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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 3276/2024, CM APPL. 13547/2024 & CM APPL.
15058/2024

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.....Petitioner

Through: Mr. Vikram Pratap Singh, Mr.
Himanshu Gupta, Mr. Imran Hamid,
Advocates

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Monika Arora, CGSC with Ms.
Priya, GP and Mr. Subhrodeep Saha,
Ms. Radhika, Advocates for UOI
Mr. Ramesh Singh, Sr. Advocate with
Mr. Aashish Gupta and Ms. Chandni
Ghatak, Advocates for R-2 and 3.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
26.11.2024

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1. The present writ petition seeks the following prayers:

“(i) To issue a Writ of Mandamus to direct the first respondent to take appropriate action against the second respondent to ensure the implementation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (for short, POSH Act) in the second respondent's establishment at Delhi;

(ii) To issue a writ in the nature of Mandamus or any other Writ or Orders /Direction to direct the Respondent no.2 to act on the Petitioner's complaint dated 10.04.2022 and in accordance with POSH Act, 2013;

(iii) Issue a writ in nature of Mandamus or any other Writ, or Orders/Directions to respondent no. 2 to set up Internal Complaint



Committee for the fresh investigation under the provisions of THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013, in connection with the complaint made by the petitioner and/or;

(iv) Issue a writ in nature of Mandamus or any other Writ, or Orders/Directions to Respondent No 2 to reinstate the petitioner on the same post on which she was arbitrarily terminated and/or;

(v) Issue a Writ of mandamus/ Order the Respondents to jointly and/or severally to pay substantial compensation of a sum of not less than Rs. 1,00,00,000/- (Rupees One Crore only) to the Petitioner for the grievous in- jury and irreparable damage done to her physically and her psyche by reason of inactions complained against them;

(vi) Issue a writ in nature of Mandamus or any other Writ, or Orders/Directions to the Respondents jointly and/or severally to deposit such sum as may be just, fit and proper by way of security towards payment of compensation during the pendency of present petition, as may be awarded;

(vii) Pass any other further orders as is deem to be fit and proper in the discharge of justice in favour of the Petitioner.”

2. The Petitioner’s grievance is that Respondent No. 2 – NEC Corporation India Private Limited, does not have the necessary mechanisms in place, for entertaining complaints under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013¹. Therefore, through the present writ petition, the Petitioner seeks directions to be issued to Respondent No. 1 - Union of India, to take appropriate action against the Respondents for not implementing the POSH Act.

3. The Court is also informed that the Petitioner has been terminated from service by Respondent No. 2. The Petitioner has also raised several grievances on this issue and accordingly the Petitioner also prays for compensation from the Respondents.

¹ “POSH Act”



4. As regards the implementation of the POSH is concerned, Mr. Ramesh Singh, Senior Counsel for Respondents No. 2 and 3, states that the POSH Act has indeed been implemented by them and in this regard, the Internal Complaints Committee of Respondent No. 2 is also in place. In any event, he submits that Respondent No. 2 is bound to implement the law of the land, which applies to them as well.

5. As regards the Petitioner's allegations of sexual harassment, if any, or the termination of her service by Respondent No. 2, these grievances cannot be adjudicated by invoking the writ jurisdiction of this Court under Article 226 of the Constitution of India, 1950, since Respondent No. 2 is a private organisation and as such, does not come under the definition of 'State' under Article 12 of the Constitution.

6. There is no doubt that the grievances of the Petitioner are of grave nature and shall require evidence to be led by the parties. Therefore, the Petitioner's contentions regarding allegations of sexual harassment as well as her wrongful termination by Respondent No. 2, are kept open, for which the Petitioner can take the appropriate recourse in civil proceedings, in accordance with law.

7. With the above observations, the present writ petition is disposed of, along with pending applications.

8. All rights and contentions of the parties are left open. It is made clear that the Court has not made a comment on the merit of the case.

SANJEEV NARULA, J

NOVEMBER 26, 2024/ab