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

+ W.P.(C) 9271/2018

NEETTA KARKHANIS Petitioner

Through: Mr Sanjoy Ghose, Ms Urvi Mohan
and Mr Shwetank Singh, Advocates.

versus

AIR INDIA LIMITED & ORS. Respondents

Through: Mr Lalit Bhasin, Ms Ratna Dwivedi
Dhingra, Ms Bhavna Dhami and Mr
Ajay Pratap Singh, Advocates for R-
1.

Ms Anjana Gosain and Ms Rabiya
Thakur, Advocates for R-3.

Mr R.S. Suri, Senior Advocate with
Ms Pallavi T. Chadda, Mr Anant
Singh, Mr Aditya Giri and Ms
Suruchi Suri, Advocates for R-4.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **04.09.2018**

CM No. 35816/2018

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 9271/2018 and CM No. 35815/2018

3. The petitioner has filed the present petition, *inter alia*, impugning orders dated 30.07.2018 and 27.08.2018 passed by the Internal Complaints Committee (hereafter 'ICC') constituted in terms of Section 4 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and

Redressal) Act, 2013. By the impugned order dated 30.07.2018, the ICC has called upon the petitioner (who has made a complaint of sexual harassment against respondent no.4) to submit a list of witnesses by e-mail. The petitioner impugns the order dated 23.07.2018, to the extent that the ICC has not acceded to the petitioner's request for examination of her witnesses through a local commissioner; ICC has held that the request of the petitioner to examine the witnesses through a local commissioner would be considered at the relevant time as and when there is a specific requirement of the witness.

4. Mr Ghosh, learned counsel appearing for the petitioner has restricted the relief sought in the present petition only to the aspect of maintaining confidentiality in respect of witnesses and for the said witnesses to be examined through a local commissioner as directed in the case of ***Delhi University and Anr. v. Bidyug Chakraborty & Ors.: SLP No. 23060/2009, decided on 12.01.2010.***

5. Mr Bhasin, learned counsel appearing for the respondent states that the ICC is required to conduct an inquiry in terms of the service rules and by following principles of natural justice.

6. Mr Suri, learned Senior Counsel appearing for respondent no.4 submits that respondent no.4 must have full opportunity to represent his case as well as to cross examine the complainant. He also submits that the complainant had already indicated that she would have no objection for cross examination by respondent no.4.

7. The apprehension expressed by the petitioner regarding

confidentiality of witnesses appears merited. It is pointed out that the same witnesses are serving employees and some of them are married and have families, he submits that the said witnesses are apprehensive of disclosure of their names and would be reluctant to give their testimony given the close working environment of respondent no.1.

8. Insofar as the maintaining of confidentiality of witnesses is concerned, there can be no opposition for the same. The ICC must ensure that the witnesses are provided a secure environment in which they can depose freely. The Courts in a number of cases have also devised the method where the witnesses are permitted to file affidavits and suitably redacted copies of the same are provided to the accused. Such witnesses can be cross examined through interrogatories. Given the apprehension of the petitioner and her witnesses, the ICC may consider adopting such procedure. Mr Suri, learned Senior Counsel also states that respondent no.4 would abide by the decision of the ICC in this regard.

9. Insofar as the petitioner is concerned she has already expressed her willingness to be cross examined by respondent no.4 and therefore, no directions in this regard are necessary.

10. The petitioner has also made request that the witnesses be examined through a local commissioner. This Court does not consider it apposite to consider that request in the first instance. It would be open for the petitioner to make the request to the ICC. The ICC shall ensure that full confidentiality of the names of the witnesses are maintained.

11. Having stated the above, it is also necessary to observe that the ICC

shall also take due care that respondent no.4 is provided full opportunity to present his case and answer any allegation made by any witnesses.

12. In the aforesaid circumstances, it is directed that the petitioner shall submit the list of its witnesses in a sealed cover to the ICC. Before opening the same, the ICC shall consider the contentions advanced by the petitioner and have due regard to the decisions passed by the Division Bench of this Court. The identity of the witnesses shall not be disclosed by the ICC.

13. Mr Suri had also submitted that the petitioner has been making statements in the social media which are adversely affecting the reputation of respondent no.4. Although, Mr Ghosh disputes the same, he can have no objection if the petitioner is restrained from making any statement regarding her complaint on any social media channel or social media platforms including private groups. It is so directed.

14. The petition is disposed of with the aforesaid observations. The application also stands disposed of.

15. Order *dasti* under signature of Court Master.

SEPTEMBER 04, 2018
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VIBHU BAKHRU, J