

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5445 OF 2024

Krishna Anand Chaudhari

... **Petitioner**

Versus

State of Maharashtra & Ors.

... **Respondents**

Mr. Sumit V. Sonare, *for the Petitioner.*

Mr. Kiran Bapat *Senior Advocate/w Mr. Siddhant Sanghavi i/b Mr. Haresh Mehta & Co. for Respondent Nos. 4 & 5*

Mrs. Vaishali Nimbalkar, *AGP, for Respondent No. 1-State*

Mr. Aditya Raktade, *for Respondent No. 3*

CORAM : SANDEEP V. MARNE, J.

DATE : 27 NOVEMBER 2024.

P.C. :

1) Petitioner is aggrieved by the Judgment and Order dated 5 February 2024 passed by Industrial Court, Pune in Appeal (IESO) No. 5 of 2023. The Appeal was instituted under provisions of Section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (**POSH Act, 2013**) challenging the finding report dated 27 March 2023 passed by Internal Complaints Committee (ICC).

2) On 27 March 2023, the ICC had given its findings on each of the allegations leveled against the Petitioner. Petitioner represented before the Industrial Court that the finding report dated 27 March 2023 is the final report, against which Appeal was maintainable under Section 18 of the POSH Act. On the basis of this representation, the Industrial Court gone into the merits of the findings. The Industrial Court has proceeded to dismiss the Appeal holding that no interference is warranted in the findings recorded by the ICC.

3) Now the Petitioner has grown wiser and has realised that what was challenged by him was merely the enquiry report submitted under Section 13(1) of the POSH Act and that a separate final report was prepared by the ICC on 24 April 2023, which ultimately led to his termination on 5 May 2023. The Appeal was lodged by the Petitioner on 15 June 2023, by which time, the final report dated 24 April 2023 was not only ready but was acted upon by issuance of termination order dated 5 May 2023. Despite this, the Petitioner chose to challenge only the finding report dated 27 March 2023 prepared under provisions of Section 13(1) of the Act in the Appeal by him on 15 June 2023. Now the learned counsel appearing for the Petitioner would urge before me that Appeal under provisions of Section 18 of the POSH Act was not maintainable against finding report prepared under Section 13(1) of the Act and the Appeal could be filed only against the final report prepared under Section 13(1) of the Act. While he may not be entirely wrong in contending so, I am not inclined to permit the Petitioner to have another bite at the cherry by instituting a fresh Appeal for challenging the final report dated 24 April 2023.

4) The final report dated 24 April 2023 was a part of record before the Industrial Court. Both the sides have made their submissions on the findings recorded in the final report dated 24 April 2023. Though technically the final report dated 24 April 2023 was not challenged in his Appeal by the Petitioner, he canvassed submissions about the alleged errors in the said final report dated 24 April 2023. After considering the entire material available on record, the Industrial Court has arrived at a conclusion that the findings recorded in the final report dated 24 April 2023 do not suffer from any infirmity. In such circumstances, the Petitioner cannot be permitted to take advantage of his own wrong by seeking to file a fresh Appeal against the final report dated 24 April 2023 on a specious ground that the Appeal itself was not maintainable against the finding report prepared under Section 13(1) of the Act on 27 March 2023. Permitting the Petitioner to lodge a fresh Appeal would result in another round of ordeal for Respondent No.3- Complainant to undergo fresh set a proceedings before the Industrial Court, which has already conducted an in-depth enquiry into the correctness of the finding record in the final report dated 24 April 2023. In such circumstances, the mistake committed by the Petitioner in not challenging the final report dated 24 April 2023 cannot enure to his benefit.

5) I am therefore not inclined to interfere in the impugned judgment and order dated 5 February 2024 passed by the Industrial Court. Writ Petition is devoid of merits and is dismissed without any order as to costs.

[SANDEEP V. MARNE, J.]