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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 4298/2014

3rd February, 2015

DR. SITANSU SEKHAR JENA

..... Petitioner

Through

Ms. Jyoti Singh, Sr. Adv.,
Ms. Tinu Bajwa, Adv. &
Mr. Sameer Sharma, Adv.

versus

UNION OF INDIA AND ORS

..... Respondent

Through

Mr. Sanjay Jain, ASG,
Mr. Bhagwan Swarup Shukla, CGSC
Ms. Shreya Sinha, Adv. for R-1&4
Mr. Pramod Gupta, Adv. with
Ms. Yogyata Verma, Adv. &
Ms. Priyanka Ghosh, Adv. for R-2

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This writ petition under Article 226 and 227 of the Constitution of India was filed by the petitioner impugning the Office Memorandum dated 11.03.2014 and the subsequent proceedings conducted thereupon by the Sexual Harassment Committee of the respondent no. 3. The Sexual Harassment Committee was constituted pursuant to the complaints of the respondent no. 2 in this writ petition.

2. There is an earlier judgment dated 26.11.2013 passed by this Court in W.P.(C) No. 7853/2011 titled as *Anita Priyadarshini Vs. UOI & Ors.* as per which judgment two aspects were decided viz entitlement of technical resignation of the petitioner in that case and respondent no. 2 herein, from the respondent no. 3 herein, and, the decision on the stand of the new employer - the respondent no.3 in the earlier case viz IGNOU in denying the appointment to the respondent no. 2 herein with IGNOU.

3. In terms of the judgment dated 26.11.2013 in W.P.(C) No. 7853/2011 the respondent no. 2 herein, and who was the petitioner in W.P.(C) No. 7853/2011, gave her representation with the respondent no. 3 herein/NIOS by withdrawing the allegations made against the petitioner herein and seeking technical resignation. The facts and events prior to 26.11.2013 thus merged in the judgment dated 26.11.2013 and the consequent representation made by respondent no. 2 herein to the respondent no. 3 herein seeking technical resignation after withdrawing of allegations made against the present petitioner.

4. The respondent no. 2 has however alleged in the complaint subsequently made to the Sexual Harassment Committee that there are factual events constituting sexual harassment which have happened after passing of the earlier judgment on 26.11.2013, though, the complaint made

by the respondent no. 2 herein before the Sexual Harassment Committee also mentions about factual aspects occurring prior to 26.11.2013. The petitioner herein had in this petition questioned the issue of the Office Memorandum dated 11.03.2014, and which was pursuant to the detailed complaint of the respondent no. 2 herein dated 12.06.2014, on the ground that all issues with respect to factual aspects prior to 26.11.2013 stood withdrawn by the respondent no. 2 herein and therefore the Sexual Harassment Committee could not go into such complaint with respect to the factual averments prior to 26.11.2013.

5. In view of the interim orders passed by this Court, and which were passed in view of the stand of the Union of India and the employer/respondent no.3 that the requirement is of the Committee to decide the complaint in a 90 days period, this court allowed proceedings of the Sexual Harassment Committee to continue, but it was directed that the report of the committee could only be given in a sealed cover to this court.

6. The Sexual Harassment Committee has now given its report dated 26/29.09.2014. This report in a sealed cover has been brought in this Court, and the sealed cover after the consent of the parties was opened, and again with the consent of the parties read out in the court with respect to the

relevant portions therein as required for the disposal of the present writ petition.

7. The counsels for the parties have also thereafter been *prima facie* heard with respect to the respective submissions, and at which stage, it is agreed that this writ petition be disposed of in terms of the present consent order that the petitioner will now challenge the report of the Sexual Harassment Committee dated 26/29.09.2014 in accordance with law before whichever authority which is prescribed in law for challenging the said report including on all the grounds available in law including which are urged in this writ petition and which were also urged and decided by the Sexual Harassment Committee in terms of its report dated 26/29.09.2014.

8. I hasten to observe that this court is not observing on merits in one way or the other, as regards the validity of the stand either of the petitioner or of the respondent no. 2 before the Sexual Harassment Committee or as regards the findings of the Committee and the conclusions of the Committee itself, and all such aspects with respect to the challenge to the report, will be made by the petitioner before the appropriate authority as envisaged by law and the relevant rules of the respondent no. 3/employer.

9. I may also state that the learned ASG has rightly taken the stand that the Union of India is only a third person, neutral party in the present case

being only an administrative authority and that with respect to the aspects which have been dealt with and decided by the Sexual Harassment Committee those will be the concern of the affected parties.

10. Writ petition is accordingly disposed of in terms of the aforesaid order leaving the parties to bear their own costs.

11. The report of the inquiry with the concerned papers are resealed and are handed over to the learned ASG for being handed back to the concerned authority.

FEBRUARY 03, 2015
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VALMIKI J. MEHTA, J