

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4830 of 2021

J.Venkatesan

.. Petitioner

-vs-

1. The Director,
Department of Horticulture and Plantation Crops,
Commissionerate of Agriculture,
No.1, Wallajah Road,
PWD Estate, Chepauk,
Chennai - 600 005.
 2. The Deputy Director of Horticulture,
Zagir Amma Palayam, Salem,
Tamil Nadu - 636 302.
 3. The Deputy Director of Horticulture,
Horticulture Department, Thiruvannamalai,
Vengikkal,
Thiruvannamalai.
- .. Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Certiorari to call for the records relating to the Impugned Charge Memo dated 29.10.2020 vide in No.O.Na.Pi (ஒநபி) 1/17925/2020-1 and to quash the same.

For Petitioner : Mr.D.Manimaran

For Respondents : Mr.J.Pothiraj
Special Government Pleader

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O R D E R

The petitioner has come forward with the present writ petition challenging the Charge Memo dated 29.10.2020 passed by the first respondent in No.O.Na.Pi(xegp) 1/17925/2020-1.

2. Mr.J.Pothiraj, learned Special Government Pleader takes notice on behalf of the respondents.

3. By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner an anonymous complaint has been given against the petitioner alleging sexual harassment. The details of the witnesses have not been given and that the procedures to be adopted by the respondents is not in terms of the guidelines issued by the Apex Court in Vishaka and others vs. State of Rajasthan and others reported in 1997 (6) SCC 241. According to him, the impugned charge memo issued under Rule 17 (b) of the Tamil Nadu Civil Services (Disciplinary and Appeal) Rules, is mischievous and it is going to disrepute him, as according to him, a vague and false charges have been foisted against him.

5. The contentions of the petitioner is only based on factual averment and that the issue is not with regard to the enquiry conducted by the Internal Committee constituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. It is a proceedings under Rule 17(b) of Tamil Nadu Civil Services (Disciplinary and Appeal) Rules. The petitioner is not made out a case as to how the charge sheet suffers from infirmity legally. The factual submissions that documents have not been furnished, the list of witnesses have not been produced, cannot be gone into by this Court. However, Annexure-IV shows the list of 8 witnesses. If the petitioner feels that the copy of the documents are not furnished, it is open to him to make a request and seek for the documents for the purpose of explanation. The petitioner need not be bothered about disproving the charges. The burden is on the department to prove the charges against the petitioner and the petitioner has to defend himself in the domestic enquiry. As there is no material to interfere with the charge memo, this Court is of the view that an enquiry shall be proceeded on day to-day basis without adjourning the matter beyond seven working days at any point of time, in which the petitioner is expected to co-operate and the issue has got to be brought to the logical end. The petitioner shall not stall the proceedings till the final decision is taken.

6. It is represented by the learned counsel for the petitioner that 8 witnesses referred to by the petitioner have already given a statement that there is no sexual harassment given to them. Since it is the part of the document in the typed set of papers, it is open to him to produce the same before the enquiry officer, which can be considered by the enquiry officer while submitting the report on the charge sheet, which is the subject matter of the writ petition.

7. I find no merits in the writ petition and the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

rsi

To

1. The Director,
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3. The Deputy Director of Horticulture,
Horticulture Department, Thiruvannamalai,
Vengikkal,
Thiruvannamalai.

+1cc to Mr.D.Manimaran, Advocate, S.R.No.13416
+1cc to the Government Pleader, S.R.No.14182

W.P.No.4830 of 2021

JEL(CO)
CB(26/04/2021)

सत्यमेव जयते

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