



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:	10.03.2021
DELIVERED ON:	30.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)Nos.24637, 23920 & 22004 of 2019

and W.M.P. (MD) Nos.22785, 23630, 21266, 21265, 18760 and 18761 of 2019

(Through Video Conference)

M.Palanivel ... Petitioner in W.P. (MD)
No.24637 of 2019

P.Selvanandam ... Petitioner in W.P. (MD)
No.23920 of 2019

Hemalatha ... Petitioner in W.P. (MD)
No.22004 of 2019

Vs

1) The State of Tamil Nadu,
Rep. by the Secretary to Government,
School Education Department,
Secretariat, Chennai.

2) The Principal Accountant General (A&E),
No.361, Anna Salai,
Chennai.

3) The Director of Elementary Education,
DPI Compound,
College Road, Chennai 600 006

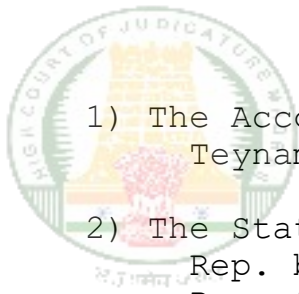
4) The Chief Educational Officer,
Theni District.

5) The District Educational Officer,
Uthamapalayam, Theni District.

6) The Block Educational Officer,
Chinnamannur,
Theni District.

7) Tha.Pe.Vai.Vellalar Uravinmurai
Gurukkal Middle School,
Through its Head Master,
Chinnamannur,
Theni District.

8) P. Selvanandam ... Respondents in W.P. (MD)
No.24637 of 2020



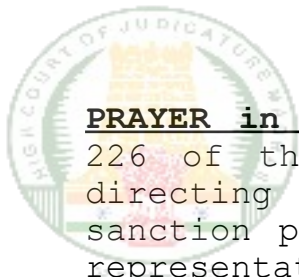
- 1) The Accountant General (A&E),
Teynampet, Chennai.
- 2) The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St.George, Chennai.
- 3) The Director of Elementary Education,
Chennai 600 006
- 4) The District Educational Officer,
Uthamapalayam, Theni District.
- 5) The Block Educational Officer,
Chinnamannur,
Theni District.
- 6) The Secretary,
T.P.V.V.U.Gurukkal Middle School,
Chinnamanur, Theni District.

... Respondents in W.P.(MD)
No.23920 of 2019

- 1) The District Educational Officer,
Uthamapalayam, Theni District.
- 2) Mrs.R.Kalaiselvi
- 3) Mrs.P.Kalaiselvi
- 4) Mrs.Janaki
- 5) Mr.Bose
- 6) Mr.Selvanadhan

... Respondents in W.P.(MD)
No.22004 of 2019

PRAYER in W.P. (MD) No.24637 of 2019: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 5th respondent pertaining to the impugned proceedings in Na.Ka.No.A3-3353-2018 dated 31/05/2019 and Na.Ka.A3-3353/2018 dt 21/10/2019 and to quash the same and consequently direct the 1st respondent to examine and adjudicate upon the regularity, correctness, legality and propriety of the impugned orders of the 5th respondent in accordance with the provisions of the Tamilnadu Recognised Private School (Regulation) Act 2018 within a time frame that may be stipulated by this Court.



PRAYER in W.P.(MD) No.23920 of 2019: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to disburse the retirement benefits and sanction pension of the petitioner by considering the petitioner's representation dated 12-09-2019.

PRAYER in W.P.(MD) No.22004 of 2019: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the proceedings in Na.Ka.No. A3-3353/2018 dated 27.03.2019 on the file of the 1st respondent and the consequential report dated 22.04.2019 submitted by the respondents 2 to 4 herein and quash the same and further directing the 1st respondent herein to form a fresh internal complaints committee in accordance with the provisions of The Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act 2013 and to complete the inquiry.

In W.P. (MD) No.22004 of 2019:

For Petitioner	:	Mr.R.P.Samuel Gunasingh
For R-1	:	Mr.M.Karuppasamy, Government Advocate
For R-6	:	Mr.M.C.Swamy

In W.P. (MD) No.23920 of 2019:

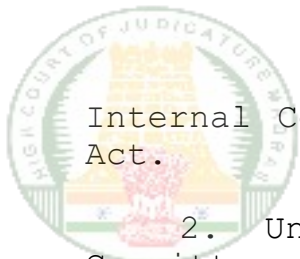
For Petitioner	:	M/s.R.Jenifer Bibin
For R-1	:	Mr.P.Gunasekaran
For RR 2 to 5	:	Mr.N.Shanmugaselvam, Additional Government Pleader
For R-6	:	No Appearance

In W.P. (MD) No.24637 of 2019:

For Petitioner	:	M/s.L.Victoria Gowri
For RR1, 3 to 6	:	Mr.N.Shanmugaselvam, Additional Government Pleader
For R2	:	Mr.P.Gunasekaran
For R7	:	No Appearance
For R-8	:	Mr.M.C.Swamy

C O M M O N O R D E R

The petitioner herein in W.P.(MD) No.22004 of 2019, who is a full time permanent Craft Teacher, had made a complaint against the sixth respondent of sexual harassment. When the petitioner had earlier approached this Court seeking for a direction to the Director of Elementary Education to constitute a Complaints Committee under the Sexual Harassment of Women At Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as the 'Act'), this Court, among other observations, directed the Educational Authorities to constitute an appropriate



Internal Complaints Committee in consonance with Section 4 of the Act.

2. Under Section 4 of the Act, the Internal Complaints Committee shall enquire into a complaint of sexual harassment and shall consist of a Presiding Officer among the employees, two members from the employees, who have experience in Social Work or have legal knowledge and one member from the Non-Government Organization(NGO). In the impugned order dated 27.03.2019, the District Educational Officer, Uthamalapalayam, had constituted a Committee consisting of a Senior Teacher, Headmistress from the place of employment of the petitioner, a Women Lawyer and a member of the Non-Governmental Organization. The inclusion of the Women Lawyer is in violation of the requirement of the two members from among the employees, and is in violation of Section 4(2)(B) of the Act, which requires two members from amongst the employees, who have experience in Social Work or have legal knowledge. The prerequisite of these two members is that, they should be from amongst the employees, preferably committed to the cause of women or should have experience in Social Work or legal knowledge. The first respondent herein, had misconstrued the provisions of Section 4 of the Act by including the Women Lawyer, who is not from amongst the employees and as such, the constitution of Internal Complaints Committee itself is illegal. As such, the writ petition filed by the complainant viz., Hemalatha, requires to be remanded back for reconstitution of a fresh Internal Complaints Committee.

3. Insofar as the writ petitions filed by Selvanandam in W.P. (MD) No.23920 of 2019 and Palanivel in W.P.(MD) No.24637 of 2019 are concerned, the issue revolves around the enquiry conducted by the Internal Complaints Committee. Since the constitution of the Internal Complaints Committee itself is found fault with and is remanded back for reconstitution and for conducting a fresh enquiry, the prayer sought for in these two writ petitions does not deserve consideration.

4. In the result, the writ petition filed by Ms.Hemalatha, petitioner in W.P.(MD) No.22004 of 2019 is allowed and the impugned order dated 27.03.2019 on the file of the first respondent is quashed and the matter is remanded back to the first respondent for reconstitution of the Internal Complaints Committee, in accordance with Section 4 of the Act within a period of four weeks from the date of receipt of a copy of this order. The Internal Complaints Committee so constituted, shall complete the enquiry within three months from the constitution of such Committee.

5. In regard to W.P.(MD) No.23920 of 2019 filed by Mr.Selvanandam and W.P.(MD) No.24637 of 2019 filed by Mr.Palanivel, both the writ petitions are dismissed with liberty to challenge the same, subject to the outcome of the enquiry. However, no order as to costs. Consequently, connected



miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

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Sub Assistant Registrar(CS)

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 Secretary to Government,
School Education Department,
Secretariat, Chennai.
- 2) The Principal Accountant General (A&E),
No.361, Anna Salai,
Chennai.
- 3) The Director of Elementary Education,
DPI Compound,
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- 4) The Chief Educational Officer,
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- 5) The District Educational Officer,
Uthamapalayam, Theni District.
- 6) The Block Educational Officer,
Chinnamannur,
Theni District.

+2 CC to M/s.M.C.SWAMY, Advocate (SR-14648[F].14669 dated 31/03/2021)

+1CC to M/s.R.Jenifer Bibin Sr.No.14957 dated 31/03/2021

W.P. (MD)Nos.24637, 23920 &
22004 of 2019
30.03.2021

KB(28.04.2021) 5P 10C