

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.1329 of 2021

S.Revathy

... Petitioner

Vs.

1. The Tamil Nadu State Commission for Women,
Rep. By its Chairperson,
First Floor, Chepauk, Chennai-5.

2. The Superintendent of Police,
o/o. Superintendent of Police,
Salem District.

3. The Inspector of Police,
All Women Police Station,
Sangakiri,
Salem District.

4. The District Social Welfare Officer,
Collectorate Office,
Salem District.

5. The Dean,
Mohan Kumaramangalam Medical College & Hospital,
Salem.

6. S.Dhilipkumar

... Respondents

Prayer: This Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the 4th respondent to conduct enquiry and take action against the 6th respondent and consequently, direct the 5th respondent to conduct DNA Test to the petitioner's child and submit report to the 4th respondent by considering her representation dated 12.05.2020.

For Petitioner : Mr.K.T.S.Sivakumar
For Respondents : Mr.M.Mohammed Riyaz, R1 to R5
Additional Public Prosecutor

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the 4th respondent to conduct an enquiry against the 6th respondent based on the complaints given by the petitioner dated 12.05.2020 and 07.06.2020.

2. The case of the petitioner is that she is a Government School Teacher, who married the 6th respondent. The further case of the petitioner is that a child was born on 02.10.2018. Thereafter, the 6th respondent is said to have driven out the petitioner from the matrimonial home and he has gone to the extent of even denying the paternity of the child. The petitioner left with no other option, gave a complaint to the 4th respondent. Since the same was not acted upon, the present Writ Petition has been filed before this Court seeking for appropriate directions.

3. Heard Mr.K.T.S.Sivakumar, learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing on behalf of the respondents 1 to 5.

4. In the considered view of this Court, the petitioner has taken sufficient steps by giving a complaint before the Social Welfare Officer. The grievance of the petitioner is that the Social Welfare Officer has not acted upon the complaints even though a duty is cast upon the officer under Section 9 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter called to as 'The Act'). If the Social Welfare Officer does not act upon the complaint, it is not as if the petitioner is remedy less. The petitioner can directly file an application before the concerned Magistrate under Section 12 of the Act and work out her remedy and seek for the reliefs under the Act. Once such an independent right is given to a aggrieved party under the Act, it is not necessary for the petitioner to be dependent upon to the 4th respondent and the petitioner can directly approach the concerned Magistrate and work out her remedy. The petitioner, at the time of filing the application, before the concerned Magistrate Court, can also file a copy of this order to enable the learned Magistrate to proceed further in accordance with law. The learned Magistrate shall also call upon the Social Welfare Officer and enquire as to why the complaint given by the petitioner, was not acted upon. Except giving this liberty to the petitioner, no further orders can be passed in this case.

5. This Writ Petition is disposed of with the above directions.

N.ANAND VENKATESH,J.

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Speaking Order/Non-speaking Order

Index :Yes/No

Internet:Yes/No

Note: Issue Order Copy by 01.02.2021

rli

To

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5. The Public Prosecutor
High Court of Madras
Chennai – 600 104.

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