

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

WRIT PETITION NO. 335 OF 2017

Shri Vasant More

...Petitioner

vs.

The State of Maharashtra & Ors.

...Respondents

None for Petitioner.

Ms.K.R. Kulkarni, AGP for Respondent No.1.

Mr.M.S. Jambauli with Rahul Nerlekar for Respondent No.2.

Mr.Satyanarayan Hedge for Respondent No.3.

CORAM : PRASANNA B. VARALE, J.

DATE : 25 SEPTEMBER 2017

P.C. :

None for the Petitioner. Heard learned Counsel for Respondent Nos.1 and 2, and AGP for State.

2 Perused the order of this court dated 11 January 2017. On perusal of the ordersheet, it further reveals that on April 27, 2017 none appeared for the Petitioner and this court directed the office to place the matter on board on 16 June 2017 under the caption of dismissal. Perusal of the ordersheet further shows that on the next date, i.e. on 30 June 2017, the Counsel for the Petitioner sought leave to amend the petition by adding ground alleging violation of principles of natural justice. As the petition was still at the stage admission, leave was granted. Amendment seems to be carried out.

3 Today, none appears for the Petitioner. On perusal of the petition, it reveals that the Petitioner is challenging the recommendation of

the Internal Complaint Committee of Respondent No.2. An inquiry was initiated on a complaint received by Respondent No.3. It was reported by Respondent No.3 that the Petitioner was harassing her sexually at workplace. An inquiry was conducted. The Internal Complaint Committee is constituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. In the hearing before the committee, the complaint reiterated the facts stated in her complaint. The Petitioner, i.e. Respondent before the Internal Complaint Committee (hereafter referred to as the "ICC"), was also called upon and the Petitioner participated in the inquiry seeking permission from the committee to summon some witnesses to support his case. The ICC undertook the exercise of examination of the witnesses and the parties were permitted to cross-examine the witnesses. The committee recorded the conclusions based on the inquiry. The relevant conclusions are, (a) Despite being a senior employee of the company, the Respondent's behaviour and interactions, especially with female employees is found to be inappropriate, (b) The Respondent does not set the right example within the team and is doing disservice to the overall culture at the workplace, and (c) The ICC apprehends that if the Respondent continues to work at GIA, it will create a hostile work environment making it uncomfortable for the complainant and the female employees of the company. Based on the inquiry proceedings and findings, the ICC recommended to the company that strict action against the Respondent be taken as the Respondent has been found guilty of misconduct in the nature of sexual harassment and the ICC proposed that the service of the Respondent be dispensed with. It seems that the Petitioner made an attempt to seek review of the committee's findings and recommendations. The request for review was turned down by communication dated 19 March 2015. The material placed on record clearly shows that the Petitioner,

without availing any remedy seeking challenge before the appropriate forum set up for such grievances either under the Labour Court or the Industrial Court, directly approached this court with prayers, (a) to set aside and quash the termination order dated 19 February 2015, (d) pending hearing and final disposal of the petition, to stay the operation, implementation and/or execution of the termination order, and (e) to reinstate the Petitioner forthwith and further to consider the continuance of his employment retrospectively from 19 February 2015 giving all the benefits that the Petitioner would have obtained if the regular employment of the Petitioner had been continue. The Petitioner though states that the petition is filed before this court under Article 226 of the Constitution of India and though the Petitioner added the State of Maharashtra as party Respondent No.1 in the petition, there is absolutely no material placed on record by the Petitioner to satisfy this court to exercise its powers under Constitution to set aside a recommendation of the ICC constituted under the provisions of law, namely, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The petition, thus, suffers from a serious lacunae. On this ground itself, this court is not inclined to entertain the petition.

4 The petition, thus, being devoid of merits, is dismissed at the threshold.

(PRASANNA B. VARALE, J.)