

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

WRIT PETITION NO. 6597 of 2018

'X' ... **Petitioner**

V/s.

Internal Disputes Committee & ors. ... **Respondents**

Mr. Nitin P. Deshpande for the petitioner.

Mr. Uday P. Warunjikar a/w. Mr.Sushil Inamdar for respondent no.4.

Mr. V.N. Sagare, AGP for the State.

Mr. Mohd. Suvez Haque, DPS, SP Pune, Rural present.

***CORAM : NARESH H. PATIL AND
G.S. KULKARNI, JJ.***

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P.C.

The petitioner's grievance is that the Committee constituted as per order dated 2nd July, 2016 has not been properly constituted under the provisions of Section-4 of Chapter II of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Section-4 reads as under:-

4. Constitution of Internal Complaints Committee-

(1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the “Internal Complaints Committee”.

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committee shall consist of the following members to be nominated by the employer, namely:-

- (a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section (1):

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;

- (b) not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;
- (c) once member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.

Provided that at least one -half of the total

Members so nominated shall be women.

- (3) The Presiding Officer and every Member of the Internet Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

(4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

(5) Where the Presiding Officer or any Member of the Internal Committee-

(a) contravenes the provisions of section 16, or

(b) has been convicted for an offence or any enquiry into an offence under any law for the time being in force is pending against him; or

(c) he has been found guilty in any disciplinary proceedings or a disciplinary proceedings is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial in public interest, such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled

by fresh nomination in accordance with provisions of this section.”

2. Learned AGP informs that Superintendent of Police, Pune is present who has succeeded the earlier Superintendent of Police Pune(Rural) Dr. Jadhav. In the subject case, allegations against the character of the petitioner has been made by a Senior Police Officer.

3. The Counsel appearing for petitioner prays for constitution of appropriate Committee in accordance with law.

4. The learned Counsel appearing for respondent no.4 Mr. Warunjikar submits that The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as 'The Act' for short) itself is not applicable to the facts of the case, therefore, there is no question of constitution of Committee. The alleged incident has not taken place at the work place. Some allegations were made in the affidavit filed before the MAT which cannot be basis for constituting the Committee under the Act, according to learned Counsel.

5. The learned AGP on instructions submits that in accordance with provisions of Section 4 of the Act appropriate committee would be constituted.

6. As to whether the allegations in respect of the illicit relations between the petitioner and the officer named would attract constitution of Committee or not need not be dealt with at this stage. Prima-facie we find that allegations were made against the petitioner who was discharging duties as API. She is at present posted at Manchar.

7. All issues raised by the contesting parties are kept open on merits. The Committee shall be constituted within two weeks and the proceedings shall be completed within eight weeks.

8. The petitioner and other participants shall co-operate with the finalisation of the proceedings.

9. The petitioner is present in the Court. The petitioner undertakes to join the duties tomorrow at Manchar Police Station. Needless to mention that on the date of hearing of Committee, the petitioner is entitled to ask for leave and accordingly leave should be considered and granted.

10. On intimation of this order by the Superintendent of Police, the Senior level officers in the hierarchy are expected to take necessary steps to implement this order without any further delay.

11. We direct the concerned Committee to give petitioner appropriate posting at any other place on her request.

12. The petitioner undertakes to appear before the Medical Board as it is stated that she was not on duty for almost two years for getting the fitness certificate.

13. With aforesaid observations and directions, Writ Petition stands disposed of.

(G.S.KULKARNI, J)

(NARESH H. PATIL, J.)

L.S. Panjwani, P.S.