



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.15086 of 2021

and

W.M.P. (MD) Nos.12007 to 12009 of 2021

Dr.C.J.Paul Chandramohan

... Petitioner

-vs-

- 1.The Bishop Heber College,
Rep., by its Secretary,
Puthur, Post-Box No.615,
Tiruchirappalli - 620 017.
- 2.The Principal,
The Bishop Heber College,
Puthur, Post-Box No.615,
Tiruchirappalli - 620 017.
- 3.The Internal Complaints Committee,
Rep., by its Chairperson,
Bishop Heber College,
Puthur, Post-Box No.615,
Tiruchirappalli - 620 017.
- 4.Ms.Arockiya Monisha,
II- M.A, Tamil,
Bishop Heber College,
Puthur, Post-Box No.615,
Tiruchirappalli - 620 017.
- 5.Ms.M.Dharshini,
II - M.A, Tamil,
Bishop Heber College,
Puthur, Post-Box No.615,
Tiruchirappalli - 620017.
- 6.Ms.A.Madhumitha,
II -M.A,Tamil,
Bishop Heber College,
Puthur, Post-Box No.615,
Tiruchirappalli - 620017.



7.Ms.M.Arthi,
II - M.A, Tamil,
Bishop Heber College,
Puthur, Post-Box No.615,
Tiruchirappalli - 620017.

8.Ms.R.Keerthana,
II - M.A, Tamil,
Bishop Heber College,
Puthur, Post-Box No.615,
Tiruchirappalli - 620017.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records pertaining to report and recommendations dated 22.04.2021 in SHC/1/2021 passed by the 3rd respondent and quash the same.

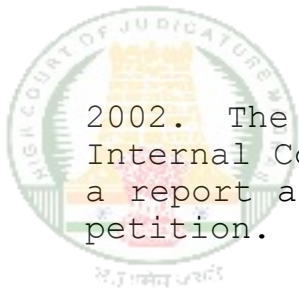
For Petitioner	: Mr.Balaji Thirumoorthy
For Respondents	: Mr.K.Ragatheesh Kumar for M/s.Isaac Chambers

O R D E R

The report of the Internal Complaints Committee dated 22.04.2021 constituted under Section 4 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as "the Act" for brevity), is under challenge in the present writ petition.

2.The writ petitioner is working as Professor in Tamil Department at Bishop Heber College, Trichy. The petitioner holds a Doctorate Degree in Tamil and guided large number of Ph.D., M.Phil., and M.A., students. The petitioner narrates about his academic excellence by stating that he has submitted number of Thesis and contributed for the development of Tamil language. The petitioner received summon from the 3rd respondent on 25.03.2021 to appear before the Internal Complaints Committee of the College on 09.04.2021 at 03.00 pm for enquiry on a complaint dated 09.03.2021 received from respondents 4 to 8. The petitioner states that he duly appeared before the Internal Complaints Committee on 09.04.2021 and rebutted the allegations. A copy of the complaint was served to the petitioner and he filed a counter statement to the 3rd respondent-Committee on 07.04.2021.

3.The petitioner was placed under suspension on 30.06.2021 by the 1st respondent. Enquiry was held on 09.04.2021 and subsequently, the petitioner was arrested by the Police, All Women Police Station, Srirangam, based on the complaint lodged by the District Welfare Officer, Tiruchirappalli. A criminal case was registered by the Police under Sections 294(b), 354A, 354D, 509 and 109 of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act,

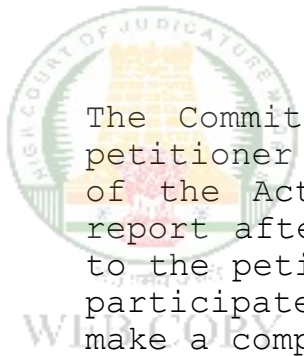


2002. The petitioner was enlarged on bail, subsequently. The Internal Complaints Committee after conducting an enquiry, submitted a report and the said report is under challenge in the present writ petition.

4.The learned counsel for the petitioner strenuously contended that the petitioner was not provided with an opportunity in accordance with the provisions of the Act. The learned counsel for the petitioner pointed out certain defects in the complaint. He states that the complaint ought to have been submitted before the Internal Complaints Committee and in the present case, the complaint was submitted before the Principal of the College. The Internal Complaints Committee has not given opportunity to the writ petitioner and the evidence was not taken in the presence of the petitioner and thus, the report is to be set aside.

5.This Court is of the considered opinion that certain mistakes in the complaint, that is, non-mentioning of date or addressing the complaint to the wrong authority would not vitiate the complaint itself. In the present case, the complaint was given by five Post Graduate students of the College and the allegation is sexual harassment in the College, more so against the petitioner, who was working as a Senior Professor. Students cannot be expected to give a complaint in a prescribed format or otherwise. It is suffice if the allegations are substantiated for the purpose of initiation of action under the provisions of the Act. In other words, the seriousness of the allegations in the complaint are to be looked into, not the date and to see whether the complaint is properly addressed to the person or not. Even if such complaints are addressed to a wrong authority, such authority is duty bound to place such complaints to the appropriate authority for action. Students, who all are subjected to sexual harassment, cannot be further subjected to harassment in the matter of following the procedures. The genuinity of the complaint and the seriousness of the allegations raised alone are to be considered by the competent authority and if such allegations are sufficient enough to conduct an enquiry, then the Internal Complaints Committee is to be constituted under Section 4 of the Act and the process must go on in accordance with the provisions of the Act.

6.The learned counsel for the respondent-College made a submission that the allegations against the petitioner are serious and five girl students have given the complaint. Under those circumstances, the Internal Complaints Committee was constituted and an enquiry was conducted. The petitioner submitted his defence statement and participated in the enquiry. The Internal Complaints Committee conducted enquiry about the conduct and behaviour of the petitioner by conducting enquiry with many other Professors and the students. The Internal Complaints Committee had verified the conduct of the petitioner with the other college teachers, employees and



The Committee formed an opinion that the allegations against the petitioner are established warranting an action under the provisions of the Act. When the Internal Complaints Committee submitted a report after conducting an enquiry wherein an opportunity was given to the petitioner to submit his defence statement and the petitioner participated in the process of enquiry, now the petitioner cannot make a complaint that no opportunity was given to him.

7. Five Post Graduate students are the complainants. It may not be possible for the students to give evidence in the presence of the Professors. Under those circumstances, the Internal Complaints Committee has to examine the witnesses in a particular manner to cull out the truth and therefore, the enquiry to be conducted under the provisions of the Act cannot be compared with the criminal trial to be conducted under the Criminal Procedure Code. The nature of enquiry is distinct and different and therefore, the contention of the petitioner that the trial natured enquiry to be conducted with reference to the allegations of sexual harassment under the Act is unacceptable and is not practicable. In such event, the very purpose and object of the Act will be defeated. The Act was enacted pursuant to the judgment of the Hon'ble Supreme Court in the case of ***Vishaka and Other vs. State of Rajasthan and Others*** reported in ***(1997) 6 SCC 241*** and certain procedures were contemplated by the Hon'ble Supreme Court. Thus, protection of identity is given to the complainants. Even the names of the complainant need not be disclosed and it should not be published. When such protections are given in the interest of justice and to protect the interest of women subjected to sexual harassment in work places, then the trial akin to that of the criminal case under the Criminal Procedure Code cannot be conducted nor be expected by the delinquent officials.

8. Perusal of the complaint reveals that the allegations against the petitioner are serious more so the petitioner being a Senior Professor, performing the noble profession of teaching. When the Professors and Teachers are involved in sexual harassment allegations in schools and colleges, then it is still more serious than such offences occurring in other offices. The Professors and Teachers are the custodian of students inside the schools and colleges. They are taking parental role and they are in an advantageous position. By misusing the advantageous position in the educational institutions, if they involve in such heinous offences, then there cannot be any leniency or misplaced sympathy. Once the charges are established, then all appropriate actions are to be initiated by following the procedures contemplated under the Act.

9. Yet another ground raised by the petitioner is that the procedure for conducting enquiry regarding allegations of sexual harassment is available in the University Grants Commission (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Education Institutions)



Regulations, 2015 and therefore, the same is to be followed. In this regard, Section 28 of the Act unambiguously states that the provisions of the Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

10. Even the High Court of Punjab and Haryana at Chandigarh in the case of ***Dr. Tanya Mander vs. Rajiv Gandhi National University of Law (Punjab) and Another [CWP No.960 of 2019 dated 22.03.2021]*** clarified the above position as follows:-

"Learned senior counsel for the petitioner has submitted that the Act is a general legislation whereas the UGC's Regulations are specific legislation and therefore, have to prevail over the Act. This Court expresses its inability to accept the argument particularly when the Parliamentary Act is applicable across the board and is a special Act enacted to deal with the complaints of sexual harassment of women at workplace. The UGC's Regulations are 8 of 9 to be read in consonance with the Act. In case of any repugnancy, it is the Parliamentary Act which has to prevail. Still further, once a field is occupied by a Parliamentary Act, the Regulations, if any, framed by way of subordinate legislation, cannot supersede or over-write the provision of the Act. Further, Clause d of Regulations, itself provides that a person familiar with the issues relating to sexual harassment can be a member of the committee. Still further, once there is no women faculty member in the rank of Professor, then the constitution of the committee cannot be declared to be bad. It is an undisputed fact that the respondent-University is a small university and there is no women faculty member in the rank of Professor."

Therefore, the contention of the petitioner deserves no merit consideration and stands rejected.

11. As far as the report is concerned, further actions are to be initiated. The writ petition is premature, as the report is yet to be acted upon. As far as the report is concerned, the petitioner submitted his defence statement and participated in the enquiry. The Internal Complaints Committee also conducted enquiry with other witnesses and enquired about the behaviour and conduct of the petitioner in the college. Therefore, based on the facts, circumstances and evidences, the Internal Complaints Committee submitted its report, which cannot be said to be perverse.

12. These being the factum established, the respondents are bound to proceed with the actions by following the procedures as contemplated under the Act and Rules without causing any undue delay.



13. With the above observations and direction, this Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-11458[F] dated 11/03/2022)

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10.03.2022

RS (29.03.2022) 6P-2C