

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2020

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Writ Petition No.13118 of 2020
and W.M.P.Nos.16244 and 16245 of 2020

R.Subash

... Petitioner

-Vs-

- 1 The Chief Secretary to Government of Puducherry
Chief Secretariat, Puducherry
 - 2 The Deputy General of Police
Police Department Puducherry
 - 3 The Chairperson, Internal
Complaints Committee - cum - Secretary (law)
Chief Secretariat, Puducherry
 - 4 M.Monisha Working as
Woman Home Guard 26 36 Thirubuvanai
Police Station Puducherry
- ... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the 3rd respondent in respect of the report in case No. 2/ ICC/ 2020- LD dated 2.9.2020 and to quash the same.

For Petitioner : Mr.V.Ajayakumar

For Respondents : Mr.Stalin Abhimanyu
Government Advocate (Puducherry)
- for RR 1 to 3

O R D E R

The matter was taken up through Web-hearing.

2. The petitioner is working as Sub Inspector of Police (Home Guard) in the Union Territory of Puducherry. There was a complaint of sexual harrassment against the petitioner from his subordinate one woman Home Guard. On the basis of the complaint from the woman Home guard, the petitioner was placed under suspension on 20.04.2020. A criminal case was also registered against him under Section 354, 354A, 354E of IPC and

509 of IPC. In terms of the provisions of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, an Internal Complaints Committee was constituted to enquire into the complaint of sexual harassment. The Committee which was constituted, consisted of Secretary (Law) as Chairperson, Secretary (General Administration), Secretary (Fisheries) and another person who was a representative of a NGO. The Committee which went into the complaint has finally submitted a report holding that the charge of sexual harassment against the petitioner was found established. The report holding the petitioner guilty of sexual harassment by the petitioner on his subordinate is put to challenge in the present writ petition.

3. Mr.V.Ajayakumar, learned counsel for the petitioner would submit that the report of the Internal Complaints Committee dated 02.09.2020 suffers from various infirmities as pointed out in the grounds raised in the affidavit filed in support of the writ petition. According to the learned counsel, no proper opportunity was afforded to the petitioner and the Committee had acted against the interests of the petitioner without any valid materials in respect of the harassment charge. The learned counsel would also submit that in order to prevent the petitioner from being appointed to the All India Service (IPS), the charge of sexual harassment has been trumped up and therefore challenging the report, the petitioner is before this Court.

4. This Court has perused the impugned report of the Internal Complaints Committee and also the grounds raised in the writ petition in support of the challenge by the petitioner. As far as the report is concerned, the Committee has examined as many as ten witnesses and ultimately found the charges against the petitioner were established. It is also seen from the report that the petitioner has also been provided opportunity to cross examine the witness through questionnaire. On the basis of such findings, the Committee recommended to take further action against the petitioner. Therefore, this Court prima facie finds that the report of the Committee does not suffer from infirmity as submitted by the learned counsel for the petitioner.

5. Even otherwise, the grounds raised in the writ petition in challenging the report without waiting for final action to be taken by the Government in response to the report, this Court does not find any of the grounds merits serious consideration of this Court. The so-called procedural infirmities pointed out in the grounds are completely bereft of any substance and on such flimsy basis of challenge, this Court cannot interfere with the report submitted by the Internal Complaints Committee at this stage. The malafides attributed for sexual harassment charge

and the Committee's enquiry into the charge is not supported by any materials whatsoever for this Court to take the contention of the petitioner seriously. In any event, this Court finds that there are no merits in the writ petition.

6. It is always open to the petitioner to work out his remedies in the manner known to law when a final order is passed on the basis of the enquiry report filed by the Internal Complaints Committee dated 02.09.2020. Therefore, this Court is of the considered view that this Writ Petition is not only premature but also not maintainable at this stage. However, this Court makes it clear that the dismissal of the writ petition does not mean that the petitioner is precluded from assailing the report on its merits when any final order is passed in pursuance of the report. This Court has merely concluded against the petitioner in this writ petition only on a prima facie consideration and not otherwise.

7. With the above observation, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

KST

To

- 1 The Chief Secretary to Government of Puducherry
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Police Department Puducherry
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W.P.No.13118 of 2020

EV (CO)

SP(21/10/2020)