



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.07.2019**

CORAM:

THE HONOURABLE **MR. JUSTICE S.M.SUBRAMANIAM**

W.P. (MD) No.4491 of 2014

Suresh @ Karuppaiah

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Home Department,
Fort St. George, Chennai.

2.The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai-4.

3.The Inspector General of Police,
South Zone,
New Natham Road,
Madurai.

4.The Superintendent of Police,
Madurai District,
Madurai.

5.S.Ravichandran

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to constitute a local complaints committee and conduct enquiry on the complaint given by the petitioner dated 24.02.2014 against the 5th respondent now working as Deputy Superintendent of Police, PCR Section, Trichy for sexual harassment committed against his wife as per the Sexual Harassment of Women At Work Place (Prevention, Prohibition and Redressal), Act, 2013 and initiate departmental proceedings against the 5th respondent.

For Petitioners	: Mr.M.Kannan,
For R1 to R4	: Mr.K.Chellapandian, Additional Advocate General Assisted by Mr.D.Muruganandham, Additional Government Pleader
For R5	: Mr.R.Ananthapadmanaban

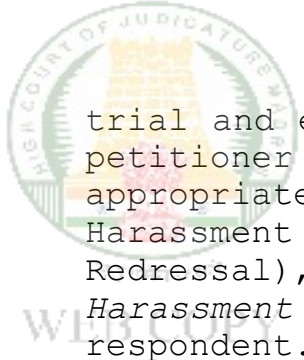


ORDER

The relief sought for in the present writ petition is for a direction to direct the respondents 1 to 4 to constitute a Local Complaints Committee and conduct an enquiry on the complaint given by the petitioner, dated 24.02.2014 against the 5th respondent now working as Deputy Superintendent of Police, Madurai. The complaint was submitted by the writ petitioner regarding the offence of sexual harassment committed against his wife under the provisions of the Sexual Harassment of Women At Work Place (Prevention, Prohibition and Redressal), Act, 2013 and initiate departmental disciplinary proceedings against the 5th respondent.

2. The learned counsel appearing on behalf of the writ petitioner states that the petitioner was working as Teacher in Panchayat Union Primary School, Samathuvapuram, Sedapatti Union, Madurai District. The marriage between the writ petitioner and his deceased wife Smt.Rani was solemnized during the year 2005. The fifth respondent was working as Deputy Superintendent of Police in Thirumangalam and the wife of the writ petitioner also was working under his control as constable. During the relevant point of time, the fifth respondent had misused his official position and developed an illicit intimacy with the wife of the writ petitioner and thereby spoiled her life. Due to the illicit relationship, there was a family dispute and the family life of the writ petitioner became wrecked. While the wife of the writ petitioner was working in Thirumangalam Town Police Station, the fifth respondent used to relieve the wife of the writ petitioner from the duty during odd hours in the night and thereby misused her. The fifth respondent would send the driver of the Deputy Superintendent of Police Mr.Pandikumar to the house of the writ petitioner and to take his wife. The said driver Pandikumar was residing as a neighbour to the writ petitioner. The allegations of the writ petitioner is that the fifth respondent by developing an illicit intimacy with the wife of the writ petitioner, spoiled his entire family. The fifth respondent threatened the wife of the writ petitioner. The wife of the writ petitioner, who was working as a constable had been coerced and coaxed to submit to the demands of the fifth respondent. The writ petitioner raises many such allegations and finally said that on account of these incidents, the wife of the writ petitioner committed suicide. A criminal case was registered in Cr.No.177 of 2013. The petitioner filed CrI.O.P(MD)No.18880 of 2013 seeking transfer of investigation from the file of the Inspector of Police, Peraiyur Police Station. Pursuant to the orders of the High Court, the investigation was transferred to Deputy Superintendent of Police, C.B.C.I.D., Madurai Range, Madurai by order, dated 28.11.2013.

3.The criminal case registered is pending. The writ petitioner is also an accused in the criminal case. The learned counsel for the petitioner states that the petitioner would face the criminal



trial and establish his case. However, the learned counsel for the petitioner states that the department has not proceeded in an appropriate manner in accordance with the provisions of the Sexual Harassment of Women At Work Place (Prevention, Prohibition and Redressal), Act, 2013 (*hereinafter referred to as "the Sexual Harassment Act"*) and has taken side in favour of the fifth respondent. Thus, the writ petitioner is constrained to file the present writ petition. The writ petition is filed on account of the fact that no fair enquiry was conducted under the provisions of the Sexual Harassment Act. The Committee constituted by the respondents was in violation of Section 4 of the Sexual Harassment Act itself.

4. The investigation as well as the enquiry conducted by the Department was not only improper, but shows the manner in which such an enquiry was conducted to favour the fifth respondent, who is working in the rank of Deputy Superintendent of Police. The competent authorities of the Police Department has not initiated any actions under Sections 12 & 19 of the Sexual Harassment Act. In respect of such serious allegations, the employers are bound to initiate action under Sections 12 as well as under Section 19 of the Act. When the writ petitioner has given a specific complaint as well as instances and incidents, the authorities competent ought to have invoked Section 19 of the Act for the purpose of initiating criminal action against the fifth respondent. However, no such actions were initiated and the enquiry was conducted by an incompetent Internal Complaints Committee, who in turn conducted an enquiry in an improper manner and closed the same. The committee members are the office Superintendent of the same office and no independent member was added in the Internal Complaints Committee constituted earlier by the Department. Thus, the very enquiry conducted became an empty formality and in order to support the case of the fifth respondent. The learned counsel for the petitioner made a specific allegations that with reference to Section 19-F of the Sexual Harassment Act, the service records as well as the previous conduct of the fifth respondent were not even verified nor any such investigations were conducted. The Director General of Police had directed the officials to verify the previous conduct of the fifth respondent. However, no such verifications were done by the competent authority for the purpose of conducting an enquiry.

5. The learned Additional Advocate General appearing on behalf of the respondents 1 to 4 opposed the contention by stating that after the transfer of the criminal case investigation, the Deputy Superintendent of Police, C.B.C.I.D., Madurai conducted a detailed investigation and submitted a report. As per the report, the Departmental Disciplinary Proceedings are directed to be taken in respect of earlier misconducts, punishments were also imposed on the fifth respondent by the competent authorities. However, during the pendency of the criminal case, no further actions are initiated and the fifth respondent is not an accused in the criminal case.



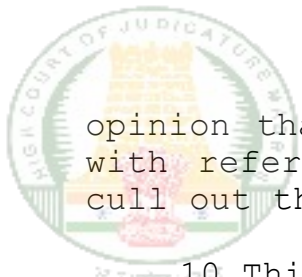
6. The learned Additional Advocate General conceded the fact that the earlier Internal Complaints Committee constituted was not in consonance with Section 4 of the Sexual Harassment Act. Thus, a decision has been taken to reconstitute the committee and accordingly, the Superintendent of Police, Madurai District issued an order in proceeding dated 18.07.2019 constituting a fresh Committee consisting the following members.

President	: Tmt. Vanitha, Additional Superintendent of Police for Prevention of Crime against Women and Children, Madurai District.
Member-1	: Tmt. D. Jenat Vasanthakumari, Madurai Institute of Social Science, 9, Alagar Kovil Road, Madurai.
Member-2	: Tmt. R. Suseela, Government Advocate (Retired), Madurai District.
Member-3	: Tmt. Jeyamani, Inspector of Police, Land Grapping Unit, Madurai.
Member-4	: Tmt. M. Backialakshmi, Inspector of Police, District Crime Branch, Madurai District.

7. The learned Additional Advocate General urged this Court by stating that the Committee constituted in proceedings, dated 18.07.2019 is in accordance with Section 4 of the Sexual Harassment Act and a fresh enquiry will be conducted in respect of the allegations set out in the complaint filed by the writ petitioner. It is further contended that a fair enquiry would be conducted by producing the service particulars of the fifth respondent as well as his previous records. The competent Internal Complaints Committee will conduct an enquiry by providing an opportunity to all the parties concerned and by verifying the records as well as the materials available on record. It is further contended that the provisions of the Act will be complied with in all respects at the time of conducting an enquiry by the Internal Complaints Committee.

8. The learned Additional Advocate General fairly made a submission that the enquiry is to be conducted strictly in accordance with the provisions of the Sexual Harassment Act and the newly appointed committee would undertake the process of conducting enquiry in a fair manner, complete the same and submit his report/recommendations as expeditiously as possible.

9. Taking note of the submission of the learned Additional Advocate General, this Court is of the opinion that the relief sought for in the present writ petition by the writ petitioner has been conceded to the extent that a revised Internal Complaints Committee is constituted and the learned Additional Advocate General also made a submission that the Internal Complaints Committee will proceed with the enquiry in the manner known to the Act and by following the procedures and affording an opportunity to all the parties including the writ petitioner. In view of the progress made after listing of the present writ petition, this court is of the



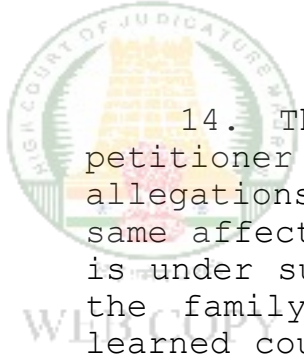
opinion that the respondents must be allowed to conduct an enquiry with reference to the provisions of the Sexual Harassment Act to cull out the truth and proceed further in accordance with law.

10. This Court also perused the entire report submitted by the respondents 1 to 4. There are certain incidents which shows that certain allegations are undoubtedly serious and the fifth respondent is now working in the rank of Deputy Superintendent of Police. It is further brought to the notice of this Court that the fifth respondent is working in and around Madurai for many years. Though he was transferred in some other places, most of his services are in and around Madurai or nearby to Madurai. Therefore, this Court is of the considered opinion that there is a possibility of influence in the process of enquiry. The departmental officials working in Madurai may be acquainted with the fifth respondent. The witnesses also residing in and around Madurai District. Under these circumstances and in order to conduct fair enquiry, the competent authorities are bound to invoke Section 12 of the Sexual Harassment Act for the purpose of transferring the fifth respondent for conducting a free and fair enquiry.

11. With reference to Section 19 of the Sexual Harassment Act, the Internal Complaints Committee is bound to obtain all such available informations as the case may be, with reference to the service records of the fifth respondent and previous misconduct, if any punishments and other connected records. All these aspects are to be considered while conducting an enquiry and at the time of finalising the report.

12. This Court is of the considered opinion that recently, there is a large scale allegations in the public domain against working women in working places. Large number of such cases are brought to the notice of the public at large. Unless, adequate protections are granted to the women employees, more specifically, working in Subordinate services, it would be very difficult for the department to run the public administration effectively and efficiently. When the police officials, who all are responsible for maintenance of law and order and crime control, if such kind of misconducts are allowed to happen, then the public trust will be collapsed and the people will loose confidence in the efficiency level and the functioning of the police department in the State of Tamil Nadu. Such kind of allegations are to be investigated properly and suitable actions are to be initiated strictly in order to develop confidence in the minds of the public.

13. Thus, the Courts cannot show any leniency in respect of such allegations. The manner in which, the investigations are conducted as well as the appointment of Internal Complaints Committee by the respondents on earlier occasion were undoubtedly not satisfactory and therefore, this Court intervened for the purpose of conducting a fresh enquiry by the newly constituted Committee through the orders of the District Superintendent of Police on 18.07.2019.



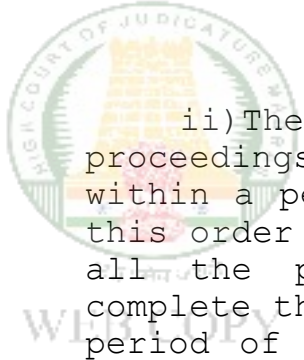
14. The arguments advanced by the learned counsel for the petitioner also is to be considered to the extent that the allegations set out in the complaint are not only serious and the same affected the very family life of the writ petitioner. Now, he is under suspension and facing criminal trial and lost his wife and the family is totally scattered. Under these circumstances, the learned counsel for the petitioner states that the complaint of the writ petitioner alone is not the allegation against the fifth respondent, there were many such allegations were already brought to the notice of the department against the fifth respondent and they have to conduct a proper enquiry by verifying the earlier conduct of the fifth respondent in order to initiate strong actions, so as to prevent the fifth respondent in committing any such illegal activities or misconduct.

15. Therefore, the learned counsel for the petitioner urged this Court by stating that a fresh Internal Complaints Committee must be constituted and member from the out side, who is acquainted with the provisions of the Act and women welfare procedures must be included so as to conduct an enquiry in an effective manner. The learned Additional Advocate General has no objection for including an additional member and he is gracious enough to suggest the name of Smt.N.Krishnaveni, Senior Advocate at Madurai.

16. There is a force in the contention of the learned counsel for the petitioner. There is every reason to consider the claim of the writ petitioner in view of the fact that the matter is kept pending for long years and there is no fruitful result arrived in respect of the enquiry conducted in violation the provisions of the Sexual Harassment Act. Now that, the learned Additional Advocate General came out with an order that the Superintendent of Police constituted a fresh committee in accordance with Section 4 of the Sexual Harassment Act and further made assurance that the Internal Complaints Committee will proceed in accordance with law by affording an opportunity to all the parties uninfluenced by any other officials and submit a report and based on such report, all further actions will be initiated by the competent authorities in accordance with the provisions of law as well as with reference to the Discipline and Appeal Rules and other relevant rules.

17. In view of the submissions made by the learned Additional Advocate General and considering the facts and circumstances, this Court is inclined to pass the following orders:-

i) The newly constituted Internal Complaints Committee with reference to the orders of the District Superintendent of Police, Madurai District in proceedings, dated 18.07.2019 stands confirmed. In addition to the members, this Court is inclined to add Smt.N.Krishnaveni, Senior Counsel, Madurai Bench of Madras High Court, Madurai as well the President of the Madurai-Madras Bar Association as an additional member of the Internal Complaints Committee only to conduct an enquiry in respect of the complaints in the present writ petition.



ii) The Internal Complaints Committee constituted in proceedings, dated 18.07.2019 shall commence the enquiry proceedings within a period of two weeks from the date of receipt of a copy of this order and proceed with the enquiry by affording opportunity to all the parties concerned, including the writ petitioner and complete the same as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order.

iii) With reference to Section 12 of the Sexual Harassment Act, during the pendency of the enquiry to be conducted by the Internal Complaints Committee the respondents 1 to 4 are directed to transfer the fifth respondent from Madurai District to any other District till all the enquiry proceedings are completed. However, it is made clear that the fifth respondent should not be accommodated in the adjoining Districts to Madurai District.

iv) The Internal Complaints Committee now appointed shall call for the service records of the fifth respondent earlier punishments, allegations, documents etc., for the purpose of conducting an enquiry and make assessment with reference to the previous conduct of the fifth respondent and accordingly, consider all those aspects at the time of arriving conclusion and submission of report.

8. With these directions, the writ petition stands disposed of. No costs.

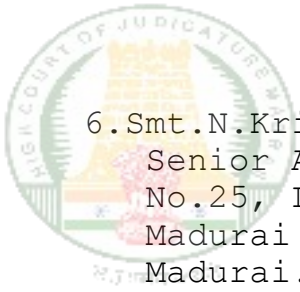
Sd/-
Assistant Registrar

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Sub Assistant Registrar

To

1. The Secretary to Government,
Home Department,
Fort St. George, Chennai.
2. The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai-4.
3. The Inspector General of Police,
South Zone,
New Natham Road,
Madurai.
4. The Superintendent of Police,
Madurai District,
Madurai.
5. The President,
Madurai Madras Bar Association,
Madurai Bench of Madras High Court,
Madurai.



6.Smt.N.Krishnaveni,
Senior Advocate,
No.25, Law Chambers,
Madurai Bench of Madras High Court,
Madurai.

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+1 CC to M/s.M.KANNAN, Advocate (SR-77351[F] dated 24/07/2019)

+1 CC to M/s.SPL GP (SR-77980[F] dated 26/07/2019)

W.P. (MD) No.4491 of 2014
24.07.2019

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