

In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present:-

The Hon'ble Justice Ananya Bandyopadhyay

WPA 30615 of 2017

Dr. Manik Pradhan
vs.
Union of India & Ors.

Mr. Anindya Lahiri,
Mr. Mainak Ganguli,
Mr. Samrat Dey Paul
Mr. Subhomoy Paul
Mr. Anish Chakraborty

... for the petitioner.

Mr. Parth Ghosh
Mr. Madhu Jana ... for the respondents/U.O.I.

Heard on & Judgment on: 26th August, 2025

Ananya Bandyopadhyay, J:-

1. The petitioner claiming to be an erudite person, impeccably educated was functioning as an associate professor at SN Bose National Centre for Basic Science. The respondent No.5 being a student in the same institution was pursuing her PHD course under the guidance of the petitioner who had been a faculty member at the aforesaid institution assisting the student to continue her research work for completion of PHD course. The respondent No.5 filed a complaint before the members of the Complaint Committee SN Bose National

Centre for Basic Science on 16.05.2016 *inter alia* alleging to have been subjected to mental pressure due to the immoral acts on the part of the petitioner which according to the complainant had been emotionally manipulative. The complainant felt threatened on refusal of the same to condescend and propitiate the amoral advances of the petitioner, he might jeopardize her career. Being agonized and traumatized she sought for a new supervisor to replace the petitioner to complete her research work in experimental Bio Physics to obtain PHD decree. On receipt of such complaint a six member Complaint Committee was instituted which held its first meeting on 28th May, 2016 which resolved that the petitioner be supplied with a copy of the complaint filed by the respondent No.4 to obtain his respective observation with regard to the allegations narrated in the aforesaid complaint. It was further resolved that the complainant be placed under the guidance of another supervisor as per the Rules of the aforesaid Centre with the approval of the Director during the course of the functioning of the Committee. The petitioner subsequently filed the written statement. The petitioner as well as the complainant was heard by the aforesaid Committee. The aforesaid Committee vide its meeting held on 5th July, 2016 *inter alia* resolved “*that enquiry proceedings will be initiated by the Committee under Section 11(1) of the “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 which*

states that the Complaints Committee will proceed to make inquiry into the Complaint in accordance with the inquiry as the provisions of the Service rules applicable to the respondent. Reference is drawn to relevant paras of the Bye-Laws of the Centre in the matter. A communication to this effect will be served on both the complaint and the respondent”.

2. It further detailed the names of the 13 witnesses as enumerated in serial number as mentioned in Paragraph 6 of the said resolution dated 5th July, 2016. The witnesses were to be called on 13th July and 14th July, 2016 in case list of witnesses could not be called and the evidence be recorded within 14th July, 2016 further date will be granted later for completion of the same. Subsequently, certain witnesses appeared before the Committee and their statements were recorded with their consent. Thereafter, a preliminary enquiry report was submitted which was challenged by the petitioner in WP No. 1054 (W) 2017 which was disposed of by an order passed by a Coordinate Bench of this Court on 3rd November, 2017 *inter alia* stating “ *while appreciating the skepticism to be well founded the same may also be the difficulty with the complainant. I allow the writ petition on admission by giving liberty the respondent No.1 Centre to direct the Internal Complainants Committee to conduct a fresh enquiry into the complaint made against the petitioner strictly in accordance with law and keeping the timeframe as mentioned therein. In case the*

petitioner requires the presence of any witness at the enquiry and if he or she is otherwise available the concerned Committee shall send summons to him or her at the address as may be provided by the petitioner.

I make it clear that the Committee shall conduct the enquiry upon compliance of the principles of natural justice at every joint”

3. The Learned Advocate representing the petitioner submitted that the complaint filed against the petitioner had been frivolous and vexatious. The petitioner was not granted the opportunity to cross examine the witnesses and there had been gross irregularities and illegalities in conducting the enquiry. It was further submitted that the order of the Coordinate Bench passed in the writ petition being WPA 1054(W) of 2017 to complete the enquiry afresh had not been completed till date to the prejudice of the petitioner.
4. The Learned Advocate representing the petitioner further submitted to have filed the instant writ petition being WPA 30615 of 2017 for violation of the order dated 03.11.2017 passed by the Coordinate Bench of this Court in WP 1054 (W) of 2017 for failure on the part of the respondent authorities to abide by and conform to the timeline as mentioned in the aforesaid Order. It was further emphasized by the Learned Advocate representing the petitioner that principles of natural justice had not been exercised in favour of the petitioner since in view of the letter No. SNB/ICC-1/17-18/1102 dated 6th

December, 2017 the respondent authorities acted arbitrarily without permitting the petitioner to be present during the recording of depositions at the time of cross examination, though the signed copy of the deposition of the complainant as well as the prosecution witnesses should have been provided to him. It was further submitted by the Learned Advocate representing the petitioner that the respondent authorities claimed to allow cross examination in the form of a written questionnaire to the (Internal Complaints Committee) ICC and the response would be communicated to him in writing. It was further submitted that vide order dated 11th June, 2018 in the instant writ petition being WPA 30615 of 2017 the Coordinate Bench of this Court opined as follows:

“When this writ petition was moved on January 29, 2018 the Court did not grant interim order, despite a prayer to that effect by Mr. Ghosh. Mr. Bhattacharyya specifically assured the Court that in case the procedure suggested by the respondent No.4 in the impugned communication was not found tenable by the ultimate result of the writ petition the respondent No.3 shall initiate the proceeding de novo. Today Mr. Bhattacharyya submits that the respondent no.4 along with some other members of the Internal Complaints Committee have ceased to be members. He himself submitted that in view of the changed circumstances the Committee is not in a position to continue with the complaint lodged by the complainant. In such view of it the proceedings of the enquiry pending before the Internal Complaints Committee must be kept in abeyance until further orders. The respondent No.3 is directed to inform the Court about the change of the scenario as early as possible and if they are in a position to reinstate the same in future”.

5. The Learned Advocate representing the petitioner further submitted till date the Internal Complaint Committee could not be re-

constituted by the respondents/institution for conducting the fresh enquiry as ordered by the Court on an earlier occasion. Moreover, the respondents authorities in compliance with the order dated 11th June, 2018 failed to file the report stating its status with regard to the constitution of the ICC resulting in inordinate delay in deciding the petitioner's case after explaining certain changes in circumstances subsequent to the complaint been lodged.

6. The Learned Advocate representing the respondent institution submitted, several efforts for constitution of the Internal Complaint Committee failed on numerous occasions and finally a report in the form of an affidavit had been filed *inter alia* stating that the absence of the complainant as well as the witnesses had been to the impediment of the Internal Complaint Committee which met on 10th March, 2025 to assess the possibility of a fresh enquiry to be conducted against the petitioner. In pursuance thereof, the Internal Complaint Committee resolved to send a recommendation through an electronic mail to the complainant seeking her opinion for furtherance of the enquiry based upon her complaint lodged against the petitioner on 16.05.2016 requesting a reply to be furnished by 12th March, 2025 to abide by the observation of this Court vide order dated 19th February, 2025. The complainant through an email dated 12th March, 2025 addressed to the Presiding Officer, the Internal Complaint Committee sought for a week's time to reply till

18.03.2025. Considering the version of the complainant the Internal Complaint Committee granted the complainant an extension of time to respond till 16th March, 2025. On 17th March, 2025 the complainant expressed her hardship to be physically present before the ICC to assess the same personally producing the documents, which were not accessible by her being stationed aboard. The Presiding Officer in the meeting of the Internal Complaint Committee held on 12th March, 2025 evaluated the list of witnesses and observed out of 21 witnesses 17 had severed their affiliation with SN Bose Centre for Basic Science and it would be impossible for the ICC to re-initiate the case in absence of both the complainant and the witnesses preventing a fair, equitable and conclusive investigation.

7. The preliminary report of the Internal Complaint Committee of the respondent centre considering the allegations of the complainant against the petitioner and providing her a new supervisor further explained the provision of Section 10 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (herein after referred to "said Act") was to the complainant. It was further informed if she agreed the Committee could contemplate to go for settlement as provided under Section 11 of the said Act. The complainant initially conceded to the settlement on condition of an apology in writing be expressed by the petitioner acknowledging his misdeeds. However, subsequently retracted and on letter dated

20th June, 2016 submitted by the complainant the Committee conclusively decided that “*the complainant demanded a proper and complete enquiry, despite all social hindrance and difficulties, if necessary, by knocking upon every possible door even beyond boundaries of the institution*”. Based on such assertion of the complainant the proceedings against the petitioner was resolved to be pursued. Section 11(4) of the Act stated “*the enquiry under subsection 1 shall be completed within a period of 90 days*”. The report filed on behalf of the respondent No.3 in the form of an affidavit stated the inability on the part of the complainant to assist the ICC to conduct the enquiry against the petitioner had been contrary to her claim as aforesaid to transcend geographical boundaries for seeking justice. The nonfeasance of the respondent authorities being the ICC to conduct the enquiry had been conspicuously affirmed stating the disadvantages to be faced by the same to arrive at a just, fair and equitable consideration. Nonetheless the ICC also expressed its dismay and incapacitation in securing the presence of the 17 witnesses out of the 21 witnesses to adduce evidence for completion of the enquiry. Section 11(4) of the said Act statutorily stipulated the enquiry to be completed mandatorily within 90 days. However, in the instant case 8 years have passed wherein the respondent/Centre could not address the complainant’s issue whether positively or

negatively, in either way to the predicament and afflictions of the petitioner to his utter prejudice.

8. The instant case is a glaring example wherein the complaint being unaddressed and unresolved for eight years had been incomprehensible and unacceptable.
9. Under the facts and circumstances of the case, the respondent Nos. 2 and 3 are to take a final decision within one month after communication of this order with regard to the pursuance of the enquiry with reasoned order and the respondent Nos. 2 and 3 shall communicate their decision to the petitioner within seven days from the date of taking decision, considering the statutory provision as enumerated in Section 11(4) of the said Act as well as the contentions of the respondent authorities in support of its constraints in complying the Order of the Coordinate Bench for instituting a fresh enquiry against the petitioner as elicited in the report filed in the form of an affidavit on 1st April, 2025.
10. Accordingly, the writ petition is disposed of.
11. Urgent Photostat Certified copy of this Judgment, if applied for, be supplied expeditiously after complying with all necessary legal formalities.