



W.P.No.11492 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.11492 of 2022 and
W.M.P.No.10995 of 2022

M.Thamizhazhagi

... Petitioner

Versus

- 1.Agricultural Production Commissioner and Secretary to Govt.,
Department of Agriculture,
Fort St.George,
Secretariat, Chennai-600009.
- 2.The Director of Agriculture,
Directorate of Agriculture,
No.1, Wallahjah Road,
Chepauk, Chennai-600005.
- 3.District Collector,
Tiruvallur Collector Office Complex,
Tirutani Highway, Tiruvallur-602001.
- 4.District Social Welfare Officer/Enquiry Officer,
O/o District Social Welfare,
Tiruvallur Collector Office Complex,
Tirutani Highway,
Tiruvallur-602001.
- 5.L.Suresh,
Joint Director of Agriculture(incharge),
O/o Joint Director of Agriculture,
Tiruvallur Collector Office Complex,
Tirutani Highway, Tiruvallur-602001.



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6. Director/Enquiry Officer,
STAMIN,
Kudimiyanmalai – 622 104.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ, order or direction or any other writ more in the nature of a writ of Certiorari Mandamus by way of quashing the proceedings of the Inquiry Committee culminated under the Inquiry Report in File No.1329/A1/2018-71295 dated 03-05-2019 of the 3rd respondent commenced on 11-06-2018 based on the complaint of the petitioner dated 28-11-2017 under The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 as the proceedings thereunder are in violation of the 2nd proviso under sub-section (1) under Section 11 of the as well as in violation of the provisions under sub-section (1) under section 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, violation of Rule 20-B of the Tamil Nadu Government Servants' Conduct Rules, 1973, compounded by denial of natural justice, bias, arbitrariness, discrimination, malafide, unfairness, violation of statutory rules under Articles 14 and 16 of the Constitution and resultantly direct the 1st to 4th respondents to initiate de novo Inquiry Proceedings under the Provisions of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

For Petitioner	:	Mr.A.Irudayam
For R1 to R4	:	Mr.P.Baladhadayutham, Special Government Pleader
For R5	:	Mr.K.Rajkumar

ORDER

This Writ Petition has been filed to quash the proceedings of the Inquiry Committee culminated under the Inquiry Report in File No.1329/A1/2018-71295, dated 03.05.2019 of the 3rd respondent commenced on 11.06.2018 based on the complaint of the petitioner, dated



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28.11.2017 under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 as the proceedings thereunder are in violation of the 2nd proviso under sub-section (1) under Section 11 as well as in violation of the provisions under sub-section (1) under section 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, violation of Rule 20-B of the Tamil Nadu Government Servants' Conduct Rules, 1973, compounded by denial of natural justice, bias, arbitrariness, discrimination, malafide, unfairness, violation of statutory rules under Articles 14 and 16 of the Constitution and resultantly, direct the respondents 1 to 4 to initiate *de novo* Inquiry Proceedings under the Provisions of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

2.The Writ Petitioner has made certain allegations against the 5th respondent, the Joint Director of Agriculture (In-charge) touching upon sexual harassment in the workplace. On perusal of the enquiry report, dated 03.05.2019, it is seen that the enquiry has been conducted by the 3rd respondent, *viz.*, the District Collector and there is no reference whatsoever made anywhere in the enquiry report as to the constitution of the Internal



Complaints Committee at the workplace as per Section 4 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 [Hereinafter referred to as 'Act, 2013']. Further, the enquiry is also not conducted by the Local Committee in the absence of the Internal Complaints Committee. It is relevant to refer Section 4 of the Act, 2013 and the same is as follows:

“4. Constitution of Internal Complaints Committee.—

(1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the “Internal Complaints Committee”:

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committees shall consist of the following members to be nominated by the employer, namely:

—

(a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees: Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section(1): Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman



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employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;

(b) not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;

(c) one member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment: Provided that at least one-half of the total Members so nominated shall be women.

(3) The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

(4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

(5) Where the Presiding Officer or any Member of the Internal Committee, —

(a) contravenes the provisions of section 16; or

(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public



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*interest,
such Presiding Officer or Member, as the case may be, shall be
removed from the Committee and the vacancy so created or
any casual vacancy shall be filled by fresh nomination in
accordance with the provisions of this section.”*

3.The above Section makes very clear that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices. Therefore, the Internal Committee shall be constituted at all administrative units or offices. From the records, it appears that no such committee is constituted in the offices or in the administrative units where the alleged sexual harassment took place.

4.Section 6 of the Act, 2013 deals with the Constitution of the Local Committee by the District Officer. Whenever the Internal Committee has not been constituted due to having less than ten workers or if the complaint is against the employer itself, the Local Committee has to be formed as per the mandate of Section 6. The Local Committee shall consist of the following members to be nominated by the District Officer:



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(a) a Chairperson to be nominated from amongst the eminent women in the field of social work and committed to the cause of women

(b) one Member to be nominated from amongst the women working in block, taluka or tehsil or ward or municipality in the district

(c) two Members, of whom atleast one shall be a woman, to be nominated from amongst such non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed: Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge: Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time.

5. Similarly, the Internal Committees shall consist of the following members to be nominated by the employer:

(a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees: Provided that in case a senior level woman employee is not available, the Presiding Officer shall be



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nominated from other offices or administrative units of the workplace referred to in sub-section(1): Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation.

(b) not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge.

(c) one member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment: Provided that at least one-half of the total Members so nominated shall be women.

6.However, in this case, as per the mandate of the Act, 2013, neither the Internal Committee nor the Local Committee has been constituted in this regard. Whereas the enquiry has been conducted by the 3rd respondent/District Collector himself, without resorting the provisions of Act, 2013.



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7. Admittedly, in this case, the complaint has been given against the Head of the Department *viz.*, the 5th respondent. Such being the position, the enquiry ought to have been conducted by the Local Committee as per Section 6 of the Act, 2013, however, no such procedure has been followed.

8. In such view of the matter, since the very mandate of the Act, 2013 has not been followed and the enquiry report submitted by the 3rd respondent/District Collector has no legal sanctity under the Act, 2013, this Court quashes the enquiry report in File No.1329/A1/2018-71295, dated 03.05.2019 of the 3rd respondent.

9. The 3rd respondent/the District Collector is directed to constitute a Local Committee to enquire into allegations made by the petitioner, within a month and thereafter, the Local Committee shall complete the enquiry following the procedure contemplated under Section 11 and Rule 7 of the Act.



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10.It is made clear that the enquiry shall be confined only in respect of the allegations made in the complaint, dated 28.11.2017, not beyond that.

11.With the above directions, this Writ Petition stands allowed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking Order/Non-Speaking Order

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To

1.The Agricultural Production Commissioner and Secretary to Govt.,
Department of Agriculture,
Fort St.George,
Secretariat, Chennai-600009.

2.The Director of Agriculture,
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No.1, Wallajah Road,
Chepauk, Chennai-600005.



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- 3.The District Collector,
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