



W.P.No.2553 of 2022

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Dr.ANITA SUMANTH,J.

This Writ Petition has been disposed by an order dated 22.03.2022 The sequence of dates indicating compliances to be effected on each date is as follows:

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4. The petitioner filed a complaint on 03.03.2021 against R3 and owing to no response thereby approached the authorities under the Right to Information Act, 2005 on 05.06.2021 and 23.07.2021. Replies have been issued by the authorities to the effect that enquiry was on-going. Enquiry report dated 09.04.2021 that has been furnished by the Port Officer, Cuddalore to the higher ups indicates his prima facie findings that there was no merit in the complaint filed by the petitioner. However, this aspect of the matter does not concern the Court and it is the pathetic absence of proper procedure that does.

5. Clearly, the subject matter of the complaint relates to allegations of sexual misconduct as against R3. R1 being an arm of the Government, is expected to be fully cognizant of the vital differentiation between a general complaint and one specific to sexual harassment. It is moreover expected to be aware of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Act) and the framework thereunder to deal with and address such complaints and be in full compliance of the mandates thereof.

6. Since the appropriate course of action would have been to refer the matter to the ICC of the Board instead of which the Board has proceeded as though it is a general complaint and commenced domestic enquiry.

7. Thus, when the matter has come up for admission, I had sought specific instructions as to whether an Internal Complaints Committee (ICC) has been constituted at all in the Board.

8. After seeking some adjournments, today a communication bearing No.5271/E4/2021 dated 16.12.2021 is produced to the effect that one Tmt.F.Persis, Superintendent has been nominated as Presiding Officer on behalf of the Board along with Thiru.A.Thavamani, Port Conservator and Tmt.N.AlameluEaswari, Junior Assistant as Members of the Internal Complaints Committee to prevent, prohibit and redressal of sexual



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harassment of women in the Board.

9. This is, to my mind, is a sham. The constitution of the ICC is not in line with the mandate of Section 4, which requires, in addition to a Presiding Officer to be drawn from a senior level amongst employees, not less than two members from amongst the employees, preferably committed to the cause of women or who have had experience in social work or have legal knowledge and one member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with issues relating to sexual harassment.

10. No external committee member has been selected and thus there is no compliance with the mandate under Section 4 of the Act. R1 is directed to re-constitute the ICC in line with the stipulation under Section 4 and file a compliance report with the Registry within a period of one (1) week from today, i.e., on or before 29.03.2022, setting out the details of ICC so re-constituted.

11. The complaint filed by the petitioner will be forwarded to the ICC immediately upon its constitution and the ICC shall cause enquiry in line with the mandate of the Act and after hearing the petitioner and R3 as well as any others thought necessary, pass orders upon the complaint of the petitioner within a period of four (4) weeks from date of reference having been made.

12. This Writ Petition is disposed as above. No costs.

13. List the matter for reporting compliance of above direction on 26.04.2022.

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2. Thus, the matter has been listed today to record compliance of the respondents with the directions at para 11 of the aforesaid order.

3. Today, an affidavit has been filed by the 1st respondent enclosing a copy of the report, in compliance with the procedure set out by this Court. Incidentally, the enquiry report finds the petitioner's case acceptable and R3 has been found guilty of the allegations that were levelled against him by the petitioner. This Court was concerned with the non-compliance by the



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Cuddalore Port with the mandatory requirements under the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*.

The above order had been passed to ensure that the procedure set out thereunder has been internalized and brought in line with the requirements under the Act. The purpose of the Writ Petition thus stands achieved.

sl/kbs

26.04.2022



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