



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.1957 of 2018

and

W.M.P. (MD) .No.2203 of 2018

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The Director,
National Institute of Technology,
Tiruchirappalli.

... Petitioner

(Petitioner cause title amended vide Court Order dated 25.03.2022 in W.M.P. (MD) .No.12012 of 2018 in W.P. (MD) .No.1957 of 2018)

Vs.

1.The Chairman,
National Commission for Schedule Castes,
5th Floor, Lok Nayak Bhawan, Khan Market,
New Delhi - 110 003.

2.The Vice Chairman,
National Commission for Schedule Castes,
5th Floor, Lok Nayak Bhawan, Khan Market,
New Delhi - 110 003.

3.The Director,
National Commission for Schedule Castes,
Shasthri Bhavan,
Chennai.

4.Dr.A.Vadivel

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, restraining the respondents 1 to 3 from conducting parallel inquiry in respect of the allegations raised by the fourth respondent in his complaint dated 26.05.2017 which is the subject matter of the Writ Petitions filed by the fourth respondent in W.P.(MD).Nos.20755 of 2016, 6158 of 2017 and 11893 of 2017 pending on the file of this Court.

For Petitioner : M/s.J.Maria Roseline

For R-1 to R-3 : M/s.B.Deepa,
Central Government Standing Counsel.

For R-4 : No appearance



ORDER

This Writ Petition has been filed for Mandamus restraining the respondents 1 to 3 from conducting parallel inquiry proceedings in respect of allegations raised by the fourth respondents in his complaint dated 26.05.2017 which is the subject matter of the Writ Petitions filed by the fourth respondents in W.P.(MD).Nos.20755 of 2016, 6158 of 2017, 11893 of 2017.

2. The brief facts of the case are that the fourth respondent herein had preferred a complaint dated 26.05.2017 addressed to the third respondent alleging harassment on the grounds of caste by the members of the Internal Complaints Committee of National Institute of Technology, Trichy when they conducted inquiry upon a complaint of sexual harassment made by a Research Scholar namely, Sheela against the fourth respondent. The fourth respondent was working as Associate Professor in the Department of Computer Applications at the National Institute of Technology, Trichy.

3. A sexual harassment complaint was received from the Research Scholar namely, Ms. Sheela from her email dated 21.06.2016 stating that she has suffered sexual harassment in the hands of the fourth respondent. The complainant Ms. Sheela was attached to the Department of Computer Applications, NIIT, doing Ph.D., under the guideship of the fourth respondent. The Internal Complaints Committee was constituted under Section 4 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred as SH Act, 2013) and had conducted an inquiry on the email complaint dated 21.06.2016 and written complaint dated 19.07.2016 and submitted a report dated 20.10.2016 to the effect that the fourth respondent has sexually harassed the complainant Ms. Sheela in his Office cabin and in a Hotel and the fourth respondent has intimidated Ms. Sheela by threatening her to expose their affair.

4. The contention of the petitioner is that during the process of preliminary inquiry conducted by the Internal Complaints Committee of the NITT, the fourth respondent preferred a complaint dated 21.09.2016 alleging discrimination of the fourth respondent on the basis of caste by certain members of the Internal Complaints Committee. The then Director herein constituted an inquiry committee on 21.09.2016 including the Nodal Officer for SC, ST, OBC and PWD and Minorities to look into the veracity of the allegations levelled by the fourth respondent against the members of Internal Complaints Committee. The member of the inquiry committee are as follows:

1.Dr.Deivamonyselvam, Dean Faculty Welfare (Internal Member)

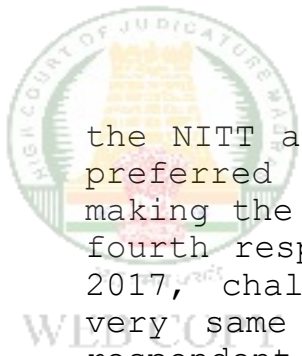
2.Dr.M.Punniyamurthy, Nodal Officer SC/ST/OBC/PWD (Internal Member).



3.Mr.A.Palanivel, Registrar (Internal Member).

4.Mr.A.S.Samad, AGM-HR, BHEL, Trichy (External Member).

5.The inquiry committee conducted an inquiry on 18.11.2016, 22.11.2016 and 26.04.2017 and submitted a report dated 27.04.2017 to the effect that the allegations levelled by the fourth respondent against the members of the Internal Complaints Committee were "Not Proved". In the interregnum period, the Internal Complaints Committee, ICC had conducted an inquiry against the fourth respondent under the provisions of SH Act and submitted its report on 20.10.2016, which was placed in the 43rd Board of Governors meeting held on 14.12.2016. The Board of Governors after considering the report of ICC resolved to initiate the Disciplinary proceedings against the fourth respondent. In pursuance of the decision taken by the Board of Governors in its meeting held on 14.12.2016, a charge memo dated 22.12.2016 was issued to the fourth respondent and the fourth respondent was placed under suspension with effect from 22.12.2016. The fourth respondent was paid subsistence allowance during the period of suspension. The ICC had appointed by the Board of Governors as the inquiry authority in conducting inquiry in respect of the charges framed against the fourth respondent according to the instructions contained in Office Memorandum issued by the Government of India in F.No.11013/2/2014 Estt (A 111) dated 16.07.2015. After the conclusion of the inquiry, the inquiry authority (ICC) submitted its report on 17.03.2017. The report of the inquiry authority was placed before the 44th Board of Governors meeting held on 20.03.2017. The report of the inquiry authority has been considered by the Board of Governors and it was decided to proceed further against the fourth respondent. The Board of Governors in its 45th meeting held on 01.05.2017, after deliberating upon the inquiry report and the reply submitted by the fourth respondent, concluded that the charges framed against the fourth respondent vide charge memo dated 22.12.2016 stood proved and decided to imposed the penalty of compulsory retirement on the fourth respondent. Accordingly, the office of the Registrar, NITT vide order dated 11.05.2017 imposed the penalty of compulsory retirement on the fourth respondent. The Board of Directors in its 45th meeting also considered the report dated 27.04.2017 submitted by the inquiry committee constituted to enquire into the allegations levelled by the fourth respondent against some members of the Internal Complaints Committee and had passed a resolution to the effect that the fourth respondent in order to divert his case has been making complaints against the members of the Disciplinary Committee and they all lacks merit and decided to close the same. The fourth respondent after receiving the order of compulsory retirement, had once again chosen to revive the complaint that he had made against some members of the ICC, even though his complaints had been found to be false by an independent inquiry committee of



the NITT and by the Board of Governors. The fourth respondent had preferred complaint dated 26.05.2017 before the third respondent making the very same allegations against the members of the ICC. The fourth respondent had filed a Writ Petition in W.P.(MD).No.11893 of 2017, challenging the order of compulsory retirement raising the very same allegations against the members of ICC. The fourth respondent has also filed W.P.(MD).No.6158 of 2017 challenging the issuance of charge memo and W.P.(MD).No.20155 of 2016 seeking to reconstitution of Internal Complaints Committee. The petitioner submits that the fourth respondent after filing Writ Petitions before this Court wherein he had raised allegations against the members of the ICC, cannot prosecute the petitioner before the respondents 1 to 3 wherein he had raised very same allegations. The contention of the petitioner is that pursuant to the complaint dated 26.05.2017, the third respondent had issued a notice dated 26.05.2017 requesting the petitioner to submit the facts and information and the action taken on the allegations to the National Commission for Scheduled Caste. The petitioner had submitted a reply dated 09.06.2017 with a detailed explanation setting forth the events that had led to the culmination of the disciplinary proceedings against the fourth respondent and subsequent punishment of compulsory retirement on the fourth respondent. The petitioner had also appraised the third respondent about the committee report dated 27.04.2017 that had conducted inquiry in respect of allegations made by the fourth respondent against some of the members of Internal Complaints Committee and had found the same as not proved and about the subsequent resolution of the Board of Governors of NITT rejecting the allegations made by the fourth respondent. The third respondent however without considering the reply submitted by the petitioner issued subsequent notices dated 11.07.2017, 07.09.2017, 05.12.2017 and 09.01.2018 requiring the petitioner to appear before the inquiry. The petitioner had once again submitted the reply dated 11.09.2017 wherein she had informed that the third respondent about the pendency of the Writ Petitions for the same allegations that has been raised by the fourth respondent. The petitioner requested the third respondent to defer the inquiry however, without considering the same, the third respondent has repeatedly directed the petitioner to appear for the inquiry. Aggrieved over the same, the present Writ Petition has been filed.

6. Pending Writ Petition, the petitioner has filed W.M.P. (MD). No. 12012 of 2018 with a prayer to amend the cause title as the Director of National Institute of Technology instead of the petitioner's name namely Dr.Mini Shaji Thomas. The Writ Miscellaneous Petition is allowed.

7. Notice is issued to the fourth respondent and his name appears in the list. The fourth respondent has neither appeared in person nor represented by any advocate.



8. The respondents 1 to 3 is represented by M/s. B. Deepa, Central Government Standing Counsel. The respondents submitted that based on the complaint, a notice has been issued to the petitioner. However, the petitioner has not appeared before the respondents. Since it is only notice, the same cannot be challenged under Article 226 of the Constitution of India and the petitioner is bound to appear before the respondents authority.

9. Heard M/s.J.Maria Roseline, learned counsel for the petitioner and M/s.B.Deepa, learned Central Government Standing Counsel for respondents 1 to 3.

10. Admittedly, one Ms. Sheela, a Research Scholar had sent an email compliant and written complaint on 21.06.2016 and 19.07.2016. A preliminary inquiry was conducted on 20.10.2016 and report has been submitted to the effect that the fourth respondent has sexually harassed the complainant Ms. Sheela in his Office cabin and also in Hotel. In the meanwhile, the fourth respondent had preferred a complaint dated 21.09.2016 alleging discrimination on the basis of caste by certain members of Internal Complaints Committee. On receiving such complaints, the Director of NITT constituted an inquiry committee on 21.09.2016 wherein the Committee members including the Nodal Officer for SC, ST, OBC, PWD and Minorities to look into the veracity of the allegations. The inquiry committee conducted an inquiry on 18.11.2016, 22.11.2016 and 26.04.2017 and submitted a report on 27.04.2017 stating that the allegations levelled by the fourth respondent were not true. Accepting the inquiry committee report dated 27.04.2017, the NITT has dropped the complaint. In the meanwhile, the Internal Complaints Committee conducted an inquiry against the fourth respondent under SH Act, 2013 and submitted its report on 20.10.2016. Based on the report, the 43rd Board of Governors Meeting dated 14.12.2016 decided to initiate disciplinary proceedings against the fourth respondent. A charge memo dated 22.12.2016 was issued and the fourth respondent was placed under suspension and an enquiry was conducted as per the rules and regulations. After the conclusion of the inquiry proceedings, the Internal Complaints Committee submitted its report on 17.03.2017 which was placed before the 44th Board of Governors Meeting and it was decided to proceed further. In the 45th Meeting held on 01.05.2017, it was decided to impose the penalty of compulsory retirement and vide order dated 11.05.2017, compulsory retirement was imposed on the fourth respondent with immediate effect. The Board of Directors in its 45th Meeting also considered the report dated 27.04.2017 submitted by the inquiry committee for the allegations levelled by the fourth respondent against some of the members. It was resolved that the fourth respondent in order to divert his case has been making allegations against the Internal Complaints Committee and the Disciplinary Committee and they lacks merit.



11. The contention of the petitioner is that the fourth respondent after receiving the order of compulsory retirement had once again chosen to revive the complaint against some of the members of the ICC and therefore the petitioner contended that the allegations of the fourth respondent is absolutely false.

12. On perusing the Writ Petitions filed by the fourth respondent, it is seen that the charges against the fourth respondent are very serious and the complainant namely Ms. Sheela has elaborately stated the events in the complaint.

13. The NITT has received a complaint of the fourth respondent regarding caste abuse and immediately appointed an inquiry committee with a Nodal Officer belongs to SC ST, OBC, PWD and Minorities. On perusing the members of such committee, it is seen one internal member Dean Faculty Welfare, one internal member belonging to SC/ST, one internal member Registrar and one external member from BHEL was appointed as the members of the committee. There is no illegality or perverse in constituting such members of the committee. The committee has gone into the complaint and has given a report that the allegation of the 4th respondent is not proved and has also stated that the 4th respondent in order to deviate the proceedings against him under Sexual Harassment case has preferred this complaint.

14. Therefore, this Court is convinced the proceedings initiated by the NITT is in accordance to law. The petitioner in order to drag on the proceedings or in order to deviate the disciplinary proceedings has preferred this complaint. More so, when the inquiry committee has held the allegations of the fourth respondent are not proved, a further inquiry would harass the members of the Internal Complaints Committee. The fourth respondent cannot be allowed to prolong the complaint against the members of the Internal Complaints Committee. Hence this Court is allowing the Writ Petition and restraining the respondents 1 to 3 from further proceeding with the complaint dated 26.05.2017.

15. With the above observations, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

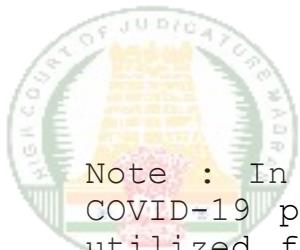
Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

Nsr



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 Chairman,
National Commission for Schedule Castes,
5th Floor, Lok Nayak Bhawan, Khan Market,
New Delhi - 110 003.

2.The Vice Chairman,
National Commission for Schedule Castes,
5th Floor, Lok Nayak Bhawan, Khan Market,
New Delhi - 110 003.

3.The Director,
National Commission for Schedule Castes,
Shasthri Bhavan,
Chennai.

+1 CC to M/s.B.DEEPA, Advocate (SR-14815[F] dated 28/03/2022)

W.P. (MD) .No.1957 of 2018
25.03.2022

MGJ(02.05.2022) 7P 5C