



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2021

CORAM :

WEB COPY

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) Nos.20887 & 21325 of 2021

and

WMP(MD) Nos.17507, 17508,17890 and 18345 of 2021

and

Contempt Petition(MD) No.1846 of 2021

in

W.P(MD) No.20887 of 2021

W.P(MD) No.20887 of 2021:

M.Saravanan

Petitioner

Vs.

1.The Principal Secretary to Government of Tamil Nadu,
Social Welfare and Women Empowerment Department,
Secretariat, Chennai - 600 009.

2.The Director,
Director of Social Welfare Department,
Chennai - 600 015.

3.The District Social Welfare Officer,
Thanjavur District,
Thanjavur.

4.P.Murugaian,
Superintendent,
Child Development Project Office,
Sethubhavachatram,
Vattaram, Thanjavur District.

5.T.Vijaya,
Superintendent,
Government Children Home,
Thanjavur District.

Respondents

W.P(MD) No.21325 of 2021:

P.Murugaian

Petitioner

Vs



- 1.The Principal Secretary to Government,
Social Welfare Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The Director of Social Welfare,
Chennai - 600 015.
- 3.The District Social Welfare Officer,
Thanjavur District,
Thanjavur.
- 4.Thiru.M.Saravanan,
S/o Meenakshisundaram,
Industrial Co-Operative Officer,
Kundavai Nachiyar Women Tailoring Society,
Thanjavur District.

Respondents

Cont P(MD) No.1846 of 2021:

M.Saravanan

Petitioner/ Writ Petitioner

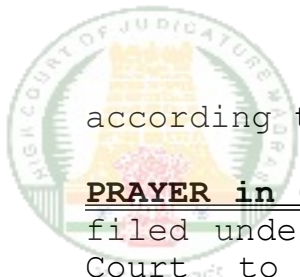
Vs.

- 1.Mr.Sambo Kallollikar, I.A.S.,
The Principal Secretary to Government of Tamil Nadu,
Social Welfare and Women Empowerment Department,
Secretariat, Chennai - 600 009.
- 2.Mrs.D.Rathina, I.A.S.,
The Director,
Director of Social Welfare Department,
Chennai - 600 015.
- 3.Mrs.K.Rajeshwari,
The District Social Welfare Officer,
Thanjavur District,Thanjavur.

Contemnors/Respondents 1 to 3

PRAYER in W.P(MD) No.20887 of 2021: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned transfer order in G.O.(Valayam) No.194, dated 17.11.2021, on the file of the first respondent and quash the same as illegal, in respect of the petitioner alone.

PRAYER in W.P(MD) No.21325 of 2021: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to forbear from relieving from the post of Industrial Co-Operative Officer, Kundavai Nachiyar Women Tailoring Unit, Thanjavur at any pretext except



according to the procedures established by law.

PRAYER in Contempt Petition (MD) No.1846 of 2021: Contempt Petition filed under Section 11 of the Contempt of Courts Act, praying this Court to punish the contemnors/respondents for their wilful disobedience of the order passed by this Court in W.MP(MD) No.17508 of 2021 in W.P(MD) No.20887 of 2021 dated 23.11.2021.

For Petitioner :Mr.A.N.Ramanathan
For R1 to R3 :Mr.Veera Kathiravan,
Additional Advocate General,
Assisted By
Mr.V.Nirmal Kumar
Government Advocate
For R4 :Mr.W.Pamelin

(in W.P(MD) No.20887 of 2021)

For Petitioner :Mr.W.Pamelin
For R1 to R3 :Mr.Veera Kathiravan,
Additional Advocate General,
Assisted By
Mr.G.V.Vairam Santhosh
Additional Government Pleader
For R4 :Mr.AN.Ramanathan

(in W.P(MD) No.21325 of 2021)

For Petitioner :Mr.A.N.Ramanathan
(in Cont P(MD) No.1846 of 2021)

C O M M O N O R D E R

The Writ Petition in W.P(MD) No.20887 of 2021 is filed as against the impugned order in G.O.(Valayam) No.194, dated 17.11.2021, transferring the petitioner from Kundavai Nachiyar Women Tailoring Co-Operative Society, Thanjavur to Amuthasurabi Saakukatti Stationery Manufacturing-cum-Women Tailoring Co-Operative Society, Annavasal, Pudukkottai.

2.Writ Petition in W.P(MD) No.21325 of 2021 is filed by the incumbent Industrial Co-operative Officer, Kundavai Nachiyar Women Tailoring Co-Operative Society, Thanjavur, with a prayer to forbear the respondents from relieving the petitioner from the post of Industrial Co-operative Officer, Kundavai Nachiyar Women Tailoring Co-Operative Society, Thanjavur.

3.Contempt Petition (MD) No.1846 of 2021 is filed by the

<https://hcservices.ecourts.gov.in/hcservices/>



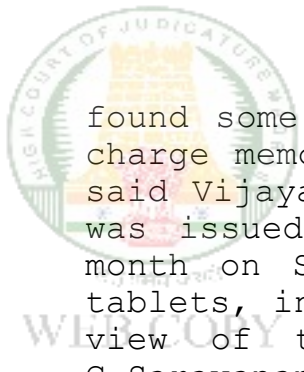
petitioner in W.P(MD) No.20887 of 2021, to punish the contemnors/respondents for their wilful disobedience of the order passed by this Court in W.P(MD) No.17508 of 2021 in W.P(MD) No.20887 of 2021 dated 23.11.2021.

4.The case of the petitioner in W.P(MD) No.20887 of 2021 is that the petitioner, in the capacity of Industrial Co-operative officer at Kundavai Nachiar Women Tailoring Society, Thanjavur, initiated action against one Saravanan, Writer cum Computer Operator and Vijayalakshmi, Accountant, for their illegal activities. Enquiry was also ordered under Section 81 of Co-operative Societies Act. On completion of enquiry, finding was arrived fixing said Saravanan and Vijayalakshmi as guilty. While so, the said Saravanan, the delinquent has lodged a complaint as against the petitioner on 02.11.2020 and based on which, a charge memo has been issued as against the petitioner in Na.Ka.No.937/2020/A1 dated 02.11.2020, on the same day of complaint. According to the petitioner, as a counter complaint, this complaint has been lodged by the delinquent, for the action taken by him against C.Saravanan.

5.In earlier occasion, when the Writ Petition in W.P(MD) No.20887 of 2021 was taken up for hearing, based on the submissions made by the learned counsel for the petitioner as stated supra, interim order of stay was granted by this Court on 23.11.2021.

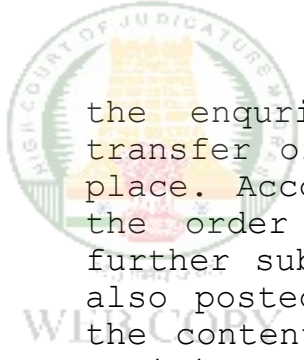
6. The case of the petitioner in W.P(MD) No.21325 of 2021 is that the petitioner was promoted as Industrial Co-operative Officer, Kundavai Nachiyar Women Tailoring Society, Thanjavur vide G.O.(D) No.149, Social Welfare and Women Empowerment (NM-1) Department, dated 18.11.2021 and in pursuant to the said order, he joined duty on 19.11.2021. While so, the fourth respondent, namely M.Saravanan, who is the petitioner in W.P.(MD) No.20887 of 2021 without handing over the charge, accounts and registers to the petitioner, he went away with the key. According to the petitioner in W.P(MD) No.21325 of 2021, M.Saravanan, threatened him, with the strength of interim order granted by this Court in W.P(MD) No.20887 of 2021. Hence, this petitioner prays this Court to direct the respondents 1 to 3 to forbear from relieving from the post of Industrial Co-operative Officer, Kundavai Nachiyar Women Tailoring Unit, Thanjavur.

7.The learned counsel for the petitioner in W.P(MD) No.20887 of 2021 submits that the petitioner, namely, M.Saravanan was promoted as Industrial Co-operative Officer and posted at Kundavai Nachiyar Women Tailoring Society, Thanjavur on 19.09.2018 and he was allotted with additional incharge for the Kumbakonam cum-Thanjavur Women Tailoring Co-Operative Society, Thanjavur on 30.05.2019. According to the petitioner, while taking incharge of the second unit, he found some malpractices taken place in that Society and he initiated departmental proceedings as against one ~~services, courts, etc. in services~~ who was working as Accountant. The petitioner also



found some other irregularities by one C.Saravanan and also issued charge memo as against that C.Saravanan, who was in tandem with the said Vijayalakshmi. The charge memo as against the said C.Saravanan was issued on 19.08.2020, for which he submitted a reply in the month on September, 2020 and on 27.10.2020, he consumed sleeping tablets, in order to protect that he attempted to commit suicide, in view of the charges levelled as against him. On 02.11.2020, C.Saravanan has lodged a complaint as against this petitioner. The petitioner was issued with charge memo on 02.11.2020, by the District Social Welfare Officer, Thanjavur. One Bhuvaneshwari has given a complaint against this petitioner as if he made certain sexual harassment to her and based on that, enquiry was also contemplated through Social Welfare Officer. During the course of enquiry, the said Bhuvaneshwari had withdrawn her complaint, considering the future of her children. However, the Social Welfare Officer has given a finding that there are possibilities of harassment, since 90% of the workers in the concerned Society are women and recommended for transfer of this petitioner from Thanjavur to Pudukkottai. Accordingly, this petitioner was transferred from Kundavai Nachiyar Women Tailoring Co-operative Society, Thanjavur to Amuthasurabi Saakukatti Stationary Manufacturing-cum-Women Tailoring Co-operative Society, Annavasal, Pudukkottai, on 17.11.2021, by the Government, on administrative grounds. The petitioner has challenged the transfer order on the ground that the order of transfer is punitive in nature and for having taken departmental proceedings against one Vijayalakshmi and one C.Saravanan, he has been penalised by imposing this order of transfer. The learned counsel appearing for the petitioner has also drawn the attention of this Court to the proceedings which have been initiated as against one Vijayalakshmi and C.Saravanan. Further, he submits that the petitioner has been transferred only to accommodate the fourth respondent, namely, one Murugaian, who is the petitioner in W.P(MD) No.21325 of 2021, in the said post, the order of transfer was passed on 17.11.2021 and on the next date, the said Murugaian was posted and assumed charge on 18.11.2021.

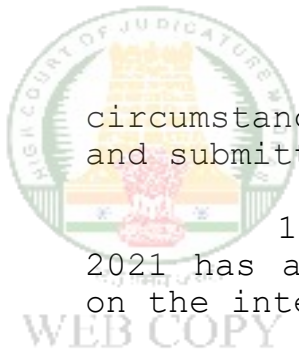
8.Mr.Veerakathiravan, learned Additional Advocate General, assisted by Mr.V.Nirmal Kumar, learned Government Advocate submits that the petitioner has been transferred only on administrative grounds, based on the report filed by the Social Welfare Officer. According to the learned Additional Advocate General, these Societies are established for the welfare of the women by way of providing employment opportunities to them and for betterment of women. The learned Additional Advocate General further submits that 90% of the workers in the Societies are women. A complaint was received from one Bhuvaneshwari as against this petitioner that he made sexual harassment to her. Hence, enquiry was contemplated and the Social Welfare Officer was directed to verify the allegations made by the said Bhuvaneshwari. However, during the course of enquiry, the said Bhuvaneshwari had withdrawn her complaint, stating



the enquiry proceedings and filed a report, recommending for transfer of this petitioner from the existing place to some other place. Accordingly, the Government has taken a decision and passed the order of transfer. The learned Additional Advocate General further submits that the petitioner in W.P.(MD)No.21325 of 2021 was also posted in that post and he has also taken charge. Insofar as the contention of the learned counsel for the petitioner that the petitioner has been transferred only to accommodate the fourth respondent, namely, one Murugaian, the learned Additional Advocate General submits that not only the petitioner, but also three other persons have been transferred by the impugned order dated 17.11.2021. On 18.11.2021, 26 others were also transferred all over Tamil Nadu and one such person is the fourth respondent and no malafide can be attributed in the order of transfer.

9.The petitioner, who is working as Industrial Co-operative Officer at Kundavai Nachiyar Women Tailoring Society, Thanjavur was also given incharge for the Kumbakonam cum-Thanjavur Women Tailoring Co-Operative Society, Thanjavur. The petitioner noted down certain irregularities by the Accountant one Vijayalakshmi and also initiated departmental proceedings as against the said Vijayalakshmi on 31.01.2020. The petitioner has also found that one C.Saravanan, who was working on daily wages basis has acted as against the interest of Society and hence he was issued with charge memo on 19.08.2020, totally 18 counts of charges. The said C.Saravanan, after submitting his reply, attempted to suicide by consuming sleeping pills. However, he was rescued. Further a complaint was made by one Bhuvanewari as against the petitioner in W.P(MD) No.20887 of 2021 and enquiry was ordered through the Social Welfare Officer. During the course of enquiry, Bhuvanewari had withdrawn her complaint. However, the enquiry officer proceeded with the enquiry and submitted her report that 90% of the staffs working in the Society are women and they have been subjected to harassment and it is better that this petitioner may be transferred to some other place. Based on the report of the enquiry officer, this petitioner was transferred by the Government in the month of November, 2021.

10.Considering the earlier submission of the petitioner in W.P(MD) No.20887 of 2021, that this petitioner has initiated some departmental proceedings as against the Accountant and one another person, this Court, while entertaining the Writ Petition in W.P.(MD) No.20887 of 2021, granted an order of interim stay on 23.11.2021. This Court after going through the materials placed on record, satisfied that the petitioner has been transferred on the basis of the recommendation of the Social Welfare Officer/enquiry officer, who conducted the enquiry, based on certain complaints received from one Bhuvanewari. The fact remains that 90% of the workers in the Societies are women. The learned Additional Advocate General has also referred the messages, which were communicated by the petitioner to Bhuvanewari. It is pertinent to note that though, <https://hcservices.mca.gov.in/> she had withdrawn her complaint, based on her family



circumstances, the Social Welfare Officer proceeded with the enquiry and submitted a report.

11. Apart from this, the petitioner in W.P(MD) No.20887 of 2021 has also filed a Contempt Petition(MD) No.1846 of 2021, based on the interim order granted by this Court on 23.11.2021.

12. In order to have safe atmosphere in the working place, the Honourable Apex Court has passed an order reported in (1997) 6 SCC 241, Vishaka Vs State of Rajasthan. Accordingly, the Government has also passed an enactment. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, defines sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- a) physical contact and advances;
- b) a demand or request for sexual favours;
- c) sexually coloured remarks;
- d) showing pornography;
- e) any other unwelcome physical verbal or non-verbal conduct of sexual nature.

13. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. All employers or persons in charge of workplace whether in the public or private sector should take appropriate steps to prevent sexual harassment. The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender. Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

14. It is seen that in the present case on hand, no such enquiry was conducted as per the dictum laid down by the Honourable Apex Court. In view of the forgoing reasons, there shall be a direction to the respondents to conduct enquiry with regard to the allegations made as against the petitioner in W.P(MD) No.20887 of 2021, under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, through the Vishaka Committee. The first respondent shall take further course of action, depending on the enquiry report.

15. With the above observations and direction, these writ petitions are dismissed. No costs. Consequently, connected



Miscellaneous Petitions are closed. In view of the common order passed in W.P(MD) Nos.20087 of 2021 and 21325 of 2021, Contempt petition (MD) No.1846 of 2021 is also closed.

WEB COPY

// True Copy //

Sd/-

Assistant Registrar (A.D.I)

/ /2022

Sub Assistant Registrar(CS)

vrn

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal Secretary to Government of Tamil Nadu,
Social Welfare and Women Empowerment Department,
Secretariat, Chennai - 600 009.

2.The Director,
Director of Social Welfare Department,
Chennai - 600 015.

3.The District Social Welfare Officer,
Thanjavur District,
Thanjavur.

+1 CC to M/s.AN.RAMANATHAN, Advocate (SR-39583[F] dated
20/12/2021)

+1. CC to M/S.SPL.GP SR.No.39707

W.P(MD) Nos.20887 & 21325 of 2021 and
WMP(MD) Nos.17507, 17508,17890 and 18345 of 2021 and
Contempt Petition(MD) No.1846 of 2021 in
W.P(MD) No.20887 of 2021
20.12.2021

RD(16.03.2022) 8P 6C