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

+ **W.P.(C) 6511/2024**

MS. A

..... Petitioner

Through: **Ms. Shikha Sharma Bagga, Mr.
Khagesh B. Jha, Advocates.**

versus

HONBLE LIEUTENANT GOVERNOR, GNCTD AND ORS.

..... Respondents

Through: **Mrs. Avnish Ahlawat, SC with Mrs.
Tania Ahlawat, Mr. Nitesh Kumar
Singh, Ms. Laavanya Kaushik, Ms.
Aliza Alam and Mr. Mohnish
Sehrawat, Advocates.
Mr. Pramod Gupta, Ms. Nicole
Gomez and Ms. Adyanshi Kashyap,
Advocates for R-3.**

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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08.05.2024

CM APPL. 27209/2024 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 6511/2024 & CM APPL. 27208/2024

1. The Petitioner has approached this Court praying for the following reliefs:-

“(a) Direct the respondent school to constitute competent Internal Complaint committee as per the Vishakha Guidelines read with section 4 of POSH Act, 2013, with the direction to give the findings after inquiring the complaints of the petitioner as per the



guidelines and procedure prescribed under the POSH Act within the time frame of 90 days as prescribed.

(b) Direct the respondent Director Education to constitute the grievance redressal committee for the employees/staff (teaching/nonteaching) of unaided private recognized schools as mandated under Section 38(2)(n) r/w section 24(3) r/w section 2(a)(ii)(b) of RTE Act, 2009 r/w Rule 20 of Delhi RTE Rules 2011, in parity to that constituted vide notification dated 29.01.2016 for govt/aided schools.

(c) Set aside/quash the impugned Inquiry report findings dated 09.09.2020 by the Inquiry committee constituted by DDE Zone-16 as the same being in violation of principle of natural justice, biased, and for the remarks of frustrated person and mentally unstable for the petitioner, as the same is stigmatic and detrimental for any employment of the petitioner in future.

(d) Penalize the respondent school management under section 28 of POSH Act, 2013 for noncompliance of the provisions of the POSH Act.

(e) Allow the writ petition with exemplary cost imposed on respondent school and department of education to be paid jointly and severely for harassment and victimization of the petitioner.

(f) or pass any other order of further orders this Hon'ble court be fit based on above-mentioned facts and circumstances of the case."

2. The facts of the case reveals that the Petitioner is primarily aggrieved by the findings of an Inquiry Committee which has dismissed the complaint of the Petitioner vide its report dated 09.09.2020.



3. The grievance of the Petitioner primarily is that the Committee has not been constituted in accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (*in short* ‘POSH Act’). There is an appellate remedy provided for under Section 18 of the POSH Act. Section 18 of the POSH Act reads as under:-

“18. Appeal

(1) Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or subsection (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.

(2) The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations.”

4. Though Section 18 of the POSH Act categorically states that an appeal should be filed within 90 days of the findings of the Inquiry Committee, in view of the facts and circumstances of this case and looking at the facts as stated in this writ petition, this Court in exercise of its jurisdiction under Article 226 of the Constitution of India permits the Petitioner to approach the Appellate Authority within a period of 60 days from today.

5. In case the appeal is filed within 60 days, the same shall be heard on merits and disposed of by the Appellate Authority constituted under the Act.



6. It is made clear that this Court has not entertained this writ petition only because there is an equally alternate efficacious remedy available to the Petitioner.
7. It is made clear that this Court has not made any observation on the merits of the case.
8. The petition is disposed of along with pending application(s), if any.
9. Liberty is granted to the Petitioner to approach this Court in case the Appellate Authority refuses to entertain the appeal.

SUBRAMONIUM PRASAD, J

MAY 8, 2024

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