

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11623 OF 2025

Axis Bank Limited	...	Petitioner
Versus		
Rahul Gupta & Ors.	...	Respondents

Mr.Zubin Behramkamdin, Senior Advocate, a/w Mr.Vijay Purohit,
Mr.Pratik Jhaveri, Mr.Faizan Mithaiwala and Mr.Vinit Kamdar
i/by P&A Law Offices for Petitioner.

Mr.Pranav Narsaria a/w Mr.Vipul Makwana for Respondent No.1.

**CORAM : MANISH PITALE, J.
DATE : 13th NOVEMBER 2025**

ORDER :

. By this petition, the petitioner-bank has challenged an order dated 29th April 2025 passed by the Industrial Court at Mumbai, rejecting an application filed on behalf of the petitioner, raising preliminary objection with regard to the jurisdiction of the said Court in entertaining an appeal filed by the respondent No.1 under Section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition AND Redressal) Act, 2013 (hereinafter referred to as 'POSH Act' for short).

2. It is to be noted at the outset that the respondent No.1 is the only contesting respondent and respondent Nos.2 to 6 are proforma respondents in the context in which the present petition is filed. Hence, service of notice upon respondent Nos.2 to 6 is

dispensed with. The respondent No.1 has entered appearance through counsel and also filed an affidavit in reply. Therefore, the petition is taken up for disposal at this stage itself.

3. The respondent No.1 herein has filed an appeal before the Industrial Court at Mumbai to challenge recommendations made against him in pursuance of an enquiry conducted on allegations of sexual harassment made by respondent No.6. Ancillary reliefs are also sought in the aforesaid appeal. The appeal was accompanied with an application for condonation of delay. The said application was allowed by order passed by the Industrial Court. It appears that although, the said order is also made subject matter of challenge in the present writ petition, the learned senior counsel appearing for the petitioner-bank, on instructions, makes a statement that the said relief is not being pressed. Essentially, this petition concerns the question of jurisdiction of the Industrial Court in entertaining the appeal filed by the respondent No.1 under Section 18 of the POSH Act.

4. By the impugned order dated 29th April 2025, the Industrial Court has considered the rival submissions and by relying upon Section 2(b) of the POSH Act, it has been held that the preliminary objection regarding jurisdiction raised by the petitioner-bank is not sustainable and accordingly, the application of the bank has been rejected.

5. Mr. Zubin Behramkamdin, learned senior counsel appearing for the petitioner-bank invited attention of this Court to Section

2(b) of the POSH Act, which defines ‘appropriate Government’. By referring to clause (i) of said provision, it is emphasized that since the petitioner-bank is controlled by the Reserve Bank of India under the Reserve Bank of India Act, 1934 and also by the Central Government, the appropriate Government in the present case is the Central Government and hence, the Industrial Court at Mumbai, could not have entertained the appeal filed by the respondent No.1. In this context, the learned senior counsel for the petitioner-bank also invited attention of this Court to the definition of the expression ‘appropriate Government’ in Section 2(a)(i) of the Industrial Disputes Act, 1947 (hereinafter referred to as ‘ID Act’ for short) to contend that by an amendment, banking and insurance companies have been included in the said definition to indicate that the appropriate Government in the context of a banking company is also the Central Government.

6. It is further submitted that all other industrial disputes concerning the petitioner-bank or for that matter other banks are referred to the Central Government Industrial Tribunal (CGIT) as the Central Government is treated as appropriate Government and if the order passed by the Industrial Court in the present case is upheld, it will lead to an anomalous situation where only disputes of this kind concerning the POSH Act would end up being resolved before the Industrial Court instead of the CGIT.

7. It is submitted that the Industrial Court in the impugned order committed grave error in proceeding on the basis that the

definition of ‘appropriate Government’ under the POSH Act is required to be read in the context of the words ‘established, owned and controlled’ and that the word ‘controlled’ cannot be read in isolation as the principles of *ejusdem generis* would apply. It is submitted that the aforesaid reasoning is completely faulty and it is in the teeth of the language of the aforesaid provision of the POSH Act.

8. It is further brought to the notice of this Court that the notification issued by the State Government under Rule 11 of the Rules framed under the POSH Act cannot come to the aid of the respondent No.1, for the simple reason that appropriate Government in the facts and circumstances of the present case can never be the State Government. On this basis, it is submitted that the impugned order deserves to be set aside and hence, the writ petition ought to be allowed.

9. On the other hand, Mr. Pranav Narsaria, learned counsel appearing for the contesting respondent No.1 submits that the impugned order passed by the Industrial Court is well reasoned and no interference is warranted as the interpretation of expression ‘appropriate Government’ has been correctly undertaken by the Industrial Court, in the light of the provisions of the POSH Act and the Rules framed thereunder. It is submitted that the petitioner being a private bank cannot claim that it is controlled by the Central Government merely because the directions and notifications issued by the Reserve Bank of India

are to be followed by the petitioner-bank. It is submitted that similar argument raised before the Kerala High Court in the case of *Suresh Babu v/s. Regional Joint Labour Commissioner, 2017 SCC OnLine Ker 41744* was rejected, upon considering the provisions of the POSH Act. It was submitted that this Court may consider the reasoning adopted by the Kerala High Court in the said judgment, wherein it was held that the expression ‘controlled’ in Section 2(b)(i) of the POSH Act ought to be deep and pervasive control and not merely regulatory control.

10. The learned counsel for the respondent No.1 further placed reliance on the judgment of the Supreme Court in the case of *Federal Bank Ltd. v/s. Sagar Thomas & Ors., (2003) 10 SCC 733*, to contend that the Central Government does not, in any manner, participate or interfere with the day to day and normal functioning of the petitioner-bank, which is a private bank and therefore, the contention raised on behalf of the petitioner-bank deserves to be rejected.

11. Reliance is also placed on notification dated 31st March 2021 issued by the State Government, exercising power under the Industrial Employment (Standing Orders) Act, 1946, which is referred in Rule 11 of the Rules framed under the POSH Act. It is submitted that the said notification clearly empowers the Industrial Court at Mumbai to entertain such disputes that have arisen from work places located in Mumbai city and Mumbai suburban district. On this basis, it is submitted that the writ

petition deserves to be dismissed.

12. Having heard the learned counsel for the rival parties, this Court is of the opinion that reference to the relevant provisions of the POSH Act is necessary, which read as follows :

“2(b) “appropriate Government” means—

(i) in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly—

(A) by the Central Government or the Union territory administration, the Central Government;

(B) by the State Government, the State Government;

(ii) in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;”

*“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 sub-section (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.”

13. Reference to Rule 11 of the Rules framed under the POSH Act, would also be necessary, which reads as follows :

*“11. **Appeal-** Subject to the provisions of section 18, any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clauses (i) or clause (ii) of*

sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the appellate authority notified under clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946).”

14. A bare reading of above quoted Sections 2(b)(i) and (ii) of the POSH Act would show that for understanding as to which would be the appropriate Government in a particular case, it would have to be analyzed as to whether the words ‘established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly’, are all required to be read in conjunction with each other and whether the Industrial Court in the impugned order fell in error in doing so. This Court is of the opinion that even if the entire focus is placed on the word ‘controlled’, a reasonable interpretation thereof will have to be adopted.

15. Having perused the judgment in the case of **Suresh Babu v/s. Regional Joint Labour Commissioner** (supra), this Court is in agreement with the interpretation adopted by the Kerala High Court in the context of the very same provision i.e. Section 2(b)(i) of the POSH Act. The Kerala High Court has referred to *Maxwell on the Interpretation of Statutes, 12th Edition* and thereafter, observed as follows :

“(i) Individual words are not considered in isolation, but may have their meaning determined by other words in the section in which they occur.”

The word ‘controlled’ contained in clause (i) of the

definition, if understood in the light of the meaning of the other words used in the very same clause would make it clear that what was intended thereby by the legislature was deep and pervasive control of the Central and State Governments, and not merely regulatory control. The contention of the second respondent is thus rejected.”

16. In order to hold that the petitioner-bank in the present case is controlled by the Central Government, it would amount to stretching the expression ‘controlled’ beyond its reasonable and obvious meaning. Control in these circumstances would mean deep and pervasive control of either the Central Government or the State Government. Therefore, merely because the petitioner-bank is amenable to directions and notifications issued by the Reserve Bank of India as a regulatory authority, it cannot be said that the petitioner-bank is controlled by the Central Government. The respondent No.1 is justified in relying upon the judgment in the case of ***Federal Bank Ltd. v/s. Sagar Thomas & Ors.*** (supra), wherein the Supreme Court, while considering the question as to whether a writ petition would be maintainable against a private bank, discussed the extent of control over private banks by the Central Government and its agencies. It was found that the control was regulatory in nature and it could not be said that the Central Government or the State Governments were either participating or interfering with the normal and day to day functioning of the private banks. This Court is of the opinion that the petitioner-bank cannot contend that it is controlled by the Central Government in order to claim that the Central Government would be the appropriate Government. Equally, it

would not be possible to hold that the State Government has deep or pervasive control over the petitioner-bank, thereby indicating that clause (ii) of Section 2(b) of the POSH Act comes into operation. A perusal of the said clause shows that when a work place is not covered under clause (i) of Section 2(b) of the POSH Act, but it falls within the territory of a State Government, the appropriate Government is indeed the State Government.

17. This Court is of the opinion that the present case is covered under Section 2(b)(ii) of the POSH Act and the appropriate Government being the State Government, the notification dated 31st March 2021 issued by the State Government under the Industrial Employment (Standing Orders) Act, 1946, which finds mention in Rule 11 of the Rules framed under the POSH Act, applies to the facts and circumstances of the present case.

18. Therefore, there can be no doubt about the fact that the Industrial Court, Mumbai indeed has jurisdiction to entertain the appeal under Section 18 of the POSH Act in the facts and circumstances of the present case.

19. This Court is unable to appreciate the contention raised on behalf of the petitioner-bank that if such an interpretation is accepted and the impugned order passed by the Industrial Court is upheld, it would create an anomalous situation, in as much as the other industrial disputes of the petitioner-bank would continue to be entertained by CGIT under the ID Act and only the appeals (disputes) pertaining to the POSH Act would be going to another

forum. It is to be noted that POSH Act is a special Act, enacted in the year 2013 and it specifically provides for the definition of ‘appropriate Government’ under Section 2(b) thereof and hence, proceedings emanating from disputes covered under the POSH Act would certainly be covered by the definition of ‘appropriate Government’ under Section 2(b) of the POSH Act.

20. Even if the definition of ‘appropriate Government’ under Section 2(a) of the ID Act refers to banking company, that in itself cannot come to the aid of the petitioner-bank and the aforesaid contention is also rejected.

21. Accordingly, the writ petition is dismissed.

22. Pending applications, if any, also stand disposed of.

23. Considering the fact that the appeal filed before the Industrial Court at Mumbai by respondent No.1 is pending from the year 2023, the said Court is directed to dispose of the appeal as expeditiously as possible and in any case, within a period of four months from today.

MANISH PITALE, J.