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

+ W.P.(C) 4402/2021 & CM APPL. 13480/2021

L CT/GD GEETA

Through

..... Petitioner

Mr. V. Srivastava with Mr. Saurabh
and Mr. Anoop Kumar, Advocates

versus

UNION OF INDIA & ORS.

Through

..... Respondents

Ms. Suman Chauhan with
Ms. Aakanksha Kaul, Advocates

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Date of Decision: 08th April, 2021**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****HON'BLE MS. JUSTICE ASHA MENON****J U D G M E N T****MANMOHAN, J: (Oral)**

1. Present writ petition has been filed challenging orders dated 16th January, 2021, 10th March, 2021 and 24th March, 2021 whereby the petitioner's representations have been rejected. Petitioner also seeks a direction to respondent no.2 to consider and finalize the petitioner's request for providing defence assistance and to video record the proceedings.

2. Learned counsel for the petitioner states that the petitioner while posted at CISF Unit Taj Mahal, Agra lodged a complaint of sexual harassment against her superior official i.e. the Dy. Commandant of the Unit. However, he states, the complaint was dismissed by the Court of CJM-IV, Agra. He further states that due to the aforesaid rejection of

petitioner's case, a consequential charge sheet had been issued and the inquiry proceedings had been started without providing a defence assistance to the petitioner.

3. He submits that the petitioner has been denied proper defence assistance in accordance with Rule 36 (8)(a) of CISF Rules 2001, which stipulates that the Inquiring authority may permit the charged member of force to present his/her case "*with the assistance of any other member of force posted at the place of inquiry*". According to him, the impugned act of the respondents is against the principles of natural justice. He also prays that enquiry proceedings be directed to be videographed. In support of his submission, he relies upon the judgement of the Supreme Court in ***Paramvir Singh Saini Vs. Baljit Singh & Others, SLP (Crl.) No. 3543/2020*** decided on 02nd December, 2020. The relevant portion of the said judgement is reproduced hereinbelow:-

"2. This Court, vide Order dated 03.04.2018 in SLP (Crl) No. 2302 of 2017, reported as Shafhi Mohammad v. State of Himachal Pradesh (2018) 5 SCC 311, directed that a Central Oversight Body (hereinafter referred to as the "COB") be set up by the Ministry of Home Affairs to implement the plan of action with respect to the use of videography in the crime scene during the investigation. This Court while considering the directions issued in D.K. Basu Vs. State of West Bengal & Others (2015) 8 SCC 744, held that there was a need for further directions that in every State an oversight mechanism be created whereby an independent committee can study the CCTV camera footages and periodically publish a report of its observations thereon. The COB was further directed to issue appropriate instructions in this regard at the earliest.

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19. The Union of India is also to file an affidavit in which it will update this Court on the constitution and workings of the

Central Oversight Body, giving full particulars thereof. In addition, the Union of India is also directed to install CCTV cameras and recording equipment in the offices of:

- (i) Central Bureau of Investigation (CBI)*
- (ii) National Investigation Agency (NIA)*
- (iii) Enforcement Directorate (ED)*
- (iv) Narcotics Control Bureau (NCB)*
- (v) Department of Revenue Intelligence (DRI)*
- (vi) Serious Fraud Investigation Office (SFIO)*
- (vii) Any other agency which carries out interrogations and has the power of arrest.*

As most of these agencies carry out interrogation in their office(s), CCTVs shall be compulsorily installed in all offices where such interrogation and holding of accused takes place in the same manner as it would in a police station.

The COB shall perform the same function as the SLOC for the offices of investigative/enforcement agencies mentioned above both in Delhi and outside Delhi wherever they be located.

20. The SLOC and the COB (where applicable) shall give directions to all Police Stations, investigative/enforcement agencies to prominently display at the entrance and inside the police stations/offices of investigative/enforcement agencies about the coverage of the concerned premises by CCTV. This shall be done by large posters in English, Hindi and vernacular language. In addition to the above, it shall be clearly mentioned therein that a person has a right to complain about human rights violations to the National/State Human Rights Commission, Human Rights Court or the Superintendent of Police or any other authority empowered to take cognizance of an offence. It shall further mention that CCTV footage is preserved for a certain minimum time period, which shall not be less than six months, and the victim has a right to have the same secured in the event of violation of his human rights.”

4. Issue notice. Ms. Suman Chauhan, Advocate accepts notice on behalf of respondents. She states that respondents have no objection if the

petitioner is to pick any member of force posted either at Agra and/or Agra Airport as her defence assistant. She, however, states that there is no rule for conducting videography of the enquiry proceedings.

5. Having perused the paper book, this Court finds that the petitioner has been charged with making false allegation of sexual harassment.

6. This Court is in agreement with learned counsel for respondent that the judgement of the Supreme Court in *Paramvir Singh Saini Vs. Baljit Singh & Others* (supra) has no application to the facts of the present case inasmuch as it directs the Union of India to install CCTV cameras in departments and offices of investigative agencies where accused are interrogated – which is not the case in the present proceedings.

7. However, keeping in view the Rule 36(8)(a) of the CISF Rules, 2001, this Court is of the opinion that the petitioner can select any member of the Force posted either at Agra and/or Agra Airport as her defence assistant.

8. Let the needful be done by the petitioner within two weeks. In the event the petitioner exercises the said option, the respondents shall appoint such member of the Force as petitioner's defence assistant forthwith.

9. With the aforesaid observations, present writ petition and application are disposed of.

    

MANMOHAN, J

ASHA MENON, J

APRIL 8, 2021

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