

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

**INTERIM APPLICATION NO. 15816 OF 2024
IN
WRIT PETITION NO. 8899 OF 2021**

Kalpana Suraj Jagtap .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

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Mr. Rajeshwar G. Panchal a/w Mr. Sarang S. Gundajwar and
Mr. Vivekanand G. Panchal, for the Petitioner.

Ms Shruti D. Vyas, Addl.G.P. a/w Mr. S. P. Kamble, AGP, for
Respondent No.1-State.

Mr. S. S. Panchpor, for Respondent No. 2.

Mr. Aashay Rabade i/by Ms Pratibha Gavhane, for Respondent
No. 3.

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**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.**

DATED : 16th MARCH, 2026

P.C:-

1. In continuation of our order dated 16.02.2026, the Senior Administrative Officer of Maharashtra Maritime Board, Mumbai has filed an affidavit, affirmed on 06.03.2026.

2. During the hearing of the Writ Petition filed by the Petitioner alongwith an Interim Application, we wanted to know her status in service as well as the status of Respondent No. 3, against whom the Petitioner had made a complaint and an inquiry was initiated based on the 'Vishaka guidelines'.

From the affidavit filed before us, we are informed that on 09.08.2010, the Petitioner filed a complaint of harassment against Respondent No. 3 and sought transfer to Thane Office. At the relevant time, Respondent No. 3 was posted as Regional Port Officer at Mora Group of Ports at Regional Port Office at Thane, and the Petitioner was posted at Mandwa Port Office, falling under the jurisdiction of Mora Group of Ports, and irrespective of the filing of the harassment complaint, he was transferred from Mandwa Port Office to Mora Group of Ports at Thane.

On 16.08.2010, a Committee was constituted to investigate the allegations made in her complaint, and the Committee submitted the first report on 15.03.2011, which was *ex-parte*. During the such period, i.e. from 27.08.2010 to 20.09.2010, the Petitioner was on Earned Leave of 25 days, which was sanctioned on 21.09.2010. From 21.09.2010 to 10.04.2011, i.e. a period of 202 days, and for the period from 11.04.2011 to 09.07.2011, the Petitioner availed Maternity Leave, which was sanctioned at a subsequent point of time.

On 02.01.2012, the Petitioner requested for a decision on her complaint of sexual harassment and requested for her transfer at any other place. The affidavit is annexed alongwith her request made to the CEO on 02.01.2012, where she expressed that she very much desires to serve, but she apprehended danger to her life in the wake of the complaint filed by her alleging sexual harassment, and also expressed her disappointment over no action being taken to redressed her grievance, and she categorically made a request that she should be placed in Mumbai Region. By the same

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communication, she also stated that unless and until a decision in that regard is taken, she will not be in a position to resume her duty, and this was communicated by her in writing, and she expected that justice would be done to her.

3. According to the affidavit, it is worth to note that Respondent No.3 was placed under suspension by office order dated 27.06.2011 in reference to the allegations under the Prevention of Corruption Act, 1988, but by order dated 13.08.2012, he came to be reinstated and he was placed at Rajpuri Group Port, which is a distinct place from the posting of the Petitioner at Mandwa Port, which was under the supervisory jurisdiction of Respondent No. 3. It is thus pertinent to note that, Respondent No. 3 was shifted to Rajpuri Ports Group, distinct from Mora Group of Ports with its office situated at Thane.

In the wake of the aforesaid, there was no reason for the Petitioner not to resume her duty, but except communicating her grievance on 02.01.2012, she took no steps and continued to be absent from duty.

4. The above conduct of her resulted into a Memorandum of Article of Charges being served upon the Petitioner on 08.02.2016, for her continuous absence from duty without permission, after availing six months maternity leave up to 10.04.2011 and, thus, she is accused of misconduct under the Maharashtra Civil Services (Conduct Rules) 1079.

The Memorandum of Article of Charges alongwith the list of witnesses and relevant papers are served upon the Petitioner, and she has preferred a representation to the CEO,

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protesting about the said enquiry, alleging that she had made a serious grievance about the harassment faced by her, but she was apprehensive of her safety in workplace and the administration was requested to reinvestigate her case to do complete justice to her.

We are informed that the inquiry against the Petitioner is pending.

4. It is worth to note that, being aggrieved by the initiation of inquiry, the Petitioner approached the Maharashtra Administrative Tribunal, but considering that the Tribunal shall exercise no jurisdiction over the Maharashtra Maritime Board, the Original Application (O.A.) was disposed of as withdrawn.

The Petitioner then approached this Court by filing Writ Petition (Stamp) No.30977 of 2019, and on 12.03.2021, the Petition was withdrawn with liberty to file fresh Writ Petition for the same cause of action.

5. The present Writ Petition filed by the Petitioner, therefore, raise a challenge to the Report dated 25.07.2012 against Respondent No. 3 and seek a relief that it is non-est and illegal on account of lack of jurisdiction, and in prayer clause (c), the Petitioner seek relief that she may be permitted to work at a place where Respondent No. 3 is not working or do not exercise supervisory jurisdiction, keeping in tune the law laid down by the Apex Court in *Vishaka & Ors. Vs. State of Rajasthan & Ors.*¹

Apart from which, the challenge is also raised to the

¹ (1997) 6 SCC 241

chargesheet dated 08.02.2016, alleging that it defeat the whole purpose of the 'Vishaka guidelines', as the inquiry initiated against her, in the backdrop of her complaint of sexual harassment by Respondent No. 3 is the premise for initiating enquiry against her.

6. In the pending Writ Petition, Interim Application No. 15816 of 2024 is taken out, seeking a direction to Respondent No. 2 to allow her to resume her duty and to post her at any office in Mumbai, where Respondent No. 3 is not working.

It is in this background, we had passed a detailed order inquiring about the status of both the parties.

7. From the affidavit placed before us on behalf of the Maharashtra Maritime Board, it is clear that Respondent No. 3 on reinstatement, was already posted as a Regional Port Officer, Rajpuri (Alibag) Group of Ports, and we are informed that, in the year 2022, he is brought to Mora Group of Ports, Thane. We, however, must record that at the relevant time when the Petitioner made a grievance and was desirous of joining, i.e. in the year 2012, Respondent No. 3 was not working at the place as he was already transferred to Rajpuri Group of Ports but, in any case, the Petitioner did not resume her duty on the pretext that Respondent No. 3 will exercise supervisory control over her.

We are informed that, as on date, Respondent No. 3 is brought back to Mora Group of Ports but, in any case, the Petitioner has not bothered to resume after she forwarded the letter of 02.01.2012 and, in any case, now she is facing enquiry by issuance of a chargesheet in 2016, and though the enquiry

has not progressed ahead, except for issuance of Memorandum of Article of Charges, since 2016, we direct Respondent No. 2 to conclude the same within four months.

We make it clear that we have the statement of the learned counsel for the Petitioner that she will render her co-operation in the enquiry proceedings and assist the Respondent-Authority in reaching a conclusion in said enquiry.

8. Though it is a strenuous request made on behalf of the learned counsel for the Petitioner that she shall be permitted to join her duty, we do not think that it would be appropriate to issue such direction, because we have noted that after availing the maternity leave, she is absent from duty till date, i.e. 2026, and considering her absence without any permission, the Department has already initiated enquiry against her, and it is only appropriate that Respondent No. 2 conclude the inquiry and take a final decision upon her absence for such a prolonged period of time, i.e. more than a decade.

9. Though since we are not inclined in issuing any direction permitting her to join, at the same time we have also noted the grievance of the Petitioner that she should not be made to work at the place where Respondent No. 3 is working. Respondent No. 3 is presently in Thane District, but since the Petitioner has not reported for duty, we do not want to comment anything upon the same. Apart from this, it is to be noted that the complaint about allegations of sexual harassment against Respondent No. 3 has already attained finality in the wake of the report dated 25.07.2012, which do not find Respondent No. 3 to be guilty.

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We find the challenge being raised to the report of 25.07.2012 and we would like to consider the said challenge for adjudication on the next date of hearing, as the learned counsel for the Port Trust seek some time in that regard.

We also have appearance on behalf of Respondent No. 3 and the learned counsel also desires to address us on this point.

In the wake of the aforesaid, we dispose of Interim Application No. 15816 of 2024 and direct the inquiry initiated against the Petitioner to be taken to its conclusion within a period of six weeks.

As far as the challenge to the report dated 25.07.2012 is concerned, we direct listing of the Writ Petition on **25.03.2026**, on the Supplementary Board.

The learned counsel for the Petitioner shall furnish her residential address alongwith her email address to the learned counsel representing the Port Trust, so that the documents and further information in relation to the enquiry shall be made available to her,

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)

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signed by
RUSHIKESH
VISHNU
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