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

+ **W.P.(C) 10587/2018 & C.M. No. 41281/2018**

VINOD KULVI

..... Petitioner

Through Mr Sidharth Luthra, Senior Advocate
with Mr Saurabh Mishra, Mr Vanshja Shukla,
Ms Sumedha Dang, Mr Utkarswh Kulvi,
Advocates.

versus

SUPREME COURT OF INDIA (THROUGH REGISTRAR,
ADMINISTRATION) AND ANR.

..... Respondents

Through Mr Kirtiman Singh, CGSC with
Mr Prabhas Bajaj, Ms Shruti Dutt, Mr Waize Ali
Noor, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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04.10.2018

1. The petitioner has filed the present petition, *inter alia*, impugning a communication dated 17.09.2018 issued by the Registrar (Vigilance & Administration), Supreme Court of India, communicating the decision of the Competent Authority (the Chief Justice of India) to deny the petitioner's request for permission to challenge the recommendations made by the Internal Complainants Committee (ICC) before any competent court of law in terms of Section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereafter 'the Act').
2. The proceedings against the petitioner relate to a complaint of sexual harassment made by one of his colleagues ('the Complainant'). The

Presiding Officer, of the ICC had issued a notice dated 12.12.2017 to the petitioner enclosing a copy of the Complaint. The petitioner had submitted his response on 21.12.2017. On 19.01.2018, the ICC issued a Memorandum indicating that an inquiry in respect of the Complaint was proposed to be conducted against the petitioner. The petitioner submitted his response to the said Memorandum and, he states, that an inquiry was held. The ICC submitted its recommendations on 22.03.2018, which the petitioner desires to assail.

3. The petitioner was issued another Memorandum dated 14.05.2018 along with a Charge Sheet. The petitioner has objected to the said charge sheet.

4. Mr Siddharth Luthra, learned Senior Counsel appearing for the petitioner states that although a Memorandum and Charge Sheet has been issued on 14.05.2018 informing the petitioner of the proposed inquiry against him under Rule 13 of the Supreme Court Officers & Servants (Conditions of Service and Conduct) Rules, 1961 read with Rule 14 of the CCS (CCA) Rules, 1965, a similar inquiry had been held and firm findings had been arrived at by the ICC. He referred to the Memorandum dated 19.01.2018 issued to the petitioner, whereby he was informed that an inquiry under Section 11 of the Act was proposed to be conducted in respect of the allegations made by the Complainant. He submits that the said Memorandum also included a charge sheet. The ICC had, thereafter, examined witnesses and arrived at firm findings against the petitioner. He referred to the report dated 22.03.2018 and contended that the observations made in the recommendations had a ring of finality.

5. Mr Kirtiman Singh, the learned counsel appearing for the respondents states that the said report (recommendations dated 22.03.2018) is not a final report as contemplated under Section 13 of the Act and, therefore, is also not amenable to challenge under Section 18 of the Act. He confirms that a detailed inquiry would now be held where the petitioner will have full opportunity to contest the allegations made against him. He also assures this Court that the ICC shall examine the matter uninfluenced by any *prima facie* findings reported in the recommendation dated 22.03.2018.

6. Rule 40 of the Supreme Court Officers & Servants (Conditions of Service and Conduct) Rules, 1961 vests the competent authority with the discretion whether to permit an employee to take recourse to any competent court of law. Exercise of this discretionary power may not be amenable to judicial review except on limited grounds. In the facts of the present case, this Court also finds no reason to fault the said decision, as the recommendations made by the ICC are not final and the final inquiry is yet to be held.

7. The petition is founded on the premise that the petitioner is entitled to challenge the recommendations under Section 18 of the Act. This assumption is misconceived. A plain reading of Section 18 of the Act indicates that it provides for an appeal in respect of any recommendations made under sub-section (2) of Section 13 or under clause (i) or clause (ii) of sub-section (3) of Section 13 or sub-section (1) or sub-section (2) of Section 14 or Section 17 of the Act. In the present case, the recommendations made by the ICC do not qualify as recommendations under Section 13 of the Act, as the same can be made only after the inquiry is completed and the ICC has

arrived at a final conclusion.

8. Further, this Court has also been assured that the ICC would conduct the inquiry and arrive at the conclusion, uninfluenced by the observations made in the recommendations dated 22.03.2018

9. The petition is, accordingly, dismissed. The pending application is also disposed of.

OCTOBER 04, 2018

pkv

VIBHU BAKHRU, J