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W.P.No.4914 of 2022
and W.M.P.Nos.5061 & 5062 of 2022

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Dr.ANITA SUMANTH,J.

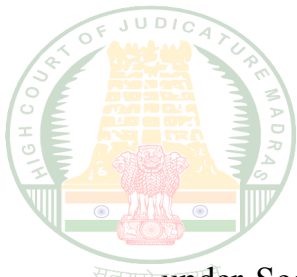
Mrs.GeethaThamaraiselvan, learned Special Government Pleader accepts notice for the respondents and is represented by Mr.Silambannan, learned Additional Advocate General. A request is made on behalf of the respondents for some time to obtain instructions and file a counter.

2. Time is granted till 21.03.2022 when the matter will be called next.

3. The petitioner prays for an interim stay of impugned Notification dated 23.02.2022. A brief back ground is required to consider this request.

4. The petitioner is a member in the Tamil Nadu Commission for Protection of Child Rights (Commission/TNCPRC). This Commission has been constituted under the Commissions for Protection of Child Rights Act, 2005 (in short 'Act'), which is a Central Enactment. The constitution of the Committee is in terms of Section 17 of the Act and Section 18 thereof deals with the appointment of Chairperson and other Members.

5. The Act provides, under Section 7 (2) thereof, for 7 instances where the Chairperson or any other Member would be liable for removal from office. Section 8 states that if the office of the Chairperson or Member becomes vacant by reason any of the disqualifications mentioned in Section 7 or by virtue of the resignation



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under Section 5(2), then such casual vacancy shall be filled within a period of 90
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days by making afresh appointment in accordance with the provisions of Section 4 thereof.

6. The tenure of the Chairperson and Members is for a period of three years from when he or she assumes office. In the present case, the petitioner has assumed office on 20.01.2021 and as such her tenure continues till 19.01.2024.

7. While this so, impugned Notification has come to be issued dissolving the Commission in entirety. Only the petitioner, amongst the entire Board, has challenged this Notification. While doing away with the Commission, the Notification proposes to re-constitute the same and callfor applications afresh for the posts of Chairperson and Members.

8. The Notification does not contain any justification whatsoever for scraping the Commission and re-constituting the same. In fact, the Act, under which the Commission is constituted does not provide for such dissolution but provides for removal from office of the Chairperson and members in terms of Section 7 thereof.

9. My attention is drawn to letter dated 28.02.2022 issued by the National Commission for Protection of Human Rights, which, while referring to the impugned Notification and the complaint/representation filed by the present constituents of the State Commission, opines that the dissolution/cancellation of the



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present Commission is in contravention of the statutory provisions, requesting that appropriate and necessary enquiry and action may be taken in the matter.

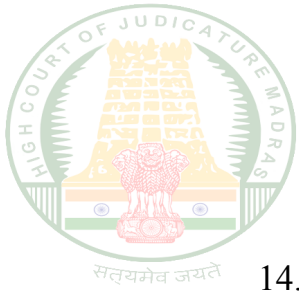
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10. The above communication has been addressed to the Chief Secretary and it is to be noted that the impugned Notification has been issued by the Additional Chief Secretary to the Government of Tamil Nadu.

11. Upon the heels of the impugned Notification dated 28.02.2022, a Press Release bearing No.305 dated 01.03.2022 has come to be issued by the Secretary of the Tamil Nadu Commission for Protection of Child Rights, calling for applications for the posts of Chairperson and Members for reconstitution of the Commission.

12. A prima facie case has been made out for continuance of the present Commission insofar as, a perusal of the Act does not indicate any possibility for wholesale dissolution of the Commission perse. Though Section 7 provides for removal of the Chairperson and the Members for reasons set out thereunder, such removal is subject to they having been granted an opportunity of being heard prior to such removal in terms of sub-Section (3) of Section 7. Admittedly, in this case, no show cause notices have been issued either to the Chairperson or the Members, till date.

13. For the above reasons, interim stay of impugned Notification dated 23.02.2022 and Press Release No 305 dated 01.03.2022, effective till the next date



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14. List on 21.03.2022.

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03.03.2022

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