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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.12.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.10341 of 2021

and

WMP.Nos.10923, 10925 & 10927 of 2021

U.Mohana Sundari

... Petitioner

Vs.

1. Government of Tamil Nadu
Rep. by the Chief Secretary,
Fort St. George,
Chennai 600 009.
 - 2 The District Collector
Fourth Floor, M. Singaravelar Maaligai,
62 Rajaji Salai , Chennai Collectorate,
Chennai 600 001.
 - 3 University Grants Commission
Rep. by its Chairman
New Delhi.
 - 4 The Vice - Chancellore,
Madras University,
Chepauk, Chennai 600 005.
 - 5 The Madras University,
Rep. by its Registrar,
Chepauk, Chennai 600 005.
 6. Womens' Sexual Harassment Redressal Cell,
Rep. by its Chairperson, Madras University,
Chepauk, Chennai 600 005.
- ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Declaration declaring the proceedings of the Internal complaints Committee and its report if any as null and void and consequently direct the 2nd respondent to conduct enquiry through district Local complaints committee (DLCC) or other similar independent agency and also impose penalty on respondents 4 and 5 as per sec.26 of the sexual Harassment of Women at workplace (prevention Prohibition and Redressal) Act 2013 award costs.

For Petitioners : M/s.M.N.Sumathy



For Respondents : M/s.C.Sangamithirai R1 & R2
Spl. Government Pleader
Mrs.R.Sudha R4 to R6
Standing Counsel

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O R D E R

This Writ Petition has been filed declaring the proceedings of the Internal complaints Committee and its report, if any, null and void and consequently, direct the second respondent to conduct enquiry through District Local Complaints Committee (DLCC) or other similar independent agency and also impose penalty on respondents 4 and 5 as per Section 26 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

2.The case of the petitioner is that she got enrolled in M.A. Ancient History & Archaeology in the University of Madras during the year 2019. During the lock down, the University had announced semester exams and before the exams, the students were asked to attend internship, which is part of the II Semester curriculum. Such notice for attending internship was issued only two days before the scheduled date. It was not possible to attend the internship, at the time of lockdown. More over, the students have not allowed to stay in the university hostel. Therefore, the students including the petitioner went on a sit-in protest against the arbitrary action of the Head of the Department (HOD). Subsequently, the issue was pacified by the Management.

3.During February, 2021, when the 3rd semester results were published and the students were informed to call Thiru.M.Mani, Section Officer over phone individually to know their marks. It came to know that 8 students, who raised questions against the internship issue and who also participated in the sit-in protest against the arbitrary action of the HOD were not granted with permission letter to stay in the hostel and the disproportionate hostel fees were intentionally failed.

4.According to the petitioner, she got pass marks in the 3rd semester exams, but was granted very low marks in both internal and external exams. Students, who failed in the exams, were very confident that they would surely get goods marks, if the answer scripts were evaluated properly. All the students including the petitioner gave a representation to the Registrar for revaluation of the internal and external papers by the third party evaluator, since the HOD hails grudge over the students, for which, the students against conducted a protest and thereafter, the request was accepted by the University. After re-evaluation of the external papers in 3 subjects for all 26 students, it was found that the eight students including the petitioner, who were intentionally failed, got good marks and they have passed.



5. According to the petitioner, she along with few other students went to the HoD room to know their both internal and external marks. The HoD abused the students by using filthy language and he also sexually harassed the petitioner physically in front of other staff members. Therefore, the petitioner lodged a written complaint regarding the sexual harassment before the Sexual Harassment Redressal Committee, University of Madras on 17.03.2021 and on the same day, the Registrar served a letter to the petitioner calling to attend a general enquiry committee meeting scheduled on 18.03.2021 before the Internal Complaints Committee (ICC).

6. On 18.03.2021, the petitioner attended the enquiry before the ICC and thereafter, the petitioner sent a letter to the 4th respondent requested for a fresh ICC. Again on 20.03.2021, the Registrar issued notice to the petitioner, witnesses and the HoD to appear before the ICC. But, on the same day, suspension order was issued by the 5th respondent to the petitioner and the witnesses and therefore, sit-in protest was continued. On 22.04.2021, the petitioner and the witnesses were forcibly vacated from the University campus with the help of the Police personnel. Thereafter, the said complaint was forwarded to DGP and Women's Commission on 27.03.2021 and 30.03.2021 respectively. On 26.03.2021, the Registrar issued an offer of revocation of suspension to the petitioner and the witnesses, subject to certain conditions. The petitioner accepted the said offer and rejoined the University on 29.03.2021. It is pertinent to note that the report of the ICC has not been communicated to the petitioner till date by the management. Hence, the present writ petition has been filed before this Court.

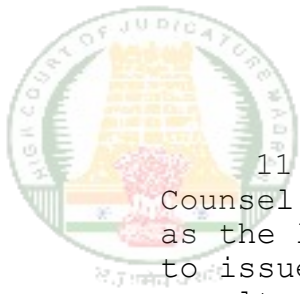
7. The learned counsel for the petitioner submitted that during the earlier occasion, this Court passed an interim order dated 23.04.2021 directing the respondents not to evaluate the petitioner's exam paper until further orders. Even then, the University had published the result including the petitioner. Therefore, the petitioner filed a contempt petition before this Court and after filing of the contempt petition, the published result was withdrawn by the respondent /University. However, the learned counsel further submitted that during pendency of the writ petition, the committee conducted the enquiry and held against the petitioner. Further, it is permitted the petitioner to challenge the order passed by the respondent University in the manner known to law and this Court may issue necessary directions to the respondent to publish the result, which was published earlier so as to enable the petitioner to pursue her further study.



8. The learned counsel for the respondents have filed counter-affidavit stating that the facts of the present case as submitted by the petitioner are totally false. The learned counsel further submitted that the internship is mandatory for the 3rd semester and also in order to complete the syllabus and to compensate the long leave due to the pandemic lock down, the semester exam and internship classes were conducted with an arrangement that the internship classes were held in the morning and evening classes. As the students complained regarding the said arrangements, the internship classes were postponed. The students, who raised the question against the internship and protested against hostel accommodation, assumed their marks were not evaluated properly. In this regard, it is clearly evident as per the CBCS regulations only the final semester papers will be revalued. Knowing these facts, the particular students have conducted protest again. The petitioner has lodged a false case against the HoD and she along with and other 7 students were created nuisance and continued protest in front of the main building and spread the issue in Social media and distributed pamphlets regarding the ICC enquiry. The unruly behaviour indulged in by the petitioner and other students is in violation of the rules and per se illegal and unethical and hence, the Disciplinary Committee, which met on 20.03.2021 recommended for suspension of all the students, who were under sit-in protest. The learned counsel further submitted that subsequent to the suspension, letters were received from the petitioner and other students for revocation of suspension. Thereafter, the Committee revoked the suspension subject to certain conditions. However, as per the order of this Court, the petitioner's result was withdrawn. As per the result published by the University, the petitioner secured pass mark. Further the learned Counsel submitted that the ICC has rightly conducted enquiry and forwarded the report to the petitioner also. The learned Standing Counsel prays that there is no merit in the petition filed by the petitioner and hence, prays to dismiss the same.

9. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents University, and perused the materials available on record.

10. During the pendency of the writ petition, the Committee and respondents University conducted an enquiry with regard to the complaint of sexual harassment made by the petitioner against the HoD of M.A. (Ancient History & Archaeology) and sent a copy of the report to the petitioner. If the petitioner is aggrieved regarding the report, which was received by her, it is always open to the petitioner to work out her remedy in the manner known to law.



11. Recording the submissions made by the learned Standing Counsel appearing on behalf of the respondent University as well as the learned counsel for the petitioner, this Court is inclined to issue a direction to the respondents University to publish the result of the petitioner within a period one week from the date of receipt of a copy of this order and hand over the entire mark sheets and also the original records of the petitioner within a period of two weeks, thereafter, to enable her to pursue her further studies.

12. With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Rli

To

1. The Chief Secretary,
Fort St. George,
Chennai 600 009.
- 2 The District Collector
Fourth Floor, M. Singaravelar Maaligai,
62 Rajaji Salai , Chennai Collectorate,
Chennai 600 001.
- 3 The Chairman,
University Grants Commission
New Delhi.
- 4 The Vice - Chancellore,
Madras University,
Chepauk, Chennai 600 005.
- 5 The Registrar,
Madras University,
Chepauk, Chennai 600 005.



6. The Chairperson
Womens' Sexual Harassment Redressal Cell,
Madras University,
Chepauk, Chennai 600 005.

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+1cc to M/s.M.N.Sumathy, Advocate, S.R.No.67836
+1cc to M/s.V.Sudha, Advocate, S.R.No.67713
+1cc to the Government Pleader, S.R.No.67897

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KM(17/12/2021)