



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE **D. KRISHNAKUMAR**

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WP (MD) No.16994 of 2019 and
WMP (MD) .No.13562 of 2019

R. Patchaiappan

... Petitioner

Vs.

1.The Principal Secretary Cum Commissioner,
Hindu Religious and Endowment Department,
Mahatma Gandhi Road,
Nungambakkam,
Chennai - 34.

2.The Joint Commissioner,
Kalvi and Thondu Niruvannangal,
Chairman,
Complaint Committee,
Commissioner's office,
Chennai - 34.

3.T. Anitha,
Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Dindigul Division,
Dindigul.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings of the 2nd respondent in 1)ந.க.எண். 1 / 2019, மகளிர் புகார் குழு, dated 05.07.2019, 1) ந.க.எண். 1 / 2019, மகளிர் புகார் குழு, dated 10.07.2019, 3)ந.க.எண். 1 / 2019, மகளிர் புகார் குழு, dated 22.07.2019, and quash the same and consequently, set aside the statements of witnesses recorded in the enquiry held on 08.07.2019 and 19.07.2019 before the 2nd respondent as illegal since it was held behind the petitioner's back and direct the 2nd respondent to conduct the enquiry as per the provisions of Rule 7 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules 2013.

For Petitioner : Mr. A.R.L. Sundaresan
Senior Counsel

for Mr. K. Muthumalai

For R1 & R2 : Mr. V.R. Shanmuganathan

Special Government Pleader



For R3

: Mr.K.R. Laxman

ORDER

This Writ Petition has been filed to quash the impugned proceedings of the 2nd respondent passed in 1)ந.க.எண். 1 / 2019, மகளிர் புகார் குழு, dated 05.07.2019, 1)ந.க.எண். 1 / 2019, மகளிர் புகார் குழு, dated 10.07.2019, 3)ந.க.எண். 1 / 2019, மகளிர் புகார் குழு, dated 22.07.2019, and consequently, set aside the statements of witnesses recorded in the enquiry held on 08.07.2019 and 19.07.2019 before the 2nd respondent as illegal since it was held behind the petitioner's back and direct the 2nd respondent to conduct the enquiry as per the provisions of Rule 7 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.

2. The Writ Petitioner was working as Joint Commissioner in Hindu Religious Endowment Department at Madurai. A complaint dated 02.07.2019 was preferred by the 3rd respondent / complainant, wherein it is alleged that on 29.06.2019, when the petitioner and complainant discharged their duties at Sathuragiri Hills, Saptur Village, Madurai District, the petitioner by using his Mobile Pen Camera recorded the bathing taken by the complainant and another one person, who is working as a Typist / NMR Employee in the respondent / Department. Based on the above said complaint, the 1st respondent suspended the petitioner from service.

3. According to the petitioner, the second respondent appointed the enquiry committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules 2013 to enquire into the serious allegation made in the complaint. According to the petitioner, the second respondent directed him to appear for enquiry without serving the copy of the complaint along with supporting documents and names and the addresses of witnesses contemplated in Rule 7(1) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules 2013. On receipt of the proceedings from the 2nd respondent, the petitioner made a letter to the second respondent on 05.07.2019 intimating that he was on medical leave till 31.07.2019 and that he was not in a position to appear before 2nd respondent on 08.07.2019. But, without serving a copy of the said complaint and connected documents, the second respondent elaborately issued another proceedings in Na.Ka.No.1 /2019 மகளிர் புகார் குழு, dated 10.07.2019 informing the petitioner to appear for enquiry on 19.07.2019 at 11.00 a.m., Thereafter, the petitioner sent another reply to the 2nd respondent on 13.07.2019 by stating that he was under medical treatment for blood pressure and giddiness and Doctor also advised him not to travel. Therefore, the petitioner again sent a communication to the second respondent on 15.07.2019 to follow the provisions of Rule 7(1) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules 2013.



Further, the petitioner received the communication from the second respondent dated 22.07.2019 by informing that the enquiry to be held on 08.07.2019 and 19.07.2019 and nearly 16 witnesses submitted their statements and again directed the petitioner to appear for an enquiry on 01.08.2019 at 11.00 am and to obtain statement of witnesses and cross examine them. Hence, the petitioner is before this Court with the present Writ Petition with the aforesaid prayer.

4. The learned Senior Counsel appearing for the petitioner submitted that as per Rule 7(3) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules 2013, the respondents ought to have granted 10 working days time to submit the reply. In the present case on hand, the first respondent has not granted 10 working days time to submit the reply. It is relevant to extract Rule 7(3) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules 2013, as follows:

"7. Manner of inquiry in to complaint :-

(3) The respondent shall file his reply to the complaint along with his list of documents and names and addresses of witnesses, within a period not exceeding ten working days from the date of receipt of the documents specified under sub-rule(1)."

5. He would further submit that without granting sufficient time to the petitioner for giving reply, the 2nd respondent has issued the impugned notice, which is illegal.

6. After elaborate arguments made by the learned Senior Counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2 would submit that the 2nd respondent would follow the procedures contemplated under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules 2013 and the second respondent shall grant time till 07.08.2019 to the petitioner for submitting his reply, in response to the notice issued by the 2nd respondent dated 22.07.2019.

7. In view of the aforesaid submission made by the learned Special Government Pleader appearing for the respondents 1 and 2, this Court, directs the second respondent to grant time till 07.08.2019 to the petitioner to submit his reply to the complaint made by the 3rd respondent. It is made clear that the 2nd respondent shall conduct enquiry in accordance with the procedures as contemplated under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules 2013. Further, the petitioner shall also co-operate for enquiry before the second



respondent Committee.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar(AD-II)

// True Copy //

Sub Assistant Registrar(CS)

trp

To

1.The Principal Secretary Cum Commissioner,
Hindu Religious and Cheridable Endowment Department,
Mahatma Gandhi Road,
Nungambakkam,
Chennai - 34.

2.The Joint Commissioner,
Kalvi and Thondu Niruvanangal,
Chairman, Complaint Committee,
Commissioner's office,
Chennai - 34.

+1CC TO MR.K.MUTHUMALAI, Advocate Sr. No. 79187

+1CC TO MR.K.R.LAXMAN, Advocate Sr. No.79148

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DB(CO)

TR (02.08.2019) 4P 5C