

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 94 OF 2009

D.JAYAKUMAR

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T.,directions)

WITH

W.P.(CRL.) NO.13/2009

W.P.(C) NO.99/2009

Date: 26/02/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE P. SATHASIVAM

HON'BLE MR. JUSTICE J.M. PANCHAL

For Petitioner(s) Mr. Harish N. Salve. Sr. Adv.  
Mr. Mukul Rohatgi, Sr. Adv.

Mr. Subramonium Prasad, Adv.

Madras H.C.Bar. Mr. K. Gandhi, Sr., Adv.  
Assn. Mr. Paul Kanakaraj, Adv.  
Mr. M. Velmurugan, Adv.

Women Lawyer's Mr. P.H. Parekh, Sr. Adv.  
Assn. Ms. K. Santha Kumari, Adv.  
Ms. V. Nalini, Adv.  
M/s. Senelar, Adv.

T.N.Adv.Assn. Mr. K. Subramaniam, Sr. Adv.  
Mr. S. Prabakaran, Adv.

Law Assn. C. Munusamy, Adv.  
Mr. K. Ravi Kumar, Adv.

Madras Bar Assn. Mr. Loganathan, Adv.  
Mr. Karuppan, Adv.

Madras H.C. Mr. Elephant G. Rajaendran, Adv.  
Practising Adv. Mr. Jayanth Muth Raj, Adv.  
Assn. Mr. Nisherajan Shonker, Adv.

Mr. K.P. Narayanan, Adv.  
Mr. Ravi Chandran, Adv.  
Mr. A. Sivaram, Adv.  
Mr. R. Ramesh, Adv.  
Ms. A. Sumathi, Adv.  
Mr. Prabu, Adv.  
Mr. P.V. Gogeshwaran, Adv.

For Respondent(s) Mr. G.E. Vahanvathi, SG  
For State of T.N. Mr. Altaf Ahmad, Sr. Adv.  
Mr. Mohan K. Parasaran, ASG  
Mr. Masilla Mani, AG (T.N.)  
Mr. Raju Khalifulla Adv.  
Mr. Dhandapani, Adv.  
Mr. T. Harish Kumar, Adv.

For State of T.N. Mr. Ashok H. Desai, Sr. Adv.  
in WP(C) 94/09 Mr. R. Shanmuga Sundaram, Sr. Adv.  
Mr. Altaf Ahmad, Sr. Adv.  
Mr. Masilla Mani, AG (T.N.)  
Mr. Raju Khalifulla Adv.  
Mr. Dhandapani, Adv.  
Mr. T. Harish Kumar, Adv.

Mr. K.K. Venugopal, Sr. Adv.  
Mr. K.V. Viswanathan, Adv.  
Mr. B. Ragunath, Adv.  
Mr. Anup Kumar, Adv.  
Mrs. V. Mohana, Adv.  
Mr. Ankur Talwar, Adv.

UPON hearing counsel the Court made the following  
ORDER

The lawyers strike in the State of Tamil Nadu started on 29.1.2009 and it continued for some period and on 17.2.2009 some unfortunate incident happened in the Court premises and the matter was reported to Hon'ble Acting Chief Justice. On 19.2.2009 the lawyers resumed work and participated in the court proceeding and it is stated that court functioned from morning to till 3 p.m. It is alleged that around 3 p.m. a large number of armed policemen entered

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the premises of the High Court of Madras and lawyers who were allegedly involved in the incident on 17.2.2009 surrendered before the police station and it is alleged that about 200 number of armed policemen entered the High Court premises without the permission of the Acting Chief Justice and the Acting Chief Justice conveyed this message to the City Commissioner, Chennai and the Chief Secretary to the Government of Tamil Nadu and wanted the armed policemen to be removed from the High Court immediately. The court proceedings came to an end around 3.00 p.m. and it appears that some of the judges went near the place where the lawyers had collected themselves and tried to pacify the situation and it is alleged that at that time there was

confrontation between the lawyers and the police force and it is alleged that the armed policemen made a lathi charge and many lawyers including the sitting Judge of the High Court sustained injuries.

It is further alleged that the armed police entered the High Court building and chased the lawyers and also entered the High Court building and other courts in the same campus and caused extensive damage to the furniture items, computers and valuable articles kept in the court. Large number of cars and two wheelers parked in the High Court premises were also damaged allegedly by policemen. The High Court of Madras passed an order dated at 6.30 p.m on 19.2.2009 and requested the matter to be investigated by CBI.

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We heard learned Solicitor General of India appearing for the State of Tamil Nadu, Mr. Harish N. Salve, learned senior counsel, Mr. K.K. Venugopal, learned senior counsel, Mr. Mukul Rohatgi, learned senior counsel, Mr. K. Gandhi, learned senior counsel, Mr. Paul Kankasay, learned counsel, Mrs. Vaige, learned counsel, Mr. K. Subramaniam, learned senior counsel, Mr. Prabhakaran and Mrs. Santha Kumari, learned counsel and various learned senior counsel/counsel appearing for Madras Bar Association, Madras High Court Advocate Association, Women Lawyers' Association, Tamil Nadu Advocates Association, Law Association and Madras High Court Practising Advocate Association.

The main grievance of the lawyers is that the armed force including the "riot control unit" entered the court premises and the High Court building without the permission of the Acting Chief Justice of the High Court. This is an unfortunate incident. If armed policemen wanted to control any situation like riot, they should have obtained the permission of the Acting Chief Justice and he be kept informed of the situation before entering into the premises of the High Court. Learned counsel appearing for various associations submitted that all those officers who are responsible for this incident should be placed under suspension. Learned senior counsel appearing for the State of Tamil Nadu states that one Joint Commissioner of Police

(North) has already been transferred. He also stated that whatsoever suggested by the High Court or by the Commission appointed for that purpose would be complied with fully by the State Government at the earliest.

In view of this incident we request Mr. Justice B.N. Srikrishna, former Judge of the Supreme Court to inquire into the incident which happened on 19th February, 2009. The Committee be given the assistance of two senior police officers attached to the CBI Unit (Southern Zone) of the Madras. The representatives of the lawyers of the High Court would be at liberty to make submission and place all materials before Mr. Justice B.N. Srikrishna Committee. The Registrar General of the Madras High Court will render all assistance to the Committee. The terms of reference to the Committee shall be finally decided at the earliest by the Acting Chief Justice of Madras High Court in consultation with the Advocate General of the Madras High Court and the Presidents of the Madras Bar Association, Madras High Court Advocate Association, Women Lawyers' Association, Tamil Nadu Advocates Association, Law Association and Madras High Court Practising Advocate Association. Initial expenditure of the Committee shall be met by the High Court, to be ultimately born by the State Government.

The Committee initially shall consider whether any immediate action against the police officers who are

allegedly allowed armed policemen to enter the premises of the High Court without permission of Acting Chief Justice. The Committee is requested to give an interim report within a week, if possible.

Meanwhile Joint Commissioner of Police (Central Madras) and three Deputy Commissioners - Deputy Commissioner of Police (Kilpark), Deputy Commissioner of Police (Flower Bazar) and Deputy Commissioner of Police (Pulianthope) may be transferred from the

Madras City forthwith and the same shall be continued till the submission of interim report. These transfers are being suggested to facilitate fair enquiry by the Committee and without prejudice to their rights.

The Committee appointed by the High Court will go into matters relating to medical facilities to the injured advocates and reasonable compensation for the injured. The advocates who had sustained injuries would be at liberty to place all the details/materials before the said Committee.

The cars and two wheelers damaged allegedly by the police should either be repaired or compensation be paid and to be assessed by the Committee appointed by the High Court with the assistance of the Joint R.T.O. of the City of Chennai.

As regards High Court building and other buildings in the same campus furniture, computers and other articles are to be assessed by the committee appointed by the High Court immediately and the State Government will do the needful to repair the same.

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The State Government shall put at the disposal of the High Court Committee a sum of Rs.25 lakhs for the immediate relief and repair work.

Necessary police protection to the Hon'ble Judges and for smooth functioning of High Court required policemen should be deployed as per the order of Chief Justice, High Court but no armed force shall enter the court premises without the permission of the Chief Justice of the High Court.

The advocates shall not cause any disturbance of the court proceedings and shall not shout slogans in the courts premises. No meetings will be held in the court premises without the permission of the Chief Justice. However, they can have their meetings in their association premises.

In view of this order the appointment of Retired Judge of High Court of Madras as the committees by State shall stand dissolved.

We hope all the associations will withdraw the strike at the earliest and attend court work..

List on 3.3.2009 for further directions.

(R.K. Dhawan)  
Court Master

(Veera Verma)  
Court Master