



W.P.No.1037 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.1037 of 2017

and

W.M.P.No.1007 of 2017

Dr.Anitha Mabel Manohar,
Director, National Institute of Fashion Technology,
NIFT Campus, Rajiv Gandhi Salai,
Taramani, Chennai-113.

...Petitioner

-Vs-

1. The Union of India,
Rep. by the Secretary to Government,
Ministry of Textiles, Udyog Bhavan,
Dr.Moulana Azad Road,
New Delhi 110 011.
2. The Director General,
National Institute of Fashion Technology,
Hauz Khas, Near Gulmuhar Park,
New Delhi-110 016.
3. National Commission for Scheduled Caste,
Rep. by its Secretary,
5th Floor, Lok Nayak Bhavan,
Khan Market, New Delhi-110 003



W.P.No.1037 of 2017

4. The Research Officer,
National Commission for Scheduled Castes,
5th Floor, Lok Nayak Bhavan, Khan Market,
New Delhi-110 003.

5. Sri.D.Rajasekar,
278/5, 15th East Street,
Kamarajar Nagar East,
Tiruvanmiyur, Chennai-41

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, calling for the records relating to the impugned proceedings of the 4th respondent in File No.D-35-Textile-6/2016/SSW-1 New Delhi dated 13.12.2016, and quash the same.

For Petitioner	: Mr.K.Sridhar
For Respondents	:
(for R1 & R2)	: Mr.K.Srinivasa Murthy, SPC
(for R3 & R4)	: Mr.J.Madanagopal Rao, Senior Standing Counsel for Central Government
(for R5)	: Mr.L.Thilak Rangasamy

ORDER

The writ on hand has been instituted to quash the constitution of a three-member Committee by the National Commission for the Scheduled Caste, to examine the matter and submit a report to the National Commission for Scheduled Caste, within 15 days.



W.P.No.1037 of 2017

WEB COPY 2.The composition of the Committee is that:

- (i) one member from NCSC State Office, Chennai i.e. Sri P.Ramaswamy, consultant,
- (ii) one member from NIFT who is looking after the welfare of the SC/ST in the Organisation, preferably an SC Officer namely Ms.B.N.Malarselvi, Associate Professor, NIFT Chennai,
- (iii) one member from outside organisation representing the petitioner's side i.e. Shri.M.Thyagarajan, EX-CGM, MMTC Chennai.

3.The NIFT Management shall constitute a Committee by coordinating with the above-mentioned officers within 15 days and send a report to the National Commission for Scheduled Caste. A direction issued by the National Commission for Scheduled Caste for the constitution of a Committee to conduct an inquiry is under challenge in the present writ petition.

4.In the context of the relief sought in the present writ petition as stated above, the petitioner is now working as Director of the National Institute of Fashion Technology at Chennai. The 5th respondent at present



W.P.No.1037 of 2017

is working as an Associate Professor in NIFT at Kolkata. The 5th respondent joined duty in Chennai on 27.08.2012. He served as an Assistant Professor and thereafter, was promoted as Associate Professor. The 2nd respondent, by an order dated 20.10.2016 was transferred as Associate Professor to NIFT, Kolkata. He was relieved from duty in NIFT, Chennai on 27.10.2016. May that as it be. The issue raised in the present writ petition is that the complaint given by the 5th respondent against the writ petitioner is untenable and thus, the constitution of Committee became unnecessary.

5.The learned counsel for the petitioner mainly contended that the allegations set out in the complaint are not falling within the rules stipulated under the procedure of the National Commission for Scheduled Castes. Para 7.4.1 of the Rules stipulate that the following aspects may be kept in mind while filing complaint before the commission:

(a) The complaint should be directly addressed to the Chairman/Vice-Chairman/Secretary, National Commission for Scheduled Castes, New Delhi or the heads of its State Offices.

(b) The complainants should disclose his full identity and give his full address and should sign the representation.



W.P.No.1037 of 2017

(c) Complaints should be legibly written or typed and, where necessary, supported by authenticated documents.

(d) Complaints should clearly disclose the violation of Reservation policy, DOPT OMs, Government of India Orders, State Government Orders, PSUs and Autonomous Bodies orders or any other violation Rules of Reservation.

(e) No action will be taken on matters, which are subjudice. Hence subjudice matter need not be referred to the Commission as complaint(s)

(f) Cases pending in courts or cases in which a court has already given its final verdict may not be taken up afresh with the Commission.

(g) The cases of Administrative nature like transfer/posting/grading of ACRs will not be taken up by the Commission unless there is caste based harassment of petitioner.

(h) No action will be taken on the matters where there is no mention of violation of Reservation policy, DOPT OMs. Government of India Orders. State Government Orders, PSUs and Autonomous Bodies orders or any other violation of Rules of Reservation. Hence the matters where there is no mention of violation of above Rules need not be referred to the Commission as complaints.



W.P.No.1037 of 2017

6.Relying on the clause (h), the learned counsel contended that the complaint is not falling within the ambit of the rules and therefore, the complaint is liable to be rejected in limine. The learned counsel for the petitioner drew the attention of this Court with reference to the proceedings of the Registrar of National Institute of Fashion Technology, wherein it is stated that there is no mention about the violation of any rules in the complaint submitted by the 5th respondent. Therefore, the complaint itself is liable to be rejected and consequently, the order passed by the National Commission for Scheduled Caste for constitution of the Committee is untenable.

7.The learned counsel for the petitioner made a submission that such false complaints are creating agony to the officials working in various organizations and the present complaint is one such complaint which is made based on certain personal animosity and thus, the order impugned is to be set aside.

8.The learned counsel appearing on behalf of the 5th respondent objected the said contention by stating that several allegations are raised in the complaint. Non quoting or misquoting of rules would not vitiate the



W.P.No.1037 of 2017

complaint *per se*. The complainant may be provided with an opportunity to put forth his grievances and the incidences occurred when he was serving as an Assistant Professor in NIFT Chennai Campus. The 5th respondent raised several allegations and all those allegations are needed to be inquired into. Merely based on the grounds that the rules are not quoted, the complaint cannot be brushed aside.

9.The learned Senior Central Government Standing Counsel appearing on behalf of the National Commission for Scheduled Caste made a submission that as per the rules and procedures in force, on receipt of the complaint, the Commission has to constitute a Committee to conduct an inquiry. In the present case, the Commission, through an impugned order, directed the NIFT to constitute a Committee by coordinating with the officials stated in the order impugned. The National Commission for Scheduled Caste directed the Director General of National Institute of Fashion Technology, New Delhi, to send a report to the National Commission within 15 days for placing the same before the Hon'ble Commission for consideration. Thus, the procedures alone had been set in motion and no action was taken against the writ petitioner in the present case. Setting the issues on motion would not provide any cause for



W.P.No.1037 of 2017

institution of writ petition which would result in denial of opportunities to either of the parties and thus, the writ petition is to be rejected.

10.The learned counsel appearing on behalf of NIFT Delhi, made a submission that the Registrar has issued a letter stating that the petitioner in his complaint has not mentioned about violation of rules and therefore, no action needs to be taken at their end. The said communication was sent on 21.10.2016.

11.Nibbing the bud at all circumstances is not desirable. The right of opportunity to vindicate the grievance to any citizen is a basic right and thus, the High Court at all circumstances cannot interfere with the initiation of action either to conduct the inquiry or to cull out the truth. Mere setting the procedures in motion for conducting an inquiry would not provide a cause for the purpose of instituting a writ petition. The High Court cannot conduct a roving inquiry with reference to such allegations in writ proceedings under Article 226 of the Constitution of India. An inquiry is to be conducted with reference to the documents and evidence to be produced by the respective parties by availing the opportunities to be provided by the Committee which is yet to be constituted pursuant to the directions issued by the National Commission for Scheduled Caste.



W.P.No.1037 of 2017

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12. In the present case, the petitioner is working as the Director of NIFT, Chennai and the 5th respondent has now been transferred to NIFT Kolkata, and admittedly the 5th respondent has given a complaint setting out various allegations. Non-quoting or misquoting of the provisions of the rules would not vitiate the complaint itself. Provisions of the law have to be considered at the time of conducting an inquiry by the competent Committee and the petitioner must be provided with an opportunity to vindicate these grievances before the Committee competent.

13. The opportunity of hearing is a Fundamental Right ensured under Articles 14 and 21 of the Constitution of India. Such a right is available both to the complainant as well as to the person against whom such allegations are raised. Thus, High Courts are expected to be cautious while dealing with such matters where certain serious allegations are raised by the members of the Scheduled Caste or Scheduled Tribe. Whether the allegations are false or incorrect, has to be determined only after conducting an inquiry and the National Commission for Scheduled Caste *prima facie*, had taken a decision for the constitution of a Committee and such a decision cannot be said to be irregular or infirm. When the National



W.P.No.1037 of 2017

Commission for Scheduled Caste had gone through the complaint and decided to appoint a Committee and thereafter, further take a decision with reference to the allegations, this Court is of an opinion that it is the initial stage of the proceeding which would not provide any cost for the petitioner to institute the writ petition.

14.The order impugned unambiguously stipulates that the NIFT management may constitute a Committee by coordinating with the mentioned officers in the impugned order and send a report to the Commission within 15 days. The order further states that it has been decided in this case that the three-member Community constituted by the NIFT management will examine the matter and submit a report to the **National Commission for the Scheduled Caste**. Therefore, no authority has predetermined the issue. None of the authorities have elaborately considered the allegations and the defence taken by the writ petitioner. Therefore, the High Court is not expected to go into such allegations in a writ proceeding at this stage, such as denying a fair opportunity to the complainant, more specifically, to the petitioner against whom the allegations are made.



W.P.No.1037 of 2017

15.The order impugned is the first stage where the National Commission for Scheduled Caste has decided to refer the case to the three-member Committee which is to be constituted. The Committee was directed to be constituted within 15 days. The petitioner, instead of submitting her defence before the Committee which is to be constituted, has chosen to file the present writ petition to quash the order passed by the National Commission for Scheduled Caste, which has decided to constitute a three-member Committee to examine the matter. Thus, it is needless to state that the National Commission for the Scheduled Caste has not taken any decision with reference to the allegations in the complaint or otherwise.

16.The three-member Committee is yet to be constituted. This being the factum, there is absolutely no cause for filing the present writ petition. The petitioner ought to have waited till the time an inquiry has been concluded and a final order is passed for the purpose of initiating further action to prefer an appeal or a petition before the competent forum.

17.This Court is of the opinion that there is no cost for the institution of writ petition and mere decision to constitute a Committee to consider



W.P.No.1037 of 2017

the matter would not provide any grievance to the writ petitioner and if such a decision is quashed in writ proceedings, the very purpose and object of the National Commission for Scheduled Caste and its mission will be defeated. Accordingly, the writ petition is devoid of merits.

18.Respondents 1 to 4 are directed to expedite the constitution of the Committee and conduct the inquiry in a fair manner by affording opportunity to all the parties and take appropriate decisions and pass orders on merits and in accordance with law. The petitioner and the 5th respondent are directed to cooperate for the speedy disposal of the inquiry and in the absence of any such non-cooperation, the same shall be recorded by the competent authority while proceeding with the enquiry.

19.With these directions, the writ petition stands **disposed of**. No costs. Consequently, connected miscellaneous petition is closed.

20.03.2023

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes



W.P.No.1037 of 2017

To

WEB COPY

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Ministry of Textiles, Udyog Bhavan,
Dr.Moulana Azad Road,
New Delhi 110 011.
2. The Director General,
National Institute of Fashion Technology,
Hauz Khas, Near Gulmuhar Park,
New Delhi-110 016.
3. Secretary, National Commission for Scheduled Caste,
5th Floor, Lok Nayak Bhavan,
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4. The Research Officer,
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W.P.No.1037 of 2017

S.M.SUBRAMANIAM. J.,

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W.P.No.1037 of 2017

20.03.2023