

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.533 OF 2015

Ms. Miloni Kamdar Petitioner
Vs.
Shri Vile Parle Kelavani Mandal
& Others Respondents

WITH

WRIT PETITION NO.1703 OF 2014

Ashish Chandrashekhar Daptardar Petitioner
Vs.
Women Development Cell & Others Respondents

WITH

WRIT PETITION NO.1707 OF 2014

Dr. Hari Vasudevan Petitioner
Vs.
Women Development Cell & Others Respondents

Ms Gayatri Singh, Senior Advocate, with Ms Meenaz
Kakalia i/by Kranti L.C. for the Petitioner in WP-533/2015
and Respondent No.3 in WP-Nos.1703 & 1707 of 2014.

Ms Manorama Mohanty with Mr. A.P. Singh & Ms Kavita
Srivastav i/by M/s. S.K. Srivastav & Co. for Respondent
Nos.1 & 3 in WP-533/2015 and the Petitioner in
WP-1707/2014.

Mr. Rui Rodrigues for Respondent No.2 in all petitions.

Mr. G.S. Godbole with Ms Simeen Shaikh, Ms Priyanka Gharge, Ms Angela Singha i/by Simeen Shaikh for Respondent No.4 in WP-533/2015 and the Petitioner in WP-1703/2014.

CORAM: S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.

DATE : FEBRUARY 28, 2019

P.C:

1. This petition [Writ Petition No.533 of 2015] under Article 226 of the Constitution of India, filed by one aggrieved woman, seeks the setting aside of an order of suspension dated 21-5-2014 and to institute inquiries into two complaints made of alleged sexual harassment at the workplace.

2. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (for short, “the Act of 2013”) is invoked by the petitioner/aggrieved woman in the first petition.

3. In the two other petitions, the challenge is to the invocation of the Act of 2013 itself on the footing that the first

respondent to that petition, namely, the Women Development Cell, University of Mumbai, has no jurisdiction to entertain or look into the complaint made by the aggrieved woman.

4. Thus, the foundation for the ultimate prayers in these two petitions is the serious apprehension that the University of Mumbai will launch an inquiry into this complaint though it lacks the jurisdiction to do so.

5. It is urged in these two petitions that the Act of 2013 does not contemplate an inquiry by the University.

6. On the other hand, the aggrieved woman says that the University is fully empowered to launch such an inquiry given the fact that this is an educational institution and the atmosphere therein should not be polluted in any manner.

7. When we extensively heard the counsel appearing for the parties on the earlier occasion, we impressed upon them that in this unnecessary and futile controversy what is lost is the right of the aggrieved woman to seek redress because she has

levelled serious allegations of alleged sexual harassment at the workplace and at the hands of the Principal and the Vice-Principal. Nothing should be done by either authorities which would result in no inquiry, or delayed inquiry, or an inquiry which is vitiated from inception.

8. Once these suggestions were given to the counsel, we are happy to note that Ms Gayatri Singh, learned Senior Advocate appearing for the aggrieved woman, Mr. G.S. Godbole, appearing for the petitioner/Vice-Principal and Ms Manorama Mohanty, appearing for the petitioner/Principal agree that this inquiry into the allegations shall be made by the Local Committee. The Local Complaints Committee within the meaning of Section 7 of the Act of 2013, but functional in Bombay City District, shall inquire into this complaint and conclude its proceedings as expeditiously as possible, is the agreement between the parties.

9. It is stated, on instructions, by Mr. Godbole that the petitioners will not raise the objection of territorial jurisdiction

or the lack of it insofar as the Bombay/Mumbai City Committee (Local Committee) within the meaning of Section 7 of the 2013 Act. However, his apprehension is that all other objections to the tenability of the complaint and the invocation of the Act should be kept open.

10. In the light of the statement made by Mr. Godbole and the agreement of Ms Singh, we direct the Local Complaints Committee, Mumbai City District, to inquire into the complaint of the aggrieved woman, Ms Miloni Kamdar, and conclude its proceedings as expeditiously as possible and in any event, within a period of three (3) months from the date of communication of this order. Now the University of Mumbai or its Women Development Cell shall not hold any inquiry and parallel to the above inquiry.

11. We clarify that we have not expressed any opinion insofar as the allegations against the petitioners in the companion petition nor have we expressed any opinion on the merits of their objections and particularly about the invocation

of the Act of 2013. All such contentions and of both sides not only on the preliminary objections but also on merits are expressly kept open.

12. We clarify that inquiry shall be made into the complaint made by the aggrieved woman in writing on 28-1-2014.

13. In the light of the fact that we have directed that the inquiry should be concluded within three months, presently we do not express any opinion on the challenge to the order of suspension issued by the Management against the petitioner/aggrieved woman.

14. It would be open to her to revive the challenge to the suspension in the event the inquiry is not concluded within three months.

15. With the above observations and direction, all the petitions are disposed of.

16. The Local Complaints Committee shall act upon an authenticated copy of this order.

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)