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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 1161/2016**

JYOTI

..... Petitioner

Through : Mr. Rajesh Sharma, Adv.

versus

STATE (GOVT OF NCT OF DELHI) & ORS Respondents

Through : Ms. Richa Kapoor, ASC wit Ms.
Mallika Parmar, Adv. for State with
SI Manoj PS Lajpat Nagar.
Mr. Surender Sinha, Standing
Counsel for R-3, 4 & 5 with Mr. Amit
Saxena, Adv.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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30.08.2016

By this petition under Article 226 of Constitution of India read with
Section 482 Cr.P.C. petitioner has prayed as under:-

- “ a) A writ of mandamus commanding the respondents nos.1 to 5 to install CCTV cameras and depute security guards in all government hospitals under their jurisdiction;
- b) A writ of mandamus commanding the respondent no.6 to immediately lodge an FIR of petitioner with respect to her complaint against the respondent nos.4 & 5;
- c) A writ of mandamus commanding the respondent no.3 to take strict departmental action against the respondent nos.4 & 5 on the complaint of the petitioner;
- d) A writ of mandamus commanding the respondent no.3 not to transfer the petitioner as she

is having an apprehension of the same and revoke the transfer orders dated 3rd March, 2016 of Babita Kaushik, Staff Nurse;

d) Pass an order against the respondents to pay to the petitioner the damages and compensation in terms of money Rs.25 Lacs for each of the respondents for the loss and inconvenience suffered by the petitioner due to being deprived of her legal right;

e) A writ of mandamus commanding the respondents to pay the cost of the petition to the petitioner; and

f) Grant such other relief/s which this Hon'ble Court may deem fit and proper under the facts and circumstances of this case and in the interest of justice, equity and fair trial.”

Petitioner has alleged in the petition that she was working as a Staff Nurse in Lajpat Nagar Colony Hospital of South Delhi Municipal Corporation of Delhi, on contract basis, since 30th August, 2013. On 31st December, 2015 respondent no. 4 (CMO of the hospital) sent a patient at 2:57 PM, who was drunk, for administering injection to him. After administering injection to him, when petitioner went to change her dress in the changing room, she noticed the said patient following her. Petitioner went to respondent no. 4 to complain as to why he had sent a patient, who was under the influence of liquor to which respondent no.4 abused her and threatened that she would be terminated being a contractual employee. Petitioner approached respondent no.5 and made a complaint against the

respondent no.4. Instead of acting on the complaint of petitioner, respondent no.5 advised her to adjust according to the respondent no.4 as he was a very influential person. Respondent no. 4 used to come to the hospital very late. He also used to do his private practice. He used to take gifts from the Medical Representatives for prescribing their medicines to the patients. Respondent no. 4 was in the habit of terrorising women staff, in the name of his having high connections with the Commissioner, Deputy Commissioner and politicians. Respondent no. 4 minted money during the dengue seasons. Respondent no. 4 made a written complaint dated 1st January, 2016 to respondent no. 5 against the petitioner to terrorise and victimise her. Respondent no. 4 would use foul language and abuse the women employees. Respondent no. 4 threatened the petitioner with dire consequences if she dares to open her mouth against his illegal activities. Respondent nos. 1 to 5 were responsible to install CCTV cameras for the safety and security of nurses and women staff in the hospital but they failed to perform their obligation. Respondent no. 4 had been in the habit of outraging modesty of women employees and nurses by way of filthy, abusive and foul language so as to make them succumb to his pressure. Respondent no. 5 colluded with respondent no.4 and issued a memo dated 15th January, 2016 to the

petitioner as a counterblast to the legal notice issued by the petitioner through her lawyer to the respondent nos. 4 and 5. On 19th January, 2016, Additional DHA (M&TB), SDMC sought reply of the petitioner to the false complaint of respondent no.4. On 27th January, 2016, Additional DHA (M&TB), SDMC called the petitioner to appear before the Departmental Enquiry Committee. Petitioner was grilled by the Committee. On 13th February, 2016, respondent no.5 again issued memo to the petitioner as well as to another staff nurse, namely, Babita Kaushik, calling upon them to explain their position regarding the complaint dated 13th February, 2016 of a patient Mahesh Meena stating therein that he had gone to room no. 23 for the ECG along with his son, when petitioner used foul language. Memo was duly replied. Petitioner explained her position by stating that complainant's son had misbehaved with her. Petitioner made a criminal complaint dated 16th February, 2016 to the Station House Officer, Police Station Lajpat Nagar against the respondent nos. 4 and 5 for their misconduct and intimidating behaviour, but no action was taken. On 19th February, 2016, respondent no. 5 issued another memo to the petitioner. On 25th February, 2016, Chairperson issued a meeting notice and pursuant thereof on 26th February, 2016 petitioner made a statement before the Committee but she

was forced to sign the statement, which was already typed by the Committee. Main witness to the complaint of petitioner, Ms. Babita Kaushik was transferred by way of punishment vide office order dated 3rd March, 2016. Respondents were flouting the guidelines laid down by the Supreme Court in Vishakha's case for providing the safety and security to the women at workplace.

Status report has been filed by the respondent no.1, which has been perused and arguments heard.

Learned additional standing counsel submits that FIR No.270/2016 under Sections 506/509 IPC has already been registered in PS Lajpat Nagar, New Delhi on 18th April, 2016 against Dr. Rakesh Nath Prasad and investigations are under way. In view of this statement of learned additional standing counsel, prayer (b) stands satisfied.

For other reliefs alternative remedies are available to the petitioner and petitioner is at liberty to take such remedies in accordance with law. Accordingly, present criminal writ petition is not entertained. As regards prayer (a) is concerned, same is in the nature of Public Interest Litigation, for which petitioner is at liberty to take appropriate remedy by filing an exhaustive petition making out a case for such relief before the PIL Bench.

As regards, prayer (d) is concerned, it is pointed out that petitioner was working on contract basis and her contract has already come to an end by efflux of time. If petitioner has any grievance against the same, she may invoke appropriate legal remedies before the appropriate forum. As regards, prayer (c) is concerned, it is submitted that a committee under the Sexual Harassment of Women at Workplace was constituted by SDMC, which conducted enquiry and has exonerated the respondents. Remedy of appeal under the Sexual Harassment of Women at workplace (Prevention, Protection and Redressal) Act, was available to petitioner. As regards damages the alternative remedy before the civil court is available to the petitioner.

For the foregoing reason present petition is not entertained and is disposed of.

A.K. PATHAK, J.

AUGUST 30, 2016/dk