

IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 07.11.2017

+ **W.P.(C) 5835/2017 and CM No. 24358/2017**

THE DELHI GOLF CLUB LTD.

.....Petitioner

versus

**THE MEGHALAYA STATE COMMISSION
OF WOMEN**

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr Dayan Krishnan, Senior Advocate with Ms
Mrinalini Sen and Mr Shatrajit Banerjee.

For the Respondent : Mr Ranjan Mukherjee, Mr Shantanu Bhowmica
and Mr Daniel Stone Lyngdoh.

CORAM

HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J

1. The petitioner - a Golf Club incorporated as a company under the Companies Act, 1956 for promoting the game of Golf in the country - has filed the present petition, *inter alia*, impugning the notice dated 03.07.2017 (hereafter 'the impugned notice') issued by the respondent (hereafter 'the Commission') directing the Secretary of the petitioner to appear before the Commission on 14.07.2017. The petitioner also impugns the continuance of proceedings by the Commission.

2. The controversy involved in the present petition relates to events that transpired on 25.06.2017. On the said date, a member of the petitioner club, Mrs P. Goyal, came to the dining hall at the club premises along with

certain persons, namely, one Dr. Nivedita Barthakur Sondhi, her child and Ms Tailin Lyngdoh. According to the petitioner, Ms Lyngdoh was introduced as the Governess of the child.

3. According to the petitioner, the child was wearing a collarless shirt, which was not permissible as per the club regulations. It is further asserted by the petitioner that regulations also did not permit domestic employees in the dining hall. The petitioner asserts that Mrs Goyal was requested to ensure that the petitioner's regulations are complied, however, Mrs Goyal along with her guest insisted upon dining at the hall.

4. It is alleged that the employees of the petitioner, who were and attending to members/guests at the dining hall called upon Ms Lyngdoh to leave the premises. It is alleged that this was done only for the reason that Ms Lyngdoh was wearing the traditional Khasi attire 'Jainsem'. The petitioner disputes these allegations. According to the petitioner, there was no issue as to the traditional dress worn by Ms Lyngdoh and the main concern of the petitioner's employees was regarding flaunting the regulations of the petitioner club that did not permit collarless shirts and domestic help in the Club's Dining Hall.

5. Further, there is also some controversy whether Ms Goyal and her guest were called upon to leave the club premises or not as alleged by them. The statement given by one Mr Ajit Pal (who was stated to be on duty at the Dining Hall Reception on 25.06.2017) is to the effect that he had told Ms Goyal and her guest about the collarless t-shirt and not allowing maids (domestic help) in the dining hall. According to him, Ms Goyal and her guest were not asked to leave but he had only pointed out the relevant rules. He further claims that Dr Nivedita who was the guest of

Ms Goyal became upset and started shouting and stated "unpleasant things" to him.

6. Mr Dayan Krishnan, learned senior counsel appearing for the petitioner contended that there was no racial discrimination against Ms Lyngdoh or any person from the north-east part of India. However, the club rules do not permit members to bring maids/domestic help inside the premises to render assistance to them, their children or their guests. He submitted that there is a distinction between bringing any employee as a guest and bringing such employee to render services/assistance inside the club premises; whereas, the petitioner club can have no objection to a member bringing a guest (who may also be an employee of the member). However, the rules do not permit bringing such person to the club to render services/assistance as a part of the employment.

7. The aforesaid incident was also reported in the print and electronic media suggested that Ms Lyngdoh had been told to leave the club on account of her wearing traditional Khasi attire as mentioned above. The said suggestion has been strongly contested by the petitioner. However, in these proceedings, it is not necessary to examine the controversy any further as the only question that falls for consideration of this Court is whether the Commission can initiate any enquiry against the petitioner and its officials in connection with the events that occurred at the petitioner club on 25.06.2017.

8. In order to address the aforesaid question, it would be necessary to refer to the provisions of Meghalaya State Commission for Women Act, 2005 (hereafter 'the Act').

9. The Preamble of the said Act clearly indicates that the said legislation was enacted to improve the *status of women in the State of Meghalaya*. Section 1(2) of the Act also specifies that it extends to the State of Meghalaya. The Preamble and Section 1 of the said Act are set out below:-

“PREAMBLE

An Act to provide for the constitution of a women's Commission to improve the status of women in the State of Meghalaya and to inquire into unfair practices affecting women and for matters connected therewith or incidental thereto:

Whereas it is expedient to provide for the constitution of a Commission to improve the status of women in the State of Meghalaya and to inquire into unfair practices affecting women and for matters connected therewith or incidental thereto:

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Section 1 : Short title extent and commencement

- 1) This Act, may be called the Meghalaya State Commission for Women Act, 2005.
- 2) It extends to the whole of Meghalaya.
- 3) It shall be deemed to have come into force on 15.10.2004.”

10. It is apparent from the above that the Act would have no extra territorial operation outside the State of Meghalaya. Section 3 of the Act provides for the constitution of the Commission to exercise powers conferred and to perform the functions assigned under the Act. The Commission, being a creation of the statute, can exercise only such powers

and perform such functions as specified under with the Act.

11. Section 3(1) of the Act reads as under:-

“Section 3 : Constitution of the Commission

(1) The State Government shall constitute a body to be known as the Meghalaya State Commission for Women to exercise powers conferred on, and to perform the functions assigned to it, under this Act.”

12. Section 12 of the Act provides for the Powers of the Commission. Section 13 of the Act provides for the functions of the Commission. Section 12 and 13 of the Act are set out below:-

“Section 12 : Powers of the Commission

(1) The Commission shall, for the purpose of any inquiry under this Act have the same powers as are vested in a Civil Courts while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:-

- (a) Summoning and enforcing the attendance of any witness and examining him/her.
- (b) Requiring the discovery and production of any document;
- (c) Receiving evidence on affidavit;
- (d) Requisitioning any public records or copy thereof from any public office;
- (e) Issuing commissions for examination of witnesses.

(2) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of Section 193 and 228 of the Indian Penal Code (Central Act 45 of 1860) and the Commission shall be deemed to be a court for the purpose

of Section 195 of the Code of Criminal Procedure 1973 (Central Act 2 of 1974).

Section 13 : Functions of the Commission

(1) Subject to the provisions of this Act, the Commission shall perform all or any of the following functions, namely;

(a) Inquire into unfair practice, take decision thereon and to recommend to the Government the action to be taken in that matter.

(b) Investigate and examine all matters relating to the safeguards provided for women under the Constitution of India (herein after referred to as the Constitution) and other laws and recommend steps to be taken by the State Government for effective implementation of such safeguards for improving the conditions of women in the State.

(c) Present to the State Government annually and at such other times as the Commission may deem fit reports upon the working of these safeguards;

(d) Review from time to time the existing provisions of the Constitution and other laws affecting women and recommend amendments thereto as to suggest remedial legislative measure to meet any lacunae, inadequacies or shortcomings in such legislations;

(e) Take up the case of violation of the provisions of the Constitution and of other laws relating to women in the State with the appropriate authorities;

(f) Look into complaints and take suo moto notice of matters relating to:-

i) Deprivation of women's right;

ii) Non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development;

iii) Non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities;

(g) Call for special studies or investigations into problems or situation arising out of discrimination and atrocities against women and identify the constraint so as to recommend strategies for their removal;

(h) Evaluate the progress of advancement of women in the State;

(i) Inspect or cause to inspect jail, police station/lockup, observation home, children's home, rescue home, shelter home, or other place of custody where women are kept as prisoners or otherwise and take up with the authorities concerned such matters for remedial action as may be necessary.

(2) The State Government may consult the Commission on policy matters affecting women

(3) The Commission shall present to the State Government every six months and at such other times as the Commission may deem fit reports of its activities together with its recommendations and the State Government shall cause them to be laid before the State Legislature as soon as possible along with a memorandum explaining the action taken or proposed to be taken on the recommendations and the reasons for non-acceptance, if any, of any of such recommendations.

(4) It shall be the duty of the Commission to furnish comments and recommendations on any report of the National Commission for Women on any matter with which the Government is concerned as the State Government may call for.”

13. It is also seen that most of the functions are related to advising the government in relation to matters pertaining to women and for providing

safeguards and improving the conditions of women in the State of Meghalaya. The Commission is also empowered to look into the complaints relating to women and take up such matters with appropriate authorities. The functions to be performed by the Commission are in the context of the women in the State of Meghalaya. The provisions of Section 13 of the Act have to be read in conjunction with Section 1(2) of the Act. Since the application of the Act is limited to the State of Meghalaya, it is apparent that the Commission cannot exercise any extra territorial jurisdiction outside the State of Meghalaya.

14. In *Tantra Entertainment Private Limited v. Ms Ipsita Pati & Anr: AIR 2013 Orissa 146*, the Orissa High Court considered a matter regarding a complaint made to the Orissa State Commission for Women regarding a pageant held outside the State. Most of the events complained against allegedly occurred in Mumbai. The petitioner therein filed a petition, *inter alia*, challenging the jurisdiction of the Orissa State Commission for Women to entertain the complaint. The said challenge was sustained by the Orissa High Court; the Court found that the Orissa State Commission for Women lacked the inherent jurisdiction to entertain the complaint made. The relevant extracts of the said decision are set out below:-

“8. The Orissa State Commission for Women Act, 1993 provides that the State Commission for Women shall be constituted by the State Government to perform the functions assigned to it under the Act. The functions of the Commission have been provided in Chapter-III of the said Act. Under the said Chapter in Section 10(1)(d), it has been provided that the Commission shall receive complaints. The said sub-section is as follows:

"10. Function of Commission- (1) The Commission shall perform all or any of the following functions, namely:

(a) to (c) xxx xxx xxx

(d) receive complains on -

(i) atrocities on women and offense against
women.

(ii) deprivation of women of their rights relating to
minimum wages basic health and maternity rights.

(iii) non-compliance of policy decisions of the Government
relating to women,

(iv) rehabilitation of deserted and destitute women and
women forced into prostitution,

(v) atrocities on women in custody.

(e) to (g) xxx xxx xxx"

9. The nature of complaint lodged in the instant case does not come under any of the clauses quoted above. The opposite party no.2-Commission being a statutory authority under the Orissa State Commission for Women Act, 1993, which is a State Act, therefore, inevitably cannot exercise jurisdiction on a cause of action which arose beyond the territory of the State of Odisha.

10. In view of the above, this Court finds that the opposite party no.2-Commission lacked inherent jurisdiction to entertain the complaint lodged by the opposite party no.1-Miss Ipsita Pati. This Court, therefore, has no hesitation to quash the entire complaint registered as Complaint No.71/2010 and the order dated 15.11.2010 passed by the opposite party no.2 under Annexure-6. Ordered accordingly."

15. In the present case, there is no dispute that the incident complained of occurred at Delhi and no part of the cause of action had arisen within the State of Meghalaya. The petitioner also does not have any presence in any State other than in NCT of Delhi. As stated hereinbefore, the Act is applicable only in the State of Meghalaya and, therefore, the Commission

does not have the jurisdiction to entertain complaints regarding events/incidents that have occurred outside the State.

16. In view of the above, the petition is allowed. The impugned notice issued to summon the Secretary of the petitioner is quashed. The Commission has no jurisdiction to pursue any proceedings with regard to the events that transpired at the Delhi Golf Club.

17. The petition and the pending application are disposed of with the aforesaid observations. The parties are left to bear their own costs.

NOVEMBER 07, 2017
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VIBHU BAKHRU, J

