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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 6156/2025

AGHA MOHAMMAD JAFAR

.....Petitioner

Through: Mr. Harpreet Singh Nagpal and Mr.
Gaurav Kumar, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Monika Arora, CGSC, Mr.
Subhrodeep Saha, Mr. Prabhat Kumar
and Ms. Anamika Thakur, Advs. for
R-1.
Mr. Arman Roop Sharma, Ms.
Shivangi Goel, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

21.05.2025

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CM APPL.28124/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The present petition has been filed seeking the following prayers:-

“a. Issue a Writ of Mandamus or any other analogous writ, order or direction thereby directing the respondent no. 1 to appoint an appropriate authority, in respect of the banking sector, under clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946, and notify its appointment in the official gazette, and vest the authority with the powers and jurisdiction under section 18 of the Sexual Harassment of Women at Work Place (Prevention, Prohibition And Redressal) Act, 2013, and Rule 11 of the Sexual Harassment of Women at Work Place (Prevention, Prohibition And Redressal) Rules, 2013; And,

b. Issue a Writ of Certiorari or any other appropriate writ, order or direction for quashing & setting aside of the Inquiry Report dated



19.08.2022 of the respondent no. 3.”

4. The present petition has been filed in the backdrop of an inquiry initiated against the petitioner under the Sexual Harassment of Women at Work Place (Prevention, Prohibition And Redressal) Act, 2013 (hereinafter ‘*POSH Act*’).

5. The petitioner was employed with respondent no. 2/HDFC Bank and was working as Branch Manager at the Noida Branch, Sector 119, Uttar Pradesh. The respondent no.3 i.e. the concerned Internal Complaints Committee (ICC), indicted the petitioner by virtue of the inquiry report dated 19.08.2022.

6. In the present petition, the petitioner seeks to raise a controversy as regards the forum where the appeal would lie against the inquiry report.

7. It is noticed that neither the petitioner nor the complainant (not a party to the present proceedings) is residing within the territorial jurisdiction of this Court. Furthermore, even the concerned branch of the respondent no.2 bank, where the petitioner was employed at the relevant time, is not located within the jurisdiction of this Court. The inquiry proceedings which culminated in the impugned inquiry report dated 19.08.2022 were also not conducted within the territorial jurisdiction of this Court.

8. As such, no part of the cause of action has arisen within the territorial jurisdiction of this Court.

9. Reference is apposite to the judgment of the Supreme Court in **ONGC v. Utpal Kumar Basu** (1994) 4 SCC 711 wherein it has been held as under -

“5. Clause (1) of Article 226 begins with a non obstante clause — notwithstanding anything in Article 32 — and provides that every High Court shall have power “throughout the territories in relation to which it exercises jurisdiction”, to issue to any person or authority, including in



appropriate cases, any Government, “within those territories” directions, orders or writs, for the enforcement of any of the rights conferred by Part III or for any other purpose. Under clause (2) of Article 226 the High Court may exercise its power conferred by clause (1) if the cause of action, wholly or in part, had arisen within the territory over which it exercises jurisdiction, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories. On a plain reading of the aforesaid two clauses of Article 226 of the Constitution it becomes clear that a High Court can exercise the power to issue directions, orders or writs for the enforcement of any of the fundamental rights conferred by Part III of the Constitution or for any other purpose if the cause of action, wholly or in part, had arisen within the territories in relation to which it exercises jurisdiction, notwithstanding that the seat of the Government or authority or the residence of the person against whom the direction, order or writ is issued is not within the said territories. In order to confer jurisdiction on the High Court of Calcutta, NICCO must show that at least a part of the cause of action had arisen within the territorial jurisdiction of that Court. That is at best its case in the writ petition.

8. From the facts pleaded in the writ petition, it is clear that NICCO invoked the jurisdiction of the Calcutta High Court on the plea that a part of the cause of action had arisen within its territorial jurisdiction. According to NICCO, it became aware of the contract proposed to be given by ONGC on reading the advertisement which appeared in the Times of India at Calcutta. In response thereto, it submitted its bid or tender from its Calcutta office and revised the rates subsequently. When it learnt that it was considered ineligible it sent representations, including fax messages, to EIL, ONGC, etc., at New Delhi, demanding justice. As stated earlier, the Steering Committee finally rejected the offer of NICCO and awarded the contract to CIMMCO at New Delhi on 27-1-1993. Therefore, broadly speaking, NICCO claims that a part of the cause of action arose within the jurisdiction of the Calcutta High Court because it became aware of the advertisement in Calcutta, it submitted its bid or tender from Calcutta and made representations demanding justice from Calcutta on learning about the rejection of its offer. The advertisement itself mentioned that the tenders should be submitted to EIL at New Delhi; that those would be scrutinised at New Delhi and that a final decision whether or not to award the contract to the tenderer would be taken at New Delhi. Of course, the execution of the contract work was to be carried out at Hazira in Gujarat. Therefore, merely because it read the advertisement at Calcutta and submitted the offer from Calcutta and made representations from Calcutta would not, in our opinion, constitute facts forming an integral part of the cause of action. So also the mere fact that it sent fax messages from Calcutta and



received a reply thereto at Calcutta would not constitute an integral part of the cause of action. Besides the fax message of 15-1-1993, cannot be construed as conveying rejection of the offer as that fact occurred on 27-1-1993. We are, therefore, of the opinion that even if the averments in the writ petition are taken as true, it cannot be said that a part of the cause of action arose within the jurisdiction of the Calcutta High Court.”

10. While relying upon, *inter alia*, the aforesaid decision, the Supreme Court in ***Kusum Ingots & Alloys Ltd. v. Union of India*** (2004) 6 SCC 254 has held as under -

“18. The facts pleaded in the writ petition must have a nexus on the basis whereof a prayer can be granted. Those facts which have nothing to do with the prayer made therein cannot be said to give rise to a cause of action which would confer jurisdiction on the Court.

....

30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens. [See Bhagat Singh Bugga v. Dewan Jagbir Sawhney [AIR 1941 Cal 670 : ILR (1941) 1 Cal 490] , Madanlal Jalan v. Madanlal [(1945) 49 CWN 357 : AIR 1949 Cal 495] , Bharat Coking Coal Ltd. v. Jharia Talkies & Cold Storage (P) Ltd. [1997 CWN 122] , S.S. Jain & Co. v. Union of India [(1994) 1 CHN 445] and New Horizons Ltd. v. Union of India [AIR 1994 Del 126] .]”

11. Reference may also be made to a judgment of this Court in ***Sterling Agro Industries Ltd. v. Union of India and Others*** 2011 SCC OnLine Del 3162, wherein it has been held as under:

“33. The concept of forum conveniens fundamentally means that it is obligatory on the part of the court to see the convenience of all the parties before it. The convenience in its ambit and sweep would include the existence of more appropriate forum, expenses involved, the law relating to the lis, verification of certain facts which are necessitous for just adjudication of the controversy and such other ancillary aspects. The balance of convenience is also to be taken note of. Be it noted, the apex court has clearly stated in the cases of Kusum Ingots and Alloys Ltd. v. Union of India (2004) 120 C-C 672; (2004) 6 SCC 254, Musaraf Hossain



Khan v. Bhagheeratha Engg. Ltd. (2006) 130 C-C 390; (2006) 3 SCC 658 and Ambica Industries v. CCE (2007) 213 ELT 323; [2009] 20 VST 1 (S.C.), about the applicability of the doctrine of forum conveniens while opining that arising of a part of cause of action would entitle the High Court to entertain the writ petition as maintainable.

34. The principle of forum conveniens in its ambit and sweep encapsulates the concept that a cause of action arising within the jurisdiction of the court would not itself constitute to be the determining factor compelling the court to entertain the matter. While exercising jurisdiction under articles 226 and 227 of the Constitution of India, the court cannot be totally oblivious of the concept of forum conveniens. The Full Bench in New India Assurance Co. Ltd. v. Union of India, AIR 2010 Delhi 43; (2011) 166 Comp Cas 87 (Delhi), has not kept in view the concept of forum conveniens and has expressed the view that if the appellate authority who has passed the order is situated in Delhi, then the Delhi High Court should be treated as the forum conveniens. We are unable to subscribe to the said view.”

12. In the circumstances, this Court is not inclined to entertain the present petition. However, the petitioner is granted liberty to file an appropriate petition in the concerned jurisdictional High Court.

13. The present petition is disposed of in the above terms.

SACHIN DATTA, J

MAY 21, 2025/at