

Pradnya Bhogale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 75 OF 2020

Colonel Yogesh Chandra Pandey
Son of Shri Girish Chandra Pandey ..Petitioner
vs.
The Union of India and Ors. ..Respondents

.....
Mr. Anupam Chattopadhyay for Petitioner.
Mr. Ashutosh R. Gole for Respondent Nos.1 to 3.
.....

CORAM : NITIN JAMDAR &
M.S.KARNIK, JJ.

DATE : 3 MARCH 2020

P.C.:-

By this Petition, the Petitioner has made the following
prayers :

(a) *The proceedings of the inquiry conducted by the Internal Complaint Committee be quashed and set aside.*

(b) *All follow up action by the Army Authorities by way of convening a court of inquiry be declared infructuous and be quashed and set aside. It is submitted that the composition of the Court of Inquiry is also not in consonance with the Harassment Act.*

(c) The attachment of the Petitioner with AIPT and APTC Depot be cancelled and the Petitioner be restored to his original position to restore the lost dignity that the Petitioner has lost due to this false and mischievous complaint and action taken in pursuance of such mischievous complaint. “

2. At the outset, learned counsel for the Respondents takes a preliminary objection that the Petition is not maintainable and the Petitioner has a remedy of approaching the Arms Forces Tribunal. It is the contention of the Petitioner that there is no action as on today under the Act and only if the action is taken under the Act, that the remedy of approaching the Tribunal is available.

3. It appears that the Internal Complaint Committee was constituted on complaint of sexual harassment made against the Petitioner. An Internal Complaint Committee had submitted its findings.

4. The internal enquiry does not directly result in punitive action against the Officer. Thereafter, further enquiry is contemplated in which the Officer will be given an opportunity. If in this enquiry the Petitioner is found guilty, an order will be passed which is then appealable before the Arms Forces Tribunal.

5. The contention of the Petitioner is that the Internal Complaint Committee was incorrectly constituted and it has resulted in prejudice to the Petitioner. If such ground is available in law, the Petitioner can always raise the same in the enquiry and in the further proceedings. Ultimately the reliefs sought by the Petitioner is quashing of the Internal Complaint Committee and the quashing of the further proceedings. As it is pointed out by the Respondents that Internal Complaint Committee is only an inhouse mechanism for arriving at certain primary satisfaction and the finding rendered therein does not result any action against the Respondents it is not necessary to quash proceedings of Internal Complaint Committee. As stated above, if challenge is maintainable in law by the Petitioner, such grounds are available to the Petitioner in case conclusion is against him.

6. It is contended by the Petitioner that another enquiry may be initiated against the Petitioner on another complaint. That enquiry is not a subject matter of this Petition.

7. Writ Petition is disposed of.

(M.S.KARNIK, J.)

(NITIN JAMDAR, J.)