

Court No. - 35

Case :- WRIT - A No. - 16918 of 2023

Petitioner :- Indu Devi (Smt)

Respondent :- State Of U.P.. And 5 Others

Counsel for Petitioner :- Alok Kumar Yadav

Counsel for Respondent :- C.S.C, Divendu Tripathi, Satyendra Chandra Tripathi

Hon'ble Vikas Budhwar, J.

Heard Sri Alok Kumar Yadav, learned counsel for the petitioner and Sri Saurabh Trivedi learned Standing Counsel, who appears for respondents 1, 2 & 4 and Sri Devendu Tripathi, who appears for the respondents no. 3 and 5.

In view of the order, which is being proposed to be passed today, notices are not being issued to the sixth respondent.

The case of the writ petitioner is that the fifth respondent, Zila Panchayat Girls Inter College, Ugrasenpur, Prayagraj is an institution which imparts education into Class-12 and it is being managed by the third respondent, Zila Panchayat Parishad through its Chairman and the said institution is recognised by the U.P. Board of High School and Intermediate and its run under the provisions of U.P. Intermediate Education Act, 1921.

The writ petitioner claims to be the widow of the deceased Rakesh Mani Tripathi who died in harness pursuant where to the writ petitioner was accorded compassionate appointment as Peon on 5.3.1993 till that date she is working. As per the writ petitioner the sixth respondent came to be transferred from Shri Raghunandan Inter College, Chharra, Aligarh to the institution in question on 1.11.2014 as Assistant Teacher.

In para 10 of the writ petition, the writ petitioner alleges that she had been meted with certain filthy words which even in fact attempted to trench into her modesty compelling her to lodge complaints which culminated into lodging of an FIR against the sixth respondent in Police Station Phoolpur, Prayagraj as Case Crime No.0384 of 2022 on 6.9.2022 under Sections 504, 506, 554 of the IPC.

The writ petitioner in para-13 submits that she is forwarded complaints against the sixth respondent before the third and fourth respondents through proper channel i.e. 5th respondent on 12.9.2022 along with the complaints earlier lodged on 26.8.2022 and 27.8.2022.

It is further the case of the writ petitioner with respect to any other incident relatable to some other person and inquiry was initiated against the sixth respondent.

The grievance of the writ petitioner is that despite the fact that she has lodged complaint against the sixth respondent and the said complaint comes within the ambit and the purview of the Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013 (Act No.14 of 2013) notified on 22.4.2023 putting the employer under obligation to constitute an Internal Complaint Committee as per Section 4 read with Sub-Clause (v) of Subsection (2) of Section 3 of 2013 but Internal Complaint Committee has not been constituted as per the statute giving room to the sixth respondent to perpetuate illegality.

Prayer in the present petition is for a direction to the respondents, to constitute Internal Complaint Committee pursuant to the complaints of the petitioner dated 26.8.2022 and 27.8.2022 and conclude to its logical end.

Sri Devendu Tripathi, who appears for the respondents no. 3 and 5 has produced before this Court two sets of document one being the inquiry report under the signature of Additional Chief Officer, Zila Panchayat, Prayagraj and of the Principal Zila Panchayat Prayagraj and the second document being communication dated 19.10.2022 under the signature of the Chairman/Manager, Zila Panchayat, Prayagraj whereby Head Mistress, Zila Panchayat Balika Inter College Sirsa Prayagraj has been made the member of the inquiry committee.

On a pointed query being raised to Sri Devendu Tripathi, as well as learned Standing Counsel for the respondents as to whether the appointment of Head Mistress, Zila Panchayat Balika Inter College, Sirsa Prayagraj as an Internal Inquiry Committee is sufficient compliance of the provisions contained under Section 4 of the Act, 2013 or not to which they submit that the said Committee does not test the validity of the said provisions. According to Sri Tripathi, a Committee as per Section 4 of the 2013 Act will be constituted which shall investigate the matter and tender their report. The said submission is accepted by the Sri

Saurabh Trivedi learned Standing Counsel. The respondents at this stage submit that they do not propose to file any response to the writ petition.

To such a submission, learned counsel for the petitioner has no objection and he gracefully accepts the same.

Considering the submissions of the rival parties as well as stand taken by them, the writ petition is being disposed off with the mandamus commanding the Zila Panchayat (Competent Authority) to constitute an Internal Complaint Committee as per Section 4 of the 2013 Act empowered to conduct inquiry and to submit a report with most expedition within a period of two months from the date of presentation of the certified copy of the order

At this stage, Sri Yadav submits that he apprehends that the sixth respondent may tamper with the inquiry and with also create problems vis-a-vis the writ petitioner and he seeks to rely upon Section 12 of 2013 Act.

Be that as it may be it is open for the writ petitioner to claim the benefit if it is advisable and provided under Section 12 of the 2013 Act.

With the aforesaid observation, the writ petition is **disposed off**.

Instructions filed today are kept on record and marked as annexures-A and B.

Order Date :- 16.10.2023

piyush