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W.P.No.8158 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.8158 of 2019

and

W.M.P.Nos.8733 & 22570 of 2019

Dr.V.A.Afzal

...Petitioner

Vs.

1. Indian Orthodontic Society (IOS),
Rep. by its Secretary Mrs.Sreedevi Padmanaban
Dental Associates, 1, Lakshmi Apartments,
44, Giri Road, T.Nagar, Chennai – 600 017.
2. Fact Finding Committee (FFC),
Duly Constituted by IOS,
Rep. by Chairperson Dr.Vaishali Vadgaonkar,
15, Partha Apartments, 3rd Floor,
Ganesh Peth Lane, Off N.C.Kelkar Road,
Behind Shivaji Mandir, Dadar West,
Mumbai - 400 028.
3. Dr.Vaishali Vadgaonkar
Chairperson FFC,
15, Partha Apartments, 3rd Floor,
Ganesh Peth Lane, Off N.C.Kelkar Road,
Behind Shivaji Mandir, Dadar West,
Mumbai – 400 028.
4. Dr.Vaishali Vadgaonkar



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5. Sneha Khandekar
External Member, FFC, IOS,
A8, Aparna Apartments, 78, S.V.Road,
Next to P.N.Gadgil Showroom, Irla Bridge,
Andheri West, Mumbai – 400 058.
6. Prof.Dr.Girish Karandikar
Member, FFC, Indian Orthodontic Society (IOS),
2, Narayan Mansion, 116 – A,
Dr.Ambedkar Road, Dadar – E,
Mumbai - 400 014.
7. Dr.Priyanka Dayama (Patil)
Partner,
M/s.Orthosystems, F08, Haware Centurion,
Sec-19A, Nerul-E,
Navi Mumbai – 400 706.
8. Dr.Rajesh Patil
Partner,
M/s.Orthosystems, F08, Haware Centurion,
Sec-19A, Nerul-E,
Navi Mumbai – 400 706.
9. National Commission for Women,
Rep. by its Chairperson,
(Constituted by Govt. of India under
National Commission for Women Act, 1990),
Plot-21, Jasola Institutional Area,
New Delhi – 110 025.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Enquiry and the report submitted by the 2nd respondent to the 1st respondent on the Alleged complaint given by the 3rd respondent



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which was treated as Complaint under the Sexual Harassment of Women at Work place (Prevention, Prohibition and Redressal) Act, 2013 and quash the same as unconstitutional and direct the 1st respondent to constitute a Fresh Committee to enquire into the Complaint given by the 7th respondent in the manner known to law.

For Petitioner : Ms.Umamaheshwari Ganesh

For Respondents : Ms.Tanya Kapoor, for R1
: No appearance, for R2 to R6
: Mr.J.Sivanandaraj, SC
for Mr.N.Senthil Kumar, R7 & R8
: Ms.M.P.Jaisha, CGSC, for R9

ORDER

This Writ petition has been filed seeking quashment of the Enquiry and the report submitted by the 2nd respondent to the 1st respondent on the Alleged complaint given by the 3rd respondent which was treated as Complaint under the Sexual Harassment of Women at Work place (Prevention, Prohibition and Redressal) Act, 2013 and for a consequential direction to the 1st respondent to constitute a Fresh Committee to enquire into the Complaint given by the 7th respondent.

2. The case of the petitioner is that, the petitioner is an Orthodontist with an experience of 22 years and is having a clinic at Edapally Toll,



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Cochin. Further, the petitioner is also registered as a member with the 1st respondent, which comprises of members who are Dental Surgeons with Specialization in Orthodontics(BDS & MDS). The 1st respondent Society has been involved in the improvement of the standard, well being and knowledge of Orthodontics and it organises conference every year across the country. While so, the petitioner was selected as the Chairperson of the Conference Organising Committee (in short 'COC') for the 53rd Indian Orthodontic Conference (in short 'IOC') to be held at Cochin from December 7 to 9, 2018. Therefore, the petitioner along with his team members visited the 52nd IOC held at Jaipur to meet the Traders who would be interested in booking stalls for the 53rd IOC and it is where the petitioner met the 7th respondent for the first time, for the purpose of dealing with the production, supply and sale of orthodontic products. Since the 7th respondent shown interest in booking stalls for the 53rd IOC, the petitioner contacted the 7th respondent that too only once on 17.11.2017, however, the 7th respondent did not agree to the cost for booking stall. In such circumstances, the petitioner received a letter/complaint dated 22.11.2018 through email from the Secretary of the 1st respondent, in and by which, the 7th and 8th respondents have lodged a complaint against the petitioner on the



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ground of harassment on her dignity. Immediately, the petitioner sent a detailed reply on 26.11.2018. Despite the same, the petitioner received another letter dated 28.11.2018 from the 6th respondent on behalf of the Chairperson, Fact Finding Committee (in short 'FFC'), informing the petitioner that he has been appointed on the complaint given by the 7th and 8th respondents under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Upon receipt of the said letter as well, the petitioner sent a detailed explanation, denying all the allegations, which evoked no response. Thereafter, enquiry proceedings were initiated and subsequent to which, the the Chairperson, FFC filed a report dated 22.02.2019. Challenging the same, the petitioner has come up with this Writ petition.

3. Though very many grounds have been raised, the learned counsel for the petitioner submitted that, though a report was filed before the 1st respondent, however, the 1st respondent is the one, who has to take final decision by conducting further adjudication in between the parties. Hence, she submitted that, it would suffice, if this Court issues direction to the 1st respondent to conduct adjudication in between the parties by providing



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sufficient opportunity and thereafter pass appropriate orders, without being influenced by any of the observations made in the impugned report dated 22.02.2019.

4. Learned counsel for the 1st respondent submitted that, the 1st respondent has appointed the fact Finding Committee, not under the Act, but out of the purview of the Act. However, she fairly submitted that, the petitioner's representation will be considered and appropriate orders will be passed within the time stipulated by this Court.

5. Learned counsel appearing for the 7th and 8th respondents submitted that, the Fact Finding Committee was appointed under the Act and the committee's report was also filed before the 1st respondent. Hence, this Court may issue appropriate direction to the 1st respondent to pass appropriate orders, in the light of the report filed by the Chairperson, FFC.

6. On the above said contentions, heard learned Central Government Standing Counsel appearing for the 9th respondent and perused the material documents placed on record.



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7. In view of the fair stand taken by the learned counsel for the 1st respondent, this Court, without interfering with the impugned report, directs the 1st respondent to conduct further adjudication between the petitioner and the 7th & 8th respondents and pass appropriate orders in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

8. With the aforesaid directions, this Writ Petition stands disposed of.
No costs. Consequently, connected Miscellaneous petitions are closed.

11.04.2023

(1/2)

skt

NCC : Yes / No

Speaking Order : Yes / No

Index : Yes / No

To

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Rep. by its Secretary Mrs.Sreedevi Padmanaban
Dental Associates, 1, Lakshmi Apartments,

7/9



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W.M.P.No.8731 of 2019

in

W.P.No.8158 of 2019

M.DHANDAPANI., J.

Dispense with ordered for the
present.

11.04.2023

(2/2)

skt