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

+ RFA 339/2025 & CM APPL. 21377/2025, CM APPL. 21378/2025,
CM APPL. 21379/2025

PANKAJ DESHMUKHAppellant
Through: Mr. Mohit Gautam, Advocate
versus

KOHLER POWER INDIA PVT LTDRespondent
Through: None.

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER
22.04.2025

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1. The present appeal has been filed under Section 96, read with Section 151 of Code of Civil Procedure, 1908 ("CPC"), against the judgment and decree dated 11th September, 2024 passed in the suit being, *CS DJ No. 625/2019*, titled as "*Kohler Power India Pvt. Ltd. Versus Pankaj Deshmukh & Anr.*", passed by the DJ-07, South East District, Saket Courts, New Delhi.
2. It is the case of the appellant that he was in continuous service with the respondent company, with an unblemished record since 05th June, 2012, and during his working tenure, he was promoted to the post of Dy. Manager HR in the year 2015, until his service was abruptly terminated without any reasons.
3. As per the appeal, since the promotion of the appellant to the post of Dy. Manager, HR, the appellant was working with one Mr. Vipin Kumar, Associate Director, HR, deputed for the Aurangabad Plant. In the appeal, it has been further stated that the said Mr. Vipin Kumar was biased with local



Maharashtrian employees, for the reasons best known to him.

4. Thus, aggrieved by the prevailing discrimination against Maharashtra work force by Mr. Vipin Kumar, appellant *vide* his e-mails dated 06th April, 2024, 10th April, 2024 & 15th April, 2024, tried to apprise the management of the respondent company in USA about the activities of Mr. Vipin Kumar against the Maharashtra employees in the company.

5. This Court notes that the appellant herein was terminated on 03rd May, 2019. On pointed query by this Court as to the reason of his termination, no answer has been given by the learned counsel for the appellant.

6. This Court notes that after the appellant had been terminated on 03rd May, 2019, in the month of June 2019, the respondent company had posted an image on its official LinkedIn account with a message of “*Diversity means...Learning to embrace people from all walks of life*”.

7. The appellant herein, posted on the said LinkedIn post, in the following manner:

“I think Kohler Co. need to travel a lot on the path of Diversity... specifically for Indian Power Business.. the newly appointed senior leadership team has to understand differences between diversity & discrimination... the unfortunate part is under the head of Diversity, people are getting discriminated on the basis of their mother tongue/ being a MARATHI (local) by the HR leadership itself../ am one of the them, victimized based on the geographical location/mother tongue... The worst part is, I had face this treatment after serving almost 7 years of service with Kohler Co. Just to raise the red flag, I also knock the doors of ETHICS team and Senior leadership team in the US but seems they also helpless to take the decision.. Anyways, still looking forward justice for those MARATHI People who got victimized by this anti Marathi Management.”

8. It is to be noted that the said LinkedIn post was made by the appellant after his termination, and during the pendency of the suit filed by the



appellant herein, which is pending, before the Court at Court of Sr. Civil Judge, Aurangabad.

9. Since the respondent found the post of the appellant, herein, defamatory, the suit, i.e., CS DJ No. 625/2019, titled as “Kohler Power India Pvt. Ltd. Versus Pankaj Deshmukh & Anr.”, was filed by the respondent, which has been disposed of by the impugned judgment dated 11th September, 2024.

10. This Court takes note of the Evidence Affidavit filed on behalf of the appellant herein, which reads as under:

“EVIDENCE BY WAY OF AFFIDAVIT BY THE DEFENDANT NO. 1

Affidavit of Shri Pankaj Deshmukh aged 41 years, son of Shri Prabhakar Deshmukh, resident of Row House 19, Gut No. 151, Kesharnagari, Deolai Road, Satara Parisar, Aurangabad and presently at New Delhi, do hereby state on solemn affirmation as under:

xxx xxx xxx

4) That the Deponent challenged his termination from services by filing a Civil Suit before the Court of Civil Judge, Senior Division, Aurangabad vide suit No. CS-725 of 2019 for Declaration that the termination of the Deponent from services from the Plaintiff Company be declared as illegal, bad in law and also pray for consequential reliefs. The Plaintiff has not yet filed its Written Statement in response to the Civil Suit filed by the Deponent in Aurangabad, challenging his termination from the services of the Plaintiff Company. The above Civil Suit filed by the Deponent is still pending disposal by the Hon'ble Court at Aurangabad. Copy of the Civil Suit is Ex. DW-1/2.

5) That the Plaintiff Company in the month of June, 2019, posted an image at the official Account on LinkedIn with a message of diversity contained therein which read as under:

“Diversity means.....Learning to embrace people from all walks of life”

In response to the above message by the Plaintiff Company, the Deponent responded:



“I think Kohler Co. need to travel a lot on the path of Diversity.....specifically for Indian Power business...the newly appointed leadership team has to understand the difference between diversity & discrimination .. the unfortunate part is under the head Diversity, people are getting discriminated on the basis of their mother tongue/being MARATHI (Local) by HR leadership itself.. I am one of them, victimized based on geographical location/mother tongue... The worst part is, I had faced this treatment after serving almost 7 years of service with Kohler Co. Just to raise the red flag. I also knock the doors of ETHICS team and Senior leadership team in US but seems they also helpless to take the decision. Anyways still looking forward Justice for those MARATHI People who got victimized by this anti Marathi Management.”

6) That the Deponent never uploaded any defamatory comments/image at the official account on LinkedIn. The Deponent only responded to the image at the official account on LinkedIn message by the Plaintiff Company. The response by the Deponent was not defamatory in nature but was an advice to the Plaintiff Company to look into its own house.

xxx xxx xxx”

11. This Court further notes that during his cross-examination before the learned Trial Court, the appellant herein, admitted to the said post. Further, the appellant also admitted that he has not given any name, as no such Marathi employee, has ever been victimized by the respondent company. The cross-examination of the appellant on 23rd February, 2024, as DW-1, is reproduced, as under:

xxx xxx xxx

Q: Have you given name and description of Marathi people who have been victimized by plaintiff co. in your written statement?

Ans: No

xxx xxx xxx

I put it to you that words mention in para 5 of your evidence affidavit from point C to D were written by me with a view to defame the plaintiff Co. and lower its reputation of the plaintiff co. in the eyes of all and sundry.



Ans: No

xxx xxx xxx

Q: Have you remove from impugned comment as mentioned in para 5 of your affidavit.

Ans: No, it is still there.

xxx xxx xxx”

12. A perusal of the aforesaid cross-examination clearly shows that the appellant herein has not given any name or description of any other Marathi people, who have allegedly been victimized by the respondent company.

13. This Court also notes the written statement filed on behalf of the appellant before the learned Trial Court, relevant portion of which, is reproduced as under:

“xxx xxx xxx

6. That the content of para 6 are admitted to the extent that the defendant no. 1 send emails to the management of the company wherein defendant no. 1 allegation is based against one Sh Vipin Kumar, Assistant Director, HR who is biased against Marathis and was always tried to induct employees of his own community as against employees from Maharashtra, which was rather against the plaintiff company. Defendant no. 1 never made any type of allegation against the plaintiff company but made the same only against one person who is Assistant Director HR in the plaintiff company. It is wrong and emphatically denied that allegation by the defendant no. 1 against Sh Vipin Kumar, Assistant Director, HR of being biased are false and vexatious and baseless, the defendant no. 1 retreats those allegation and stand by those allegation.

7. That the content of para 7 of the plaint are admitted to the extent that the plaintiff company posted the message on their official LinkedIn account in the month of June, 2019 and also the defendant no. 1 in response of the above message posted on his personal LinkedIn profile, rest of the content of this para are wrong and denied. (typographic error on the para) is wrong and denied. It is wrong and denied that the statement by the defendant no. 1 in his personal LinkedIn handle are in the way defamatory and disparaging infact the allegation are not against the plaintiff company. The defendant no. 1 made allegation only against one of the employee of plaintiff company



i.e. Sh. Vipin Kumar, Assistant Director, HR who was indulging in unethical activity in recruiting only non-Marathis employees which is against constitutional provision. The comment by the defendant no. 1 rather to make within effort in the interest of plaintiff company so the erring employee i.e. Sh Vipin Kumar, Assistant Director, HR, desist from engaging against the Constitution provision in the democratic country like India. Infact the present suit filed by the Sh Vipin Kumar, Assistant Director, HR is nothing but the misuse of his official position in the company.

xxx xxx xxx”

14. A perusal of the aforesaid written statement filed on behalf of the appellant before the Trial Court, shows that in the written statement, the appellant herein has made allegations against Mr. Vipin Kumar, Associate Director, HR, who, as per the appellant, was biased against the Marathi work force, and was trying to induct employees of his own community. However, in the LinkedIn post, the appellant herein, has made comments against the respondent company itself. The said comment does not make any allegation against any employee who is indulging in any biased behaviour. Rather, the LinkedIn comment of the appellant shows that the appellant has made direct comments against the respondent company itself.

15. Thus, the submissions of the appellant herein in the written statement that it never made any allegation against the respondent company, but against one person, i.e., Mr. Vipin Kumar, Associate Director HR, in the respondent company, cannot be accepted.

16. In the judgment dated 11th September, 2024, the learned Trial Court on the basis of the evidence before it, has given a finding, as under:

“xxx xxx xxx

50. In June-2019, plaintiff company is stated to have posted an image on its official LinkedIn account with message of "Diversity means Learning to embrace people from all walks of life".



51. Defendant No. 1 is stated to have posted following comment on his personal LinkedIn account handle on above mentioned message of plaintiff company to the following effect:-

“I think Kohler Co. need to travel a lot on the path of Diversity...specifically for Indian Power Business..the newly appointed senior leadership team has to understand differences between diversity & discrimination... the unfortunate part is under the head of Diversity, people are getting discriminated on the basis of their mother tongue/ being a MARATHI (local) by the HR leadership itself..I am one of the them, victimized based on the geographical location/mother tongue...The worst part is, I had face this treatment after serving almost 7 years of service with Kohler Co. Just to raise the red flag, I also knock the doors of ETHICS team and Senior leadership team in the US but seems they also helpless to take the decision..Anyways, still looking forward justice for those MARATHI People who got victimized by this anti Marathi Management.”

52. Defendant No. 1 in his written statement has admitted to have made above mentioned comment on message of plaintiff company on his personal LinkedIn account handle.

53. Defendant No. 1 in the above-mentioned comment has criticized plaintiff company and has indicated that Marathi work force in plaintiff company is being discriminated on basis of their mother tongue/being a Marathi (local) by HR leadership of plaintiff company. Defendant No. 1 has claimed himself a victim of the same on basis of geographical location/mother tongue. He is stated to have written in this regard to Ethics Team and Senior Leadership Team of plaintiff company in the US and completed his comment by saying that he is looking forward for justice for those Marathi people who got victimized by Anti-Marathi Management.

54. Comment made by defendant No. 1 if read as such is libelous. PW1 in his cross-examination has stated that he does not know the exact number of persons who commented on the post. He volunteered that plaintiff company has global presence and as such millions of people must have seen the post. Suggestion was given to PW1 which he denied to the effect that persons who are alleged to have commented on post in question by defendant No. 1 on LinkedIn were only at instance of Mr. Vipin Kumar, HR Director.

55. Defendant No.1 did not give name of any other Marathi person who has been victimized by plaintiff company. The said question was asked from defendant No. 1/DW1 in his cross-examination to which he stated that he has not given name and description of Marathi people



who have been victimized by plaintiff company in his written statement. He admitted that he has projected himself as employee of plaintiff company. He further admitted that on the day when he replied to the message posted by plaintiff company on LinkedIn, he was not employee of plaintiff company. He admitted that plaintiff company is reputed group of companies and has offices and factories in many countries of the world. He feigned ignorance to the fact that page of LinkedIn where - impugned comment was posted is followed by more than 90,000 people. He further feigned ignorance that he does not know whether said followers comprise of people in industry, dealers, distributors, employees of plaintiff company, consumers of products of plaintiff company as well as general public. He stated that he cannot say whether impugned comment has been seen by various employees of plaintiff company at its various branches/offices including Aurangabad and Delhi office at Jasola, New Delhi. He feigned ignorance to the fact that Maratha community is one of biggest regional community in India and forms 32% of residents of Maharashtra. He admitted that 90% work force of plaintiff company in Aurangabad consist of Marathis.

56. Defendant No.1 in his written statement has stated that he never made any allegation against plaintiff company but made the same only against Mr. Vipin Kumar, who is Assistant Director HR in plaintiff company.

57. Perusal of impugned comment by defendant No. 1 as admitted by him does not show that he has mentioned name of Mr. Vipin Kumar in the same and rather has leveled allegations against plaintiff company and its management. Defendant No. 1 in his cross-examination admitted that he has nowhere mentioned name of Mr. Vipin Kumar in the impugned post.

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17. A perusal of the aforesaid judgment clearly shows that the said judgment dated 11th September, 2024, has been passed on the basis of evidence before the said Court. The evidence before the learned Trial Court, which is before this Court, is very clear and categorical to the effect that the appellant herein had made defamatory comments regarding discrimination against the respondent company, and not against any individual, as has been contended, on behalf of the appellant.



18. This Court further notes that the learned Trial Court on the basis of the findings, has passed the following directions against the appellant herein:

“xxx xxx xxx

66. While discussing issue No. 1, I have already mentioned comment made by defendant No. 1 on his personal Linkedin account handle on message posted by plaintiff company on its official Linkedin account. The said comment has been admitted by defendant No. 1 to have been made by him. As already held, the said comment in itself is libelous. In these circumstances, I am of the view that plaintiff has been -- able to discharge its burden qua this issue. **This issue is accordingly decided in favour of plaintiff and against defendant No. 1. Defendant No. 1 is accordingly restrained from defaming plaintiff in any manner conceivable including but not limited to making or sharing malicious posts against plaintiff on social media platforms like Whats app, facebook, twitter, Linkedin etc.**

ISSUE No. 4

4. Whether the plaintiff is entitled to the relief of mandatory injunction regarding tendering of unconditional and unqualified apology by the defendant No. 1 on the Website of the defendant No.2? OPP

xxx xxx xxx

68. While discussing issue No. 1, I have already mentioned comment made by defendant No. 1 on his personal Linkedin account handle on message posted by plaintiff company on its official Linkedin account. The said comment has been admitted by defendant No. 1 to have been made by him. As already held, while deciding issue No. 1, the said comment in itself is libelous. In these circumstances, I am of the view that plaintiff has been able to discharge its burden qua this issue. **This issue is accordingly decided in favour of plaintiff and against defendant No. 1. Defendant No. 1 is directed to tender unconditional and unqualified apology on website of defendant No. 2. While making prayer of mandatory injunction, plaintiff has also sought directions to defendants to delete, destroy and remove malicious post of defendant No. 1 on website of defendant No. 2 but the same appears to have been inadvertently missed while framing issues. Relief sought by plaintiff cannot be said to have been complete without any directions being given in this regard particularly in view of stand taken by defendant No. 2 in its written statement. Defendant No. 1 is directed to remove his malicious post qua plaintiff company within 15 days from passing of this judgment, failing which,**



defendant No. 2 is directed to remove malicious post qua plaintiff company from personal Linkedin handle account of defendant No. 1.

RELIEF

69. In view of my findings qua Issues No. 1,3 and 4, suit filed by plaintiff is decreed for sum of Rs.1,00,000/- against defendant No. 1. Defendant No. 1 is restrained from defaming plaintiff in any manner conceivable including but not limited to making or sharing malicious posts against plaintiff on social media platforms like Whats app, facebook, twitter, Linkedin etc. Defendant No. 1 is further directed to tender unconditional and unqualified apology on website of defendant No. 2 and remove his malicious post qua plaintiff company within 15 days from passing of this judgment, failing which, defendant No. 2 is directed to remove malicious post qua plaintiff company from personal Linkedin handle account of defendant No. 1. Costs of suit also awarded in favour of plaintiff and against defendant No. 1.

xxx xxx xxx”

19. The aforesaid judgment dated 11th September, 2024 passed by the learned Trial Court, is justified, and has been passed on the basis of the evidence on record. This Court finds no illegality in the aforesaid judgment.
20. Consequently, no merit is found in the present appeal.
21. Accordingly, the present appeal, along with the pending applications, is hereby dismissed.

MINI PUSHKARNA, J

APRIL 22, 2025

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