



W.P.Nos.15261 and 14675 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.15261 and 14675 of 2023
and W.M.P.Nos.14751, 14752 and 14754 of 2023
and W.M.P.Nos.14163 and 14164 of 2023

M.Deepa

... Petitioner in both W.Ps

vs

1.The State of Tamil Nadu
rep by its Principal Secretary
Cum Agricultural Production Commissioner,
Secretariat, Fort.St.George,
Chennai – 600 009.

2.The Director (Agricultural Marketing and Agri Business)
Directorate of Agriculture,
Guindy, Chennai-600 032.

3.The Additional Director (Central Government Scheme)
Directorate of Agriculture,
Guindy, Chennai – 600 032.

4.Joint Director (Regulatory Market)
Directorate of Agriculture,
Guindy, Chennai - 600 032.

5.The Deputy Director (Agricultural Marketing)
JDA Office Complex,
Panjupettai, Kanchipuram – 631 207



W.P.Nos.15261 and 14675 of 2023

6.K.Mohammed Rafiq,
Joint Deputy Director (Agricultural Marketing)
No.16B, Kollapuriamman Koil Street,
Pallippattu, Tiruvallur District – 631 207

7.Dhanasekaran
Assistant Agricultural Officer,
O/o Deputy Director of Agriculture
Department of Agricultural Marketing and
Agri Business
JDA Office Complex,
Panjupettai, Kanchipuram – 631 502

...Respondents in W.P.No.15261 of 2023

1.The State of Tamil Nadu
rep by its Principal Secretary
Cum Agricultural Production Commissioner,
Secretariat, Fort.St.George,
Chennai – 600 009.

2. The Enquiry Officer/Joint Director (Regulated Market)
Directorate of Agricultural Marketing and
Agri Business,
Guindy, Chennai – 600 032.

3.The Deputy Director(Agricultural Marketing)
JDA Office Complex,
Panjupettai, Kanchipuram – 631 502

4.K.Mohammed Rafiq,
Joint Deputy Director (Agricultural Marketing)
No.16B, Kollapuriamman Koil Street,
Pallippattu, Tiruvallur District – 631 207



W.P.Nos.15261 and 14675 of 2023

5.Dhanasekaran
Assistant Agricultural Officer,
O/o Deputy Director of Agriculture
Department of Agricultural Marketing and
Agri Business
JDA Office Complex,
Panjupettai, Kanchipuram – 631 502

.....Respondents
in W.P.No.14675 of 2023

Prayer in W.P.No.15261 of 2023: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records connected with the impugned order passed by the 2nd respondent in Se.Mu.Aa.No.ThoNiPi3/9295/2023-1 dated 28.04.2023 in so far as transferring the services of the petitioner from the 5th respondent office to Office of the Deputy Director (Agriculture Marketing), Tiruvallur as Agriculture Officer at Ponneri and quash the same.

Prayer in W.P.No.14675 of 2023: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, to declare the enquiry proceedings conducting by the 2nd respondent is illegal and void ab initio and consequently, direct the 1st respondent to constitute an Internal Complaint Committee under Section 4 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and place before the petitioner complaint dated 09.06.2021 and 12.04.2022 against the 4th and 5th respondents and further direct the 1st respondent to appoint an enquiry officer not below the rank of Additional Director and conduct proper enquiry based on her complaints dated 11.04.2023, 21.04.2023 and 22.04.2023 with regard to the mismanagement and misappropriation of the 4th and 5th respondents.



W.P.Nos.15261 and 14675 of 2023

In W.P.No.15261 of 2023:

For Petitioner

: Mr.Balan Haridoss

for Mr.S.Parthasarathi

For Respondents

:Mr.S.Arumugam for R1 to R5

Government Advocate

Mr.P.V.Muralidhar for R7

R6-notice served

In W.P.No.14675 of 2023:

For Petitioner

: Mr.Balan Haridoss

for Mr.S.Parthasarathi

For Respondents

:Mr.S.Arumugam for R1 to R3

Government Advocate

Mr.P.V.Muralidhar for R4

R5-notice served

COMMON ORDER

W.P.No.14675 of 2023 has been filed challenging the enquiry proceedings passed by the 2nd respondent in Se.Mu.Aa.No.ThoNIPi3/9295/2023-1 dated 28.04.2023 and declare the same as illegal and void ab initio and consequently, direct the 1st respondent to constitute an Internal Complaint Committee under Section 4 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (for short “the Act”) and place before the petitioner's complaints dated 09.06.2021 and 12.04.2022 against the 4th and 5th respondents before the said committee and further direct the 1st respondent to appoint an enquiry



W.P.Nos.15261 and 14675 of 2023

officer not below the rank of Additional Director and conduct proper enquiry based on her complaints dated 11.04.2023, 21.04.2023 and 22.04.2023 with regard to the mismanagement and misappropriation of the 4th and 5th respondents.

2. It is the case of the petitioner that she joined in the service of the first respondent department at Soil Testing Laboratory, Kanchipuram as Agriculture Officer on 22.04.2013 and she has completed 10 years of service and worked as Agriculture Officer (Agri Business) in the 3rd respondent office since 23.09.2019. The 4th respondent who is the Superior Officer working as Deputy Director, is the head of the 3th respondent's office. There are seven(7) Assistant Agricultural Officers working under the petitioner and the 5th respondent is one among them. While so, when the 5th respondent did not perform his official duties and the petitioner questioned the same, the 5th respondent had slammed the petitioner in front of the other employees. Therefore, she lodged a complaint on 04.04.2020 before the 4th respondent who is officially functioning under 3rd respondent office. However, no action was taken.



W.P.Nos.15261 and 14675 of 2023

WEB COPY

(ii). It is further averred that whenever the petitioner made inspection, she used to travel by office jeep along with the 4th and 5th respondents and other male officers. While she was in the vehicle, the 4th respondent used to harass her by speaking words with incomprehensible meaning, making vulgar comments about other female officials. Due to the said act, the petitioner sustained severe mental agony. Therefore, she made a complaint against him before the 1st respondent on 07.06.2021 through mail and on 09.06.2021 by post, but no action was taken.

3. Learned counsel for the petitioner would contend that the petitioner was harassed by the 4th respondent and she is not aware about the internal complaint committee described under the Act and the said complaint dated 07.06.2021 was not transferred to the said complaint committee and no action was taken on the said complaint. In the meanwhile, the 4th respondent was promoted to the post of Joint Director and he was posted at Tiruvarur. On promotion, he joined at Tiruvarur. Under these circumstances, the 2nd respondent issued enquiry notice dated 22.02.2023 and informed that she will



W.P.Nos.15261 and 14675 of 2023

conduct enquiry on the complaint dated 09.06.2021 and 12.04.2022. He further submitted that without constituting a committee as contemplated under Section 7 of the Act, the 2nd respondent proceeded with enquiry. Hence, the present petition has been filed seeking the relief stated in the opening paragraph.

4. This Court gave its anxious consideration to the learned counsel for the petitioners and the learned counsel appearing for the respondents and perused the materials available on record.

5. The only ground raised by the petitioner is that without constituting the committee as contemplated under Section 7 of the Act, the second respondent, as an inquiry officer, had proceeded with the enquiry and the same is arbitrary and illegal.

6. It is relevant to extract the provisions of Section 7 of the Act , which reads as follows:

***“7. Composition, tenure and other terms and conditions
of Local Committee:***



W.P.Nos.15261 and 14675 of 2023

WEB COPY

(1) The Local Committee shall consist of the following members to be nominated by the District Officer, namely: —

(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 at least 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;

(d) the concerned officer dealing with the social welfare or women and child development in the district, shall be a member ex officio.

(2) The Chairperson and every Member of the Local Committee shall hold office for such period, not exceeding three



W.P.Nos.15261 and 14675 of 2023

years, from the date of their appointment as may be specified by the District Officer.

(3) Where the Chairperson or any Member of the Local 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) 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 interest, such Chairperson 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.

(4) The Chairperson or Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed.”



W.P.Nos.15261 and 14675 of 2023

WEB COPY

7. From a reading of the aforesaid section, it is clear that a Chairperson is to be nominated and she is to head the local committee from amongst the eminent women in the field of social work. Accordingly, the 1st respondent is directed to constitute a Local committee as contemplated under Section 7 of the Act in accordance with law within a period of two(2) weeks from the date of receipt of a copy of this order. After constituting the committee, the committee shall complete the enquiry proceedings within a period of six(6) weeks thereafter.

8. With the above observation, this W.P.No.14675 of 2023 is allowed. No costs. Consequently connected miscellaneous petitions are closed.

9. As far as W.P.No.15261 of 2023 is concerned, pending enquiry, the petitioner was transferred by the 2nd respondent vide his proceedings in Se.Mu.Aa.No.ThoNiPi3/9295/2023-1 dated 28.04.2023 from the 5th respondent office to Office of the Deputy Director (Agriculture Marketing), Tiruvallur as Agriculture Officer at Ponneri. Admittedly, the 2nd respondent had conducted enquiry without constituting a committee as contemplated under



W.P.Nos.15261 and 14675 of 2023

Section 7 of the said Act. Therefore, the enquiry proceedings passed by the 2nd respondent cannot bind the petitioner and the same is liable to be quashed.

10. Accordingly, the impugned order dated 28.04.2023 is hereby quashed. The petitioner shall continue as Agriculture Officer in the 5th respondent office.

11. With the above observation, this W.P.No.15261 of 2023 is allowed.
No costs. Consequently connected miscellaneous petitions are closed.

22.07.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

msv

To

1.The State of Tamil Nadu

rep by its Principal Secretary

Cum Agricultural Production Commissioner,

Secretariat, Fort.St.George,

Chennai – 600 009.



W.P.Nos.15261 and 14675 of 2023

2.The Director (Agricultural Marketing and Agri Business)

Directorate of Agriculture,
Guindy, Chennai-600 032.

3.The Additional Director (Central Government Scheme)

Directorate of Agriculture,
Guindy, Chennai – 600 032.

4.Joint Director (Regulatory Market)

Directorate of Agriculture,
Guindy, Chennai - 600 032.

5.The Deputy Director (Agricultural Marketing)

JDA Office Complex,
Panjupettai, Kanchipuram – 631 207

6.K.Mohammed Rafiq,

Joint Deputy Director (Agricultural Marketing)
No.16B, Kollapuriamman Koil Street,
Pallippattu, Tiruvallur District – 631 207

7. The Enquiry Officer/Joint Director (Regulated Market)

Directorate of Agricultural Marketing and
Agri Business,
Guindy, Chennai – 600 032.

8.The Deputy Director(Agricultural Marketing)

JDA Office Complex,
Panjupettai, Kanchipuram – 631 502



WEB COPY



W.P.Nos.15261 and 14675 of 2023

G.K.ILANTHIRAIYAN, J.

msv

W.P.Nos.15261 and 14675 of 2023
and W.M.P.Nos.14751, 14752
and 14754 of 2023
and W.M.P.Nos.14163 and 14164 of 2023

22.07.2024