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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 7011/2016 and CM No. 28823/2016

TANUSHREE CHOPRA Petitioner

Through: Mr Ashish Sheoran, Ms Smita
Bankoti and Mr Anil Verma,
Advocates.

versus

DEPARTMENT OF WOMEN AND CHILD
DEVELOPMENT & ORS.

..... Respondents

Through: Mr Gautam Narayan, Advocate for R-
1 to 3.
Mr Anil Airi, Senior Advocate with
Ms Sukanya Lal, Mr Jagjeevan Singh
and Mr Himanshu Gupta, Advocates
for R-4.
Mr Rakesh Khanna and Mr Adarsh
Aggarwal, Advocates for R-5.
Mr Raj Sharma, Advocate for R-6.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **28.07.2017**

1. The petitioner has filed the present petition, *inter alia*, challenging the order dated 22.07.2016 passed by respondent no.2. Respondent No.2 is notified as the District Officer under Section 5 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereafter 'the Act').
2. The gravamen of the petitioner's challenge is that the impugned order seeks to review an earlier order dated 09.03.2016 whereby the District

Officer had constituted a Local Complaints Committee ('LCC' in short) for examining the petitioner's complaint under the Act. The petitioner claims that the said order is without jurisdiction as the District Officer has no power to review its decision.

3. This Court is of the view that the said issue is not relevant as it does not capture the grievance that the petitioner seeks to agitate. In terms of Section 6 of the Act, the District Officer is obliged to constitute a committee known as "Local Complaints Committee" (now called the Local Committee with effect from 06.05.2016) to receive complaints of sexual harassment from establishments where Internal Complaints Committee ('ICC' in short) has not been constituted due to having less than 10 workers or if the complaints are against the employer himself. The ICC is now known as Internal Committee with effect from 06.05.2016. The reference to the word "complaint" under Section 6 of the Act refers to a complaint of sexual harassment under Section 9 of the Act.

4. Concededly, in the present case, the petitioner's complaint of sexual harassment is against another officer of respondent no.5 company and there is no dispute that respondent no.5 has an Internal Complaints Committee (which is arrayed as respondent no.4). Thus, the District Officer did not have any authority to constitute an LCC in the facts of the present case. Thus, even if the petitioner's contention is accepted that the District Officer had no power to review - although this Court seriously doubts the merits of this proposition considering that the order of the District Officer is in the nature of an administrative order - the setting aside of the impugned order would be of no assistance to the petitioner as the LCC constituted by the District

Officer by its earlier order dated 09.03.2016 would not have jurisdiction to proceed in the facts of the present case.

5. There is some controversy on the ground whether the order constituting LCC was forwarded to the ICC prior to their submitting the report. However, that controversy need not detain the attention of this Court since admittedly, the ICC has given its recommendations.

6. The petitioner's grievance essentially relates to the manner in which ICC had conducted the proceedings and the recommendations made thereafter. Under the scheme of the Act, the petitioner is entitled to prefer an appeal under Section 18 of the Act read with Rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.

7. The learned counsel for the petitioner had expressed an apprehension as to whether such authority was functional. Mr Gautam Narayan, learned counsel appearing for Govt. of NCT of Delhi has confirmed that the appellate authority is functional and therefore, there would be no impediment in the petitioner approaching the appellate authority. He, however points out that the petitioners' appeal may be beyond the period as specified under Section 18 of the Act.

8. In view of the above, the present petition is disposed of with liberty to the petitioner to approach the appellate authority in terms of Rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013. It is clarified that all grounds of challenge would be available to the petitioner including as to the procedure adopted by the ICC.

In the event such appeal is preferred within a period of one week from today, the appellate authority shall consider the same uninfluenced by the delay in filing the said appeal.

9. Nothing stated in this order shall be read as an expression of opinion on the merits of the disputes.

10. The petition is disposed of with the aforesaid directions. The application also stands disposed of. The parties are left to bear their own costs.

11. Order *dasti*.

VIBHU BAKHRU, J

JULY 28, 2017
RK