

DR. A.K.JAYASANKARAN NAMBIAR, J.
&
C.S. SUDHA, J.

W.P.(C).NOS.29846, 31639, 31205 & 31332 OF 2024
&
W.A.NO.1248 OF 2024

Dated this the 10th day of September, 2024

ORDER

Dr. A.K. Jayasankaran Nambiar, J.

All these matters were posted before us today. At the outset, the learned Advocate General informed us that the full text of the Justice Hema Committee Report was available with him for handing over in a sealed cover as directed in the order dated 22.08.2024 of this Court. However, we requested the Advocate General to keep the sealed cover in safe custody in his office till we require the same for perusal at a later stage. We then took note of the submission of the learned Advocate General that a Special Investigation Team [SIT] had been constituted by the Director General of Police cum State Police Chief vide order dated 25.08.2024 in the wake of complaints that were received by the Police Department on issues related to the Justice Hema Committee Report. The SIT constituted comprises of the following persons:

1. Sri. Sparjankumar IPS, IG & Commissioner of Police, Tvpm City.
2. Smt. Ajeetha Begum IPS - DIG, Tvpm Range
3. Smt. Poonkuzhali IPS - AIG, Coastal Security.
4. Smt. Aishwarya Dongre IPS - Asst. Director, KEPA

5. Smt. Merin Joseph IPS - Supdt. of Police (HQ), Crime Branch.
6. Sri. Ajith V. IPS - AIG to ADGP (L&O).
7. Sri. Madhusoodhanan IPS - SP, Crime Branch, Tvpm.

and is to be supervised by Sri. H. Venkatesh IPS, Addl. Director General of Police, Crime Branch.

2. It is also seen that Sri. Sparjankumar IPS, IG & Commissioner of Police, Thiruvananthapuram City will head the SIT and Sri. Madhusoodhanan IPS, SP, Crime Branch, Thiruvananthapuram is designated as the Investigation Officer [IO].

3. Finding, however, that the constitution of the SIT aforementioned was only for the purposes of investigating into the complaints received in the recent past, after the publication of the Justice Hema Committee Report in its redacted form, we enquired with the learned Advocate General as to what action the State had taken pursuant to the receipt of the report from the Justice Hema Committee as early as on 31.12.2019. The learned Advocate General then submitted that other than entrusting a copy of the report to the Director General of Police in February, 2021, no further action was taken by the State Government. We are also informed that even the Director General of Police, to whom the report was handed over, did not take any further action on the report till the constitution of the SIT vide order dated 25.08.2024.

4. We must observe that we are rather perplexed by the inaction of the State Government. In a State where the population of the female has always exceeded that of the male, and the birth population ratio of females has always been higher than the national average, the interests of women cannot be treated as a minority interest, or their rights equated to minority rights. As per a study conducted by the State Government itself in 2013, the literacy rate among females in our state has always been very high, at above 91%, and it is only marginally below the male literacy rate that stands at around 96%. The life expectancy for women in our State is in the region of 76.30 as against 71.40 for men. Therefore, the State has necessarily to see the problems faced by women as problems affecting a majority of the literate people in the State.

5. In the instant case, the conduct of the State Executive has been alarmingly lethargic. Although the report of the Justice Hema Committee was submitted to the State Government as early as on 31.12.2019, there was no action taken there on for well over four years, and even thereafter, it took a litigation to spur the State into action, and that too only in respect of one of the many issues that were flagged by the Justice Hema Committee. While it may be a fact that the Committee was only in the nature of a fact-finding body for the State Government, when we consider the public money spent for the

effective functioning of the committee, and the high profile nature of the Committee itself, headed as it was by a retired Judge of the High Court, we are of the view that the bare minimum that was expected of the Government was to take a prompt decision as whether or not it agreed with the findings of the Committee. Apparently, this was not done.

6. Silence and inaction not being options available to the State Government any more, we are of the definitive view that the State government must take immediate steps to address the various issues generally faced by women in our society, including those faced by women in connection with their respective vocations. While the Directive Principles of State Policy enumerated under Part-IV of the Constitution, especially Articles 38, 39 (a), (d), (e) & (f), 42, 43 & 46 that are relevant in the present context, make it obligatory on the State to apply the said principles in making laws, Article 51-A (e) of the Constitution makes it the duty of every citizen, *inter alia*, to renounce practices derogatory to the dignity of women. The State will do well to remind itself that the collective duties of the citizens in society translates into a duty of the State and hence it cannot afford to remain a mute spectator to the social and economic injustice that is meted out to women in general, who constitute a significant section of its citizenry.

7. Taking note of the present situation, therefore, we issue the following directions:

(i) The State Government shall, forthwith, furnish a full copy of the Justice Hema Committee Report, together with all its annexures - documentary and otherwise - to the SIT constituted in terms of the order dated 25.08.2024. The SIT shall, on its part, go through the report in its entirety to see whether any offence, cognizable or otherwise, has been made out at the instance of any person and proceed to take suitable action in accordance with law by treating the contents of the report as "information" for the purposes of setting the law in motion.

(ii) The SIT shall, in particular, be mindful of the sensitivities that are required to be observed during investigation, and shall take note of the legal provisions regarding the privacy rights of the victim as well as those against whom allegations/accusations have been levelled by the alleged victims of crimes. The preliminary enquiry and consequent action shall be done in a manner that is fair to all concerned. The SIT shall then forward a report, on the action taken by it, to the State Government within two weeks from today and upon receipt thereof, the State Government shall include a copy of the action taken report along with the counter affidavit filed to the averments in the various writ petitions and writ appeal referred above.

(iii) The members of the SIT shall refrain from giving press conferences or communicating with the media on any aspect of the investigation conducted in connection with the report of the Justice Hema Committee. We make it clear however that the restriction against giving press conferences shall not be seen as preventing the investigating team from giving such information, without mentioning the names of any person, as would indicate the progress that they have made in their investigation.

(iv) This Court believes that the print, electronic and social media would exercise restraint and adhere to an appropriate code of conduct in the matter of publishing news governing any aspect of the Justice Hema Committee Report by according due respect to the privacy rights of persons who are allegedly victims of offences committed against them, as also of persons against whom such allegations/accusations have been made. They shall bear in mind that even an accused person has a fundamental right to a fair investigation and trial of the case against him/her and a trial by media would throw to the winds the guarantee of fundamental rights assured to the individual under our Constitution. The safeguard of the fundamental right to privacy under our Constitution is assured to the individual not only by the State but also at the instance of fellow citizens who are obligated under Part IV-A of our Constitution to abide by the Constitution and respect its ideals as also to promote harmony and the

spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women.

(v) We are also hopeful that since this Court is now in seizin of this matter, and will be monitoring the progress of the investigation by the SIT, the print, electronic and social media will ensure that undue pressure is not applied on the Investigating Team through posts or news articles which may have the effect of pressurizing the investigating agencies to act in a hasty manner.

(vi) Since we are hopeful that the print, electronic and social media will show due respect to the rights of the individuals in the Society in a sensitive matter such as the present, we do not feel any need to pass a formal order restraining the media in this regard.

Post on 03.10.2024.

Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
C.S. SUDHA
JUDGE

prp/10/9/24