refer to them by their array in the proof affidavit and in the cross-examination. There is no specific allegation against any particular officer. Further, there is also reference to respondents 8 and 9, when there are no persons arraigned so.

12. Admittedly, no independent witnesses who could have been examined by the complainants, viz., at the office of the 2nd complainant or the room-mates of the 1st complainant, had been examined.

13. The Commission also found that there is no evidence except for illegal abduction. We find that there is no evidence for abduction also. That apart, as stated earlier, the complainants themselves had made a statement to the Inspector of Police, E3 Teynampet Police Station suggesting that they were not in illegal custody or subjected to custodial



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violence. The Commission itself had only believed a portion of the evidence of the complainants. However, on considering the evidence before the Commission, we are of the view that it is difficult to separate the chaff from the grain and accept only a part of the evidence of the complainants.

14. We may also point out here that in the Habeas Corpus Petition, the learned Additional Public Prosecutor had stated before the Division Bench that the complainants were taken for enquiry and then sent back. But, the 2nd respondent in the complaint before the Commission (the petitioner in WP No.15850 of 2018) had denied taking the complainants for enquiry. However, we find that there is nothing to show that the 2nd respondent had filed an affidavit before the Division Bench. Hence, we cannot hold the 2nd respondent guilty of any human rights violation only for this reason.

15. We also find contradictions in the evidence of the complainants as regards whether uniformed persons or plain clothesman had taken them on 12.12.2008. Considering the overall evidence on record, we find



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the allegations that the complainants were illegally taken to custody and were detained for 14 days and subjected to violence, have not been proved.

16. In such circumstances, since the findings of the Commission, are not based on the evidence and are hence perverse, we are inclined to set aside the same.

17. Accordingly, the impugned order dated 21.05.2018 passed by the State Human Rights Commission in S.H.R.C.No.810 of 2009, is set aside and the Writ Petitions are allowed. Consequently, the connected Writ Miscellaneous Petitions are closed.

(A.S.M.,J.) (S.M.,J.)
27-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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**DR.ANITA SUMANTH J.
AND
SUNDER MOHAN J.**

ars

To

1.The Principal Secretary to Government,
Home Department, Fort St. George, Chennai-09.

2.The Registrar,
State Human Rights Commission,
No.143, P.S.Kumarasamy Raja Salai,
Greenways Rd, Chennai-28.

3.The Public Prosecutor,
High Court, Madras.

**Pre-delivery common order in
WP No. 15850 of 2018 and WP(MD) Nos. 16976,
15031, 14381 & 14382 of 2018
AND WMP No. 18853 of 2018 and
WMP (MD) Nos.14957, 13569, 13014
and 13015 of 2018**

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