

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3162 OF 2024

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Vajreshwari S. Annaldasula ...Petitioner
Versus
State Of Maharashtra And Ors. ...Respondents

Mr. Ramesh Ramamurthy a/w Mr. Saikumar
Ramamurthy, Advocate for the Petitioner.
Mr. Ravi Shetty, Senior Advocate a/w Mr. Ishwar Nankani &
Huzefa Khokhawala i/b. M/s. Nankani & Associates for
Respondent Nos.2 and 3.
Ms. Reena Salunkhe, AGP, for the Respondent Nos.1 to 4.
Mr. Jagdish Choudhary i/b. M/s. Raj Legal for Respondent No.5

CORAM : RAVINDRA V. GHUGE &
M.M. SATHAYE, JJ.

DATE : 22nd OCTOBER, 2024

P.C.:

1. This matter was heard at length on 15.10.2024, when
we passed the following order:

“1. The thrust of the Petitioner’s case is that in her complaint of sexual harassment against Respondent No.5, the inquiry was conducted on two dates and was closed. Thereafter, the report was furnished for closing the complaint. This reveals that statement of 13 witnesses, which were referred to in the report, were not recorded in the presence of the Petitioner during the inquiry. The

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contention therefore, is that they were examined after closing inquiry and in the absence of the Petitioner.

2. Since we are looking at this primary contention, we would expect the learned Advocate representing Respondent Nos.2 and 3, to apprise the Court as regards the dates on which the inquiry was conducted and the dates on which these 13 witnesses were examined, as also, whether they were examined in presence of the Petitioner.

3. List this Petition on 22nd October, 2024 in the passing orders category.”

2. Further hearing was held today and as the hearing progressed to a considerable length, the learned Senior Advocate representing Respondent Nos. 2 and 3, submitted on instructions, that 10 witnesses were examined on 30.10.2023, and whose statements recorded in writing, would be handed over to the Petitioner before the Institution breaks off for vacation. Thereafter, a schedule may be suggested by the Court and the Petitioner would be permitted to put counter question/cross-examine such witnesses.

3. The learned Senior Advocate representing the Management further submits that though the Institution may not

have constituted a standing Vishaka committee (as such Committee is normally referred to in the light of *Vishaka & Ors. Vs. State of Rajasthan and Ors. (1997) 6 SCC 241*), the Committee is constituted, comprising of a lady Chairperson and five members, out of whom, 3 are women. One of these three, is a member of an NGO and is a practising Advocate. He, therefore, suggests that the said Committee may be permitted to perform it's function with reference to the case of the Petitioner and the Management assures the Court that the law laid down in *Vishaka (supra)*, would be strictly followed w.e.f. 01.01.2025. The document constituting the Committee dated 26.08.2023, is placed before us which is marked as 'X' for identification.

4. The learned Senior Advocate representing the Management further submits that the report dated 09.11.2023, would be recalled and would be ignored, since the Petitioner is being granted an opportunity to cross-examine the witnesses and it is only thereafter, that the Committee would deal with the evidence/material available before it and prepare a fresh report.

5. Considering the above, we are not adverting to the

entire contentions and submissions of the litigating parties, and this short order is passed by consent of the parties.

6. In view of the above, **this Writ Petition is disposed off with the following directions :-**

- (A) Respondent Nos. 2 and 3 shall ensure that, in each of its establishments, a Vishaka Committee, in the light of the directions of the Hon'ble Supreme Court below paragraph No. 17 of the Judgment delivered in **Vishaka (supra)**, would be constituted, if not already done.
- (B) Such Committee shall be notified at conspicuous places in all the Institutions operated by the said Management.
- (C) The guidelines and norms prescribed below paragraph No. 17 in **Vishaka (supra)**, shall be kept in focus while dealing with any complaint.
- (D) The affidavits/Statements, as the case may be, of the 10 witnesses who are said to have deposed on 30.10.2023, would be supplied to the Petitioner within a period of 5 days, or prior to the beginning of the Diwali Vacation.
- (E) The Petitioner is permitted to prepare a questionnaire with regard to each witness, for her

assistance and commence the cross-examination of the witnesses, on 13.11.2024. It would be appropriate to space the cross-examination of such witnesses, over an interval of 4 days. In short, with the interval of 4 days, each of the witnesses would be cross-examined.

- (F) If the Petitioner desires to record statements or evidence of any persons on her behalf, she is permitted to do so. As like the opportunity granted to the Petitioner to record statements/evidence, we grant the same opportunity to the person against whom complaint has been filed.
- (G) After the above exercise is completed, the Committee would tender a report with reasons, considering the evidence and material available before it and in the light of the guidelines below paragraph No. 17, in **Vishaka (supra)** and Sections 9 to 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- (H) The report of the Committee would be served upon the Petitioner on her email address.
- (I) In the event of any issue with regard to the convenience about dates, the concerned parties

and the Committee members are expected to mutually settle upon such dates.

7. In the light of the above, **this Writ Petition is disposed off.**

8. In so far as the grievance of the Petitioner against her non-promotion in terms of prayer clause (c) set out in this Petition, we grant liberty to the Petitioner to resort to a remedy as is permissible in law and the disposal of this Petition would not amount to the rejection of prayer clause (c).

(M.M. SATHAYE, J.) (RAVINDRA V. GHUGE, J.)