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W.P.No.23855 of 2023 etc

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.23855, 23860, 23861 & 23864 of 2023
and

W.M.P.Nos. 23369, 23376, 23373 & 23374 of 2023

Mrs.Susheela Vasanthakumar .. Petitioner
in WP 23855/23

Mrs.Sasikala Jayakar .. Petitioner
in WP 23864/23

Dr.Kalpana Chittaranjan .. Petitioner
in WP 23860/23

Vithya Padmini .. Petitioner
in WP 23861/23

VS

1.Tamil Nadu State Commission for Women
Rep. by its Chairman,
A.S.Kumari, Kalas Mahal,
1st Floor, Triplicane, Chennai - 05.

2.A.S.Kumari
President / Chairperson
State Commission for Women
PWD Estate, Chepauk,
Triplicane, Chennai - 05.

3.Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

4.The Commissioner of Police,
Office of Commissioner of Police,
Vepery, Chennai.



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5.The Inspector of Police,
G1 Police Station,
Vepery Police Station,
Chennai.

6.M.Nithya

7.Jesitha Jemima Marry

8.C.Geetha

.. Respondents
in all writ petitions

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a writ of prohibition to prohibit the 1st respondent from holding any further enquiry in case no. 3956 of 2023 on the file of the first respondent and thereby render justice.

For Petitioner : Mr.Sharath Chandran
(in all writ petitions)

For Respondents : Mr.David Sunder Singh
for R1, R2
Mr.R.Kishore Kumar,
Government Advocate
for R3 to R5
No appearance for R6 to R8
(in all writ petitions)

COMMON ORDER

A common order is passed in these writ petitions since the facts and circumstances in all these matters is one and the same.

2. The petitioners are members of the Personal Committee (PC) of the Young Women's Christian Association (YWCA) and seek



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a prohibition as against R1, being, the Tamil Nadu State Commission for Women (TNSCW) from conducting any enquiry pursuant to summons issued by R1 to the petitioners.

3. The YWCA is a Society, engaged in the promotion and the development of women and girls, irrespective of race, culture and creed. YWCA, Madras is affiliated to YWCA, India and through this, is a part of the worldwide organisation of YWCA.

4. The YWCA manages the working women's hostel and admits applicants to stay therein, upon compliance with various terms and regulations. The array of respondents, includes three private respondents, two of whom were employed by YWCA, with boarding and lodging, and one resident who was working elsewhere, availing boarding and lodging facilities provided by YMCA.

5. There were certain incidents that had taken place leading to allegations being made by the petitioners as against the conduct of the private respondents, and action to suspend their employee. It is unnecessary to go into the details of the disputes and it would suffice to state that the three private respondents had filed complaints before R1 complaining of harassment as well as serious irregularities in the functioning of the YMCA.

6. The complaints include intimidation, being deprived of



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food or water, locking them in their rooms, harassment and cruel treatment among others. One of the private respondents has also sought reinstatement in service.

7. Pending writ petitions, all three private respondents have vacated the premises of YWCA. With the voluntary egress of the private respondents from YWCA, technically, petitioners would urge that nothing survives in these writ petitions. However, this Court is of the view that the issues raised by the private respondents warrant enquiry in general, as a measure of good business practices and corporate governance.

8. In the counter filed by R2, the President / Chairperson on behalf of herself and R1, all allegations of the private respondents have been denied. That apart, R1 refers to the Tamil Nadu State Commission for Women Act, 2008 (Act), particularly Section 7, to state that the Commission is fully empowered to cause enquiry into the functioning of women's associations and this is the basis of the impugned summons.

9. As far as the summons is concerned. Undoubtedly, R1 has a bounden duty to cause enquiry into relevant complaints. However, the summons issued reads thus:-

"Whereas proceedings in the matter aforementioned have been initiated and the Commission has directed to issue summons to you.



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a. To afford you an opportunity of being heard in person and / or to adduce evidence in support of your complaint.

OR

b. To afford you an opportunity of being heard as in the opinion of the Commission your reputation is likely to be prejudicially affected by the verdict that the Commission may give in the above proceedings.

OR

c. To afford you an opportunity of being heard in the matter as your conduct in connection with the subject matter of the above proceedings is being inquired into.

NOW THEREFORE you are hereby summoned to appear before the Commission for counselling in person for the purpose aforementioned on 07.08.2023 at 4.00 pm (day and date) or soon thereafter as may be convenient to the Commission for further consideration.

If you fail to comply with this order without lawful excuse:

Final decision in the proceedings shall be taken by the Commission in your absence. Given under the directions of the Commission this the 2nd day of August, 2023."

10. The above summons has triggered the initiation of quasi judicial proceedings. It must convey clearly what is expected from the noticee. Additionally and in appropriate cases, a copy of the complaint / material based on which the summons is issued must be provided to the noticee. This requirement may be waived in matters where the Commission wishes to maintain secrecy or discretion, to be exercised in an appropriate manner.

11. The summons, in the form in which it has been issued to the petitioners is vague and does not provide any clarity in



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regard to the purpose for which the petitioners are summoned.

This aspect of the matter must be addressed and duly remedied.

12. Chapter III of the Act sets out the manner of functioning of the Commission and Section 7(1) thereunder, reads thus:-

"7(1) Subject to the performance of the functions of the National Commission for Women under Section 10 of the National Commission for Women Act, 1990, the Commission shall perform all or any of the following functions, namely:-

(a) Investigate and examine all matter relating to the safeguards provided for women under the Constitution and other laws;

(b) present to the Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(c) make it such reports, recommendations for the effective implementation of those safeguards for improving the conditions of women by the Government;

(d) review, from time to time, the existing provisions of laws affecting women and recommend amendments thereto so as to provide for remedial legislative measures to meet any lacuna, inadequacies or shortcomings in such legislations;

(e) take up the cases of violation of the provisions of the Constitution and other laws relating to women with the concerned authorities;

(f) look into complaints and take suo-motu



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notice of matters relating to-

(i) non-implementation of any laws to provide protection of women's right and also to achieve the objective of equality and development;

(ii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with concerned authorities;

..."

13. Thus the Commission is well empowered to initiate suo motu notice in matters where there is non-compliance of policy decisions, guidelines or instructions to mitigate hardship and ensure welfare to the women.

14. Thus and notwithstanding that the private complainants have left the organisation, it would be in the fitness of things that the officials of YWCA and R1 jointly conduct an audit of the former, particularly the protocols, procedures, policies and infrastructure to ensure the well being of the residents / employees of YWCA.

15. The parties would do well to bear in mind that the objects of both YWCA and R1 are not adversarial, but converge on the aspect of well being and empowerment of women. Hence, the President and Secretary of R1, accompanied by a minimum of three members, shall visit & inspect the premises of YWCA, Madras at Madras on 09.02.2024 at 04.00 p.m.



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16. If the result of the visit / inspection reveals any areas of correction, it is always open to R1 to take necessary action in accordance with law and in line with the principles of natural justice. Both parties are requested to file a status report in the Registry within a week from conduct of the meeting i.e., on or before 16.02.2024.

17. The writ petitions stand disposed in terms of this order. No costs. Connected miscellaneous petitions are closed.

23.01.2024

Index:Yes/No

Neutral Citation:Yes

ssm

Note to Registry : Report to be circulated in the Chamber.

To

1.The Chairman,
Tamil Nadu State Commission for Women
A.S.Kumari, Kalas Mahal,
1st Floor, Triplicane, Chennai - 05.

2.A.S.Kumari
President / Chairperson
State Commission for Women
PWD Estate, Chepauk,
Triplicane, Chennai - 05.

3.Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

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DR. ANITA SUMANTH,J.

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