

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11224 OF 2025

Amit Sureka

.. Petitioner

Versus

Jyoti Gandhi

Respondent /

.. Orig. Complainant

.....

- Ms. Arunima Kumari, Advocate i/by MZM Legal LLP for Petitioner.
- Mr. Sushan N. Mhatre, Advocate for Respondent.

.....

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 16, 2025.

P.C.:

1. Heard Ms. Kumari, learned Advocate for Petitioner and Mr. Mhatre, learned Advocate for Respondent.

2. The order impugned in the present Writ Petition is dated 08.07.2025 appended at page No.38 of the Petition passed by the learned Industrial Court in Appeal proceedings filed under Section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (for short '**the said Act**').

3. The enquiry is complete as informed by both the learned Advocates at the Bar. Matter is pending before the Appellate Authority. Private Respondent No.2 is the original complainant. She filed Application under Order I Rule 10(2) of the Code of Civil Procedure, 1908 in the Appeal for striking out her name from the cause title and

proceedings in Appeal.

4. Factually on the basis of recommendation of Enquiry Committee, Petitioner's services have been terminated. Admittedly private Respondent No.2 is also no longer employed with Respondent No.3 – Company. Learned Advocate for Petitioner would submit that private Respondent is a proper and necessary party in the Appeal proceedings. In the Statutory Appeal which is filed under Section 18 of the said Act challenge is to the findings and recommendations of the Internal Committee (IC) and termination and in that context private Respondent filed Application below Exhibit 'CA-2' seeking her name to be struck off. Admittedly there are no reliefs claimed against private Respondent No.2 in the Appeal which is filed and pending. She has been impleaded solely because she is the original Complainant, but no relief is sought against her.

5. The learned Appeal Court on hearing the submissions advanced by Petitioner has returned findings in paragraph No.10 of the impugned order which is reproduced herein under for immediate reference:-

*"10. If the aggrieved woman wish to contest the proceedings, she has every right to contest the same in the Court of Law, but if the aggrieved woman does not wish to come into the Court and contest the proceedings, then it would not be just and proper to compel her to come in Court and contest. Therefore, if Respondent No. 2 desires to contest, then she is entitled to be made as party of the proceedings and against her wish she cannot be compelled to be a party of the proceedings. In **Sonali Badhe's Case**, the aggrieved woman wish to be a party,*

therefore, the Hon'ble High Court of Delhi has pleased to allow her to proceed with the case. In the present case in hand, Respondent No. 2 is categorically saying through her Advocate that, she is not interested to and not wishing to be a party and contest the same. Under such circumstances it would be just and proper to allow her to get free from this proceedings on the condition that she shall not make any grievance about this proceeding in future. Needless to say that her interest will be protected by Respondent Nos. 1 and 3 as per Law. Hence, Point No. 1 is recorded Affirmative and to answer Point No. 2 following order is passed:"

6. The learned Trial Court has held that if the aggrieved woman (to be read as original Complainant) is not interested to be impleaded as party in the proceedings nor wishes to contest the proceedings, she cannot be compelled to do so. Learned Advocate for Petitioner would submit that since the private Respondent has set the issue into motion by filing the complaint against Petitioner to the employer, her presence in the Appeal cannot be dispensed with. According to her, she is a necessary party.

7. In support of her submissions, she has referred to a decision of the Delhi High Court in the case of ***Sonali Badhe, A.L.A. Directorate of Enforcement, Ahmedabad Vs. Ashish Chandra Singh DLA, New Delhi and Anr.***¹. However the said decision is incidentally considered by the learned Trial Court while recording submissions of Petitioner in paragraph No.5 of the impugned order. Appeal Court has rightly in my opinion correctly distinguished the above decision. In the case of ***Sonali Badhe, A.L.A. Directorate of Enforcement, Ahmedabad (supra)***,

¹ 2017 SCC Online Del 12721

the proceedings were in respect of challenge to the ad-interim order and that apart the aggrieved woman and the Delhi High Court allowed the request of the aggrieved woman who herself wished to be a party to the proceedings. The same analogy cannot apply to the facts and circumstances of the present case wherein there is a categorical assertion on the part of the private Respondent that she be allow to get free from the proceedings. While doing so, the learned Trial Court has recorded her submission and consent that she shall not make any grievance about any proceedings in future, which statement is reiterated by Mr. Mhatre learned Advocate on behalf of the private Respondent. Once this statement of the learned Advocate for the private Respondent is noted by the Court, Petitioner can have no grievance against her.

8. Considering the substantive challenge in the Appeal to the findings of the Internal Committee (IC) Report namely Respondent No.1 and Petitioner's termination by Respondent No.3 - Company, the learned Trial Court has correctly determined the Application filed below Exhibit "CA-2" and decided the said Application in accordance with law by returning cogent reasons and findings. No interference whatsoever is warranted of this Court in the reasons returned by the learned Trial Court. The impugned order dated 08.07.2025 having been correctly passed is upheld and confirmed. Resultantly, Writ Petition fails.

9. Writ Petition is dismissed.

[MILIND N. JADHAV, J.]

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