



W.P(MD)No.14173 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14173 of 2022

and

W.M.P(MD)No.10133 of 2022

XXXX

... Petitioner

Vs

1.The Commissioner of School Education,
College Road,
Chennai – 600 009.

2.The Chief Educational Officer,
Pudukottai,
Pudukottai District.

3.The District Educational Officer,
Illupur – 622 102,
Pudukottai District.

4.XXXX

5.The Correspondent,
XXXX.

6.J.Nicholas

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus, directing the respondents 4 and 5 to take



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appropriate disciplinary action against the sixth respondent forthwith as allegation of Sexual harassment at workplace is proved as per the report of the Internal Complaints Committee dated 18.01.2022.

For Petitioner : Ms.A.Amala

For Respondents : Mr.S.Shaji Bino
Special Government Pleader
for R.1 to R.3

Mr.S.Savarimuthu
for M/s.Father Xavier Associates
for R.4 & R.5

Mr.B.Jeyakumar for R.6

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is employed as Office Assistant in the fifth respondent School. She has levelled an allegation of sexual harassment against the sixth respondent who is the Head Master of the school. The learned counsel appearing for the petitioner states that enquiry was already conducted by the Internal Complaints Committee. Her grievance is that the employer has not taken consequential action. That led to filing of this writ petition.

3.When the matter was taken up for hearing, the learned counsel appearing for the sixth respondent sought time to file counter. He also



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submitted that he had levelled certain allegations against the fifth respondent / Correspondent of the School and that is why the present complaint has been engineered.

4. Section 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is as follows:

“13(1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be

(i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the



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respondent or where no such service rules have been made, in such manner as may be prescribed;

(ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:

Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman:

Provided further that in case the respondent fails to pay the sum referred to in clause (II), the Internal Committee or, as the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

(4)The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.”

5.In the case on hand, enquiry report has already been submitted by the Internal Complaints Committee on 18.01.2022. Therefore, the employer is obliged to act as per the aforesaid statutory provisions. I make it clear that this direction will not be construed as casting any cloud on the defence of the sixth respondent. All the contentions and defences of the sixth respondent are left entirely open. Since the sixth respondent is having serious misgivings against



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the correspondent of the School, I direct the fourth respondent to take action as per law on the committee report and as per Section 13 of the aforesaid Act.

6.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

02.12.2022

Index : Yes / No
Internet : Yes/ No
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Note: Registry is directed to suppress the names of the petitioner and the respondents 4 and 5.

To

- 1.The Commissioner of School Education,
College Road, Chennai – 600 009.
- 2.The Chief Educational Officer,
Pudukottai, Pudukottai District.
- 3.The District Educational Officer,
Illupur – 622 102,
Pudukottai District.



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G.R.SWAMINATHAN, J.

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