

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8080 OF 2017

Shri. Hiralal Rama Jadhav,
Age: 53 years, Occupation: Service
As a Superintendent of Prison, Thane
Central Jail (Presently under suspension)
Residing at B-1, 303, Ganga Orchard
Society, Pinglewasti, Mundhwa Road,
Pune – 36.

... Petitioner

Versus

1. The Additional Chief Secretary,
Home Department,
Government of Maharashtra,
Mantralaya, Mumbai
2. The Principal Secretary,
Home Department (Prison),
Government of Maharashtra,
Mantralaya, Mumbai
3. Additional Director General of
Police and Inspector General
Prison (M.S.) having his office at
Central Building, Pune-1

... Respondents

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Mr. A. V. Anturkar, Senior Advocate i/b Mr. Prashant Bhavake for
the Petitioner.

Mr. S. B. Talekar a/w Ms. Madhavi Ayyappan i/b Talekar &
Associates for Respondent No.1.

Mr. O.M. Kulkarni, AAGP for State.

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**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. KARNIK, J.**

RESERVED ON : 07th DECEMBER, 2017

PRONOUNCED ON: 22nd DECEMBER, 2017

JUDGMENT : [PER M. S. KARNIK, J.]

1. Rule. Rule made returnable forthwith. By consent of the parties, heard finally.

2. The petitioner by this petition under Article 226 of the Constitution of India, challenges the order dated 10/07/2017 passed by the Maharashtra Administrative Tribunal (for short, 'the Tribunal') in Original Application No. 115 of 2017 thereby dismissing the O.A. filed by the petitioner.

3. The facts in a nutshell are thus :-

The petitioner since 15/02/2016 was holding the post of Superintendent of Prison, Thane Central Jail, Thane. On 29/08/2016 one lady Constable subordinate to the petitioner approached the Deputy Inspector General of Prison (for short 'DIG prison'), Maharashtra State, Pune and submitted a complaint in

the form of a statement recorded before the DIG prison, Pune. It is the contention of the petitioner that the said complaint was made by the lady constable against him only because the petitioner did not allot staff quarter to her out of turn. The petitioner contends that instead of approaching her superior officers at Mumbai, the lady constable directly approached Smt. Swati Sathe, DIG (Prisons), Pune. According to the petitioner, Smt. Swati Sathe in order to take revenge against him, called the aggrieved woman at Pune and forced her to give statement against the petitioner. Thereafter, the Inspector General of Police (Prisons), Mumbai, transferred the aggrieved woman from Thane Central Jail to Byculla District Jail. Thereafter, on 01/09/2016, the Inspector General of Police (Prison), Mumbai recorded the statement of aggrieved woman at Byculla office at Mumbai. The respondent No.3 on the basis of report submitted by the Inspector General of Police (Prison) suspended the petitioner on 02/09/2016 as per Rule 4(1)(a) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 (for short 'the Rules of 1979') pending departmental enquiry. The petitioner was served with a charge-sheet on 15/11/2006 alleging misconduct of sexual

harassment. It was alleged that the petitioner has committed misconduct under Rule 3 and Rule 22(A)(1) of the Maharashtra Civil Services (Conduct) Rules of 1979 ('Conduct Rules' for short).

4. By G. R. dated 23/12/2016, the respondents constituted a committee headed by Smt. Ashwati Shering Dorje, Additional Commissioner of Police, Mumbai for conducting a departmental enquiry against the petitioner for the misconduct of sexual harassment. By a corrigendum dated 28/02/2017, it was clarified that the committee headed by Smt. Ashwati Shering Dorje constituted vide Government Resolution dated 23/12/2016 would conduct a detailed enquiry against the petitioner in respect of sexual harassment and accordingly, the internal complaints committee is constituted under the chairmanship of Smt. Ashwati Shering Dorje. The respondents submit that the aspect of disciplinary enquiry was separated thereby.

05. Learned Senior Counsel Shri. Anturkar invited our attention to the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (for short 'the Act of 2013'). He has also invited our attention to the

provisions of the said Rules of 1979 and the Maharashtra Civil Services (Conduct) Rules, 1979 (for short 'the Conduct Rules').

06. With the assistance of learned Senior Counsel Shri Anturkar for the petitioner and learned counsel Shri. Talekar, appearing for the respondents, we have gone through the impugned Judgment and order of the Tribunal.

07. Learned Senior Counsel Shri Anturkar assailing the order of the Tribunal submitted that the committee constituted for holding enquiry was not in accordance with the provisions of the Act of 2013 and the said committee is not having statutory power to conduct enquiry against the petitioner. Learned Senior Counsel submitted that the committee constituted for holding the enquiry, cannot be an internal complaints committee within the meaning of Section 5 of the Act of 2013 and therefore, the enquiry proceeding itself is null and void. In his submission, the aggrieved woman has not filed the complaint against the petitioner alleging sexual harassment at the workplace to the Internal Complaint Committee or the local committee as mandated by the said Act. It is only on the basis of the statement recorded before Smt. Swati

Sathe, the charge-sheet came to be served upon the petitioner and the enquiry also started under the said Act. Shri. Anturkar, learned Senior Counsel submits that this procedure is foreign to the said Act of 2013. The complaint therefore cannot be said to be a complaint within the meaning of Section 9(1) of the said Act. Having regard to the definition of 'workplace' and 'employer', at the workplace of the aggrieved woman i.e. Thane central jail, the internal committee was very much in existence headed by the jailor namely Smt. Wagh. Learned Senior Counsel would therefore submit that entertaining a complaint bypassing the statutory procedure would vitiate the enquiry which has been instituted and consequently, the chargesheet issued against the petitioner is unsustainable. Shri. Anturkar invited our attention to the provisions of Sub Rule 1 of Rule 7, of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 ('Rules of 2013' or short), to contend that the procedure laid down therein has not at all been followed.

08. In the submission of the learned Senior Counsel Shri Anturkar, the Act of 2013 being a central legislation will override the provisions of the Rules of 1979. In his submission, the Act of

2013 provides for a detailed procedure right from the stage of filing of complaint to the submission of report on the basis of enquiry to be conducted as per the procedure laid down under the Act of 2013 and therefore, once the field is occupied by the Act of 2013, the respondents are not justified in initiating disciplinary enquiry and serving charge-sheet on the petitioner invoking the provisions of the Rules of 1979. In the submission of learned Senior Counsel Shri. Anturkar, even the committee constituted by the G.R. dated 23/12/2016 under the chairmanship of Smt. Ashwati Shering Dorje is not in accordance with the provisions of the Act of 2013. He submits that the internal committee as well as the local committee under the Act of 2013 were already in existence and having regard to the mandate of the Act the complaint can only be enquired into by in one of these two committees.

09. Learned Senior Counsel Shri Anturkar submits that as the petitioner himself is an employer within the meaning of the Act of 2013 and the allegations are in respect of the workplace of which he is the employer, the enquiry at the highest could have been conducted by the local committee constituted under Section 6 of

the Act, as the complaint is against the petitioner who is employer himself. He submits that the constitution of the committee is in complete contravention of the provisions of the Act of 2013 and he further submits that the provisions of the Act of 2013 are mandatory. According to him, the committee has been constituted in breach of the provisions of Sections 4 and 6. In his submission, even the complaint has been entertained directly by the DIG which is not permissible as the complaint has to be made to the internal committee or the local committee constituted under the Act.

10. Learned Senior Counsel Shri Anturkar further submits that assuming that the internal committee constituted by the corrigendum dated 28/02/2017 is in consonance with the provisions of the Act of 2013, even in that case the disciplinary enquiry cannot proceed as the field is occupied by the central statute viz. the Act of 2013. Learned Senior Counsel would submit that once the central statute is holding the field the general provisions of Service Rules will not apply. In his submission, the corrigendum dated 28th February, 2017 is very clear as the same specifically refers to the constitution of the committee for

conducting detailed inquiry under the Act of 2013. In his submission, a detailed procedure is provided under the Act for holding an inquiry and the committees have already been constituted for holding the inquiry under the said Act. Learned Senior Counsel would, therefore, submit that the inquiry into the complaint has to be conducted in consonance with the procedure laid down under the said Act. He would submit that the “Rules of 2013” provide for an inbuilt safeguard as regards the other relief to be granted to the complainant during the pendency of the inquiry. This according to the learned Senior Counsel would go to show that the Act which is a central legislation will prevail over the service rules which are framed under Article 309 of the Constitution of India.

11. Learned Senior Counsel Shri. Anturkar submits that the issuance of the charge-sheet dated 15/11/2016 is illegal, as the disciplinary enquiry itself cannot proceed during the pendency of the enquiry under the said Act. In any case he would submit that the Constitution of the committee itself is not in consonance with the provisions of the said Act and therefore also the Tribunal ought to have allowed the O.A.

12. Per contra, learned Counsel Shri Talekar appearing on behalf of the respondents has contended that there is no conflict between the said Act and the said Rules. Relying on Section 28 of the Act, he contends that the provisions of the Act do not override the Service Rules. In his submission, provisions of the Act of 2013 do not supplement the service rules, but are merely supplementary which is evident from the reading of Section 28. He further submits that the provisions of the Act are in addition to and not in derogation of the provisions of any other law for the time being in force, which is clear from the language of the Section 28 of the Act. The rules framed under Article 309 of the Constitution of India are 'Law' within the meaning of Article 13 of the Constitution of India and are not contrary to any of the provisions of the Act.

13. In the submission of learned Counsel, the said Act does not repeal or abrogate the service rules and in fact reading of the relevant provisions of Section 13(3)(i) makes it clear that the provisions of the Act requires the employer or the District officer, as the case may be to take action for sexual harassment as a

misconduct, in accordance with the provisions of the service rules as applicable.

14. Learned counsel further submits that section 6 of the Act does not bar the employer to reconstitute internal complaints committee so as to deal with complaints of sexual harassment against its officers who themselves are 'employer' within the meaning of the said Act. Learned counsel submits that the internal complaints committee has to be constituted by the employer whereas the local complaints committee is constituted by the District officer as notified by the appropriate Government under section 5 of the said Act. In his submission as the State Government is the 'appropriate Government' within the meaning of section 2(b) of the Act, it is prerogative of the 'appropriate Government' to constitute and reconstitute internal complaints committee under section 4 of the Act so as to achieve the object of the Act and make the provisions meaningful and workable.

15. Learned counsel further pointed out that as the petitioner has made allegations against Smt. Swati Sathe, the Government had to nominate Smt. Ashwati Shering Dorje, who is working as

Additional Commissioner of Police, thereby reconstituting the existing internal complaints committee. In the submission of learned counsel, as the allegations of sexual harassment are made against the petitioner who is of the rank of Senior Superintendent, Central Jail, the committee had to comprise of an officer senior in rank than him. Learned counsel submitted that as the provisions of the Act and the service rules operate in distinct and different spheres altogether, the petitioner is not justified in contending that the disciplinary proceedings initiated under the service rules stand vitiated and cannot be proceeded with.

16. We now proceed to analyze the submissions advanced by the learned Counsel. To appreciate the controversy it would be material to quote the relevant provisions of the Act of 2013, the Preamble of which reads thus :-

“ An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.”

Definition Clause **2(a)** defines “aggrieved woman” means – (i) in relation to a workplace, a woman, of any age

whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent ;

(ii) in relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house ;

2(b) - “appropriate Government” means - (i) in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly -

(A) by the Central Government or the Union territory administration, the Central Government ;

(B) by the State Government, the State Government ;

(ii) in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government ;

2(f) “employee” means a person employed at a workplace for any work on regular, temporary, ad-hoc or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a

voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name ;

2(g) “employer” means -

(i) in relation to any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, the head of that department, organization, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;

(ii) in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace.

Explanation :- For the purposes of this sub-clause “management” includes the person or board or committee responsible for formulation and administration of policies for such organization ;

(iii) in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her employees ;

(iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker ;

2(h) “Internal Committee” means an Internal Complaints Committee constituted under section 4 ;

2(i) “Local Committee” means the Local Complaints Committee constituted under section 6 ;

2(n) “sexual harassment” includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely :-

- (i) physical contact and advances ; or
- (ii) a demand or request for sexual favours ; or
- (iii) making sexually coloured remarks; or
- (iv) showing pornography ; or
- (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

17. Section 4 provides for “Constitution of Internal Complaints Committee”. Section 6 provides for constitution of local committee. Section 9 of the said Act provides for “Complaint of sexual harassment”, the relevant provision for Section 9(1) reads thus :-

“9. Complaint of sexual harassment – (1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident :

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing :

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint with the said period.”

18. Section 11 makes provision for inquiry into the complaint. The relevant provision for Section 11(1) reads thus :-

“11. **Inquiry into complaint** – (1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall if *prima facie* case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable.”

19. Section 13 provides for “Inquiry report”. The relevant portion of which reads thus :-

“13. **Inquiry report** – (1) On the completion of an inquiry under this Act, the Internal committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer

that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be -

(i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed ;

(ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:”

20. Chapter VI which provides for “Duties of employer”.

One of the duties of the employer provided by Section 19 is every employer shall (i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct.

21. Section 28 provides for the act to be not in derogation of any other law. Section 28 reads thus :-

“28. Act not in derogation of any other law. - The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.”

22. In exercise of powers conferred by Section 29 of the Act, the Central Government has made the Rules of 2013. Rule 7 and 8 which are relevant for determination of the present controversy read thus :-

“Rule 7. Manner of inquiry into complaint – (1) Subject to the provisions of section 11, at the time of filing the complaint, the complainant shall submit to the Complaints Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.

(2) On receipt of the complaint, the Complaints Committee shall send one of the copies received from the aggrieved woman under sub-rule (1) to the respondent within a period of seven working days.

(3) The respondent shall file his reply to the complaint along with his list of documents, and names and addresses of witnesses, within a period not exceeding ten working days from the date of receipt of the documents specified under sub-rule (1).

(4) The Complaints Committee shall make inquiry into the complaint in accordance with the principles of natural justice.

(5) The Complaints Committee shall have the right to terminate the inquiry proceedings or to give an *ex parte* decision on the complaint, if the complainant or respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Chairperson or Presiding Officer as the case may be :

Provided that such termination or *ex parte* order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.

(6) The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Complaints Committee.

(7) In conducting the inquiry, a minimum of three Members of the Complaints Committee including the Presiding Officer or the Chairperson, as the case may be, shall be present.

Rule 8. Other relief to complainant during pendency of inquiry – The Complaints Committee at the written request of the aggrieved woman may recommend to the employer to -

(a) restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, and assign the same to another officer ;

(b) restrain the respondent in case of an educational institution from supervising any academic activity of the aggrieved woman.”

23. In exercise of the powers conferred by proviso to Article 309 of the Constitution of India, the Government of Maharashtra has made the Conduct Rules of 1979. The relevant portion of Rule 3 is as under :-

“3. Duty of Government servant to maintain integrity, devotion to duty, etc. - (1) Every Government servant

shall at all times -

- (i) maintain absolute integrity ;
- (ii) maintain devotion to duty ; and
- (iii) do nothing which is unbecoming of a Government servant.”

24. Rule 22-A of the said Conduct Rules provides for prevention of sexual harassment of working woman. Rule 22-A reads thus :-

“22-A – Prevention of sexual harassment of working woman – (1) No Government servant shall indulge in any Act of sexual harassment of any women at her work place.

(2) Every Government servant who is in charge of a work place shall take necessary steps to prevent sexual harassment to any workmen at such work place.

Explanation - For the purpose of this rule,

(a) “sexual harassment” includes any one or more of the following acts or behaviour (whether directly or by implication) namely : -

- (i) physical contact and advances ; or
- (ii) a demand or request for sexual favours ; or
- (iii) making sexually coloured remarks ; or
- (iv) showing pornography ; or
- (v) any other unwelcome physical, verbal, non-verbal conduct of a sexual nature.

(b) the following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment -

- (i) implied or explicit promise of preferential treatment in her employment ; or
- (ii) implied or explicit threat of detrimental treatment in her employment ; or
- (iii) implied or explicit threat about her present or future employment status ; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her ; or
- (v) humiliating treatment likely to affect her health or safety.

(c) “workplace” includes, -

- (i) any, department, organization, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the Government ;
- (ii) hospitals or nursing homes ;
- (iii) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto ;
- (iv) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey.
- (v) a dwelling place or a house.”

25. In the present case, pursuant to suspending the petitioner pending enquiry, even the charge-sheet has been issued for the misconduct of sexual harassment as contemplated by Rule 3 and Rule 22A (1) of the conduct rules. The respondents have

constituted a committee headed by Smt. Ashwati Shering Dorje who is of the rank of Additional Commissioner of Police thereby separating the issue of disciplinary enquiry and the committee is constituted only to inquire into the allegation of sexual harassment. As is evident from the provisions of the Act, the purpose of enacting the Act of 2013 is to enquire into the complaint of sexual harassment by committee duly constituted and if the allegation so made is proved then the recommendation is to be made to the employer to take action of sexual harassment as a misconduct in accordance with the provisions of the service rules applicable. The respondents have already initiated the disciplinary proceedings against the petitioner and even the charge-sheet has been issued. Insofar as the disciplinary proceedings under the Rules of 1979 are concerned, Rule 22A of the conduct rules itself provides for sexual harassment as a misconduct. The said act of 2013 on one hand and the conduct rules as well as the Rules of 1979 on the other hand clearly operates in different and distinct fields. Section 28 of the said Act clearly provides the provisions of the Act shall be in addition to and not in derogation of the provisions of any other law for the

time being in force. The Rules of 1979 and the conduct rules which are framed under the proviso of Article 309 of the Constitution are 'law' for the time being in force within the contemplation of Section 28 of the Act of 2013.

26. We do not find that the provisions of the service rules are in any manner in derogation of the provisions of the Act. Sub-Section 3 of Section 13 of the said Act clearly provides that when the internal committee or local committee as the case may be, arrives at the conclusion that the allegation has been proved, the committee shall recommend to the employer and the District officer, as the case may be to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable. The provisions of the Act, therefore make it abundantly clear that it is on the conclusion reached by the committee that the allegation of sexual harassment is proved that it has to recommend to the employer for taking action under the service rules for the misconduct of sexual harassment. It would also be pertinent to note that Chapter 6 which provides for duties of employer, one of the duty of the employer provided under Section 19 is that every employer shall treat sexual harassment as

a misconduct under the service rules and initiate action against such misconduct.

27. We therefore, find that the provisions of the said act do not in any manner override the provisions of the service rules. On the contrary, it is the employer's duty under the said Act of 2013 to treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct. In this light of the matter, there is no manner of doubt that the said Act is in addition to the Service Rules and there is no conflict between them.

28. In our opinion, the provisions of the Act and the service Rules clearly operate in different and distinct fields. A provision has already been incorporated viz. Rule 22-A in the conduct rules treating sexual harassment as misconduct. On the basis of the complaint made, the respondents have already proceeded against the petitioner by initiating disciplinary enquiry under the service rules and also issued a charge-sheet. The respondents have kept the disciplinary proceedings in abeyance awaiting report of the committee constituted vide G.R. dated 23/12/2016 and corrigendum dated 28/02/2017.

29. The respondents have reconstituted the internal complaints committee to be headed by Smt. Ashwati Shering Dorje, Additional Commissioner of Police who is superior in rank to the petitioner who himself is working as Superintendent of Police Jails an 'employer' under the Act of 2013. To further the object of the Act, it necessitated the State of Maharashtra, being the appropriate authority to reconstitute the internal complaints committee to be headed by Smt. Ashwati Shering Dorje, Additional Commissioner of Police. This reconstitution was necessitated in view of the allegations made by the petitioner against Smt. Swati Sathe who was heading the committee prior to the appointment of Smt. Ashwati Shering Dorje.

30. We do not find any substance in the submission of learned Senior Counsel Shri Anturkar that as the complaint made by the aggrieved woman is not made to the internal committee or the local committee, the enquiry under the Act of 2013 must fail. Based on the complaint made by the aggrieved woman to superior authorities, the State of Maharashtra has reconstituted the internal complaints committee to enquire into the complaint. The

said committee as indicated earlier is headed by an officer superior in rank to the petitioner. We find that there has been a substantial compliance with the provisions of the Act of 2013.

31. The argument of learned Senior Counsel for the petitioner that as the internal complaints committee under section 4 and the local committee under section 6 are already in existence and therefore the respondents are not justified in reconstituting the internal compliance committee, is an argument which can only be stated to be rejected. Under the provisions of the Act, the entire object of constituting the internal complaint committee is to inquire into the complaints made by the aggrieved woman and if it arrives at the conclusion that the allegation is proved, it shall recommend to the employer to take action for sexual harassment of misconduct in accordance with the provisions of the service rules applicable. The misconduct of sexual harassment is already incorporated in the conduct Rules. We do not find any illegality in the initiation of the disciplinary enquiry.

32. In this view of the matter, in our opinion, constitution of the committee as per the G.R. dated 23/12/2016 and corrigendum

dated 28/02/2017 cannot be said to be dehors the provisions of the Act of 2013. Therefore, we do not find any merit in the contention of the petitioner that the disciplinary enquiry would stand vitiated in view of the complaint being inquired under the Act of 2013.

33. We, therefore, do not find any reason to interfere with the impugned judgment and order of the Tribunal. The petition is therefore dismissed with no order as to costs. Rule is discharged.

(M. S. KARNIK, J.)

(ACTING CHIEF JUSTICE)

After pronouncement of the judgment, learned Counsel for the petitioner prays for continuation of the interim relief.

Prayer is rejected.

(M. S. KARNIK, J.)

(ACTING CHIEF JUSTICE)