

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1213 OF 2024

Siddhesh Pradeep Satpute

.. Petitioner

Versus

State Bank of India & Ors.

.. Respondents

TRUSHA
TUSHAR
MOHITE

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Adv. Anand Pande i/b Adv. Shobit Shukla for the Petitioner.

Adv. Abhijit Joshi a/w Adv. Varsha Sawant, Adv. Varad Sirsikar and Adv. Sourav Somani for Respondent Nos. 1 & 2.

**CORAM: SUMAN SHYAM &
FIRDOSH P. POONIWALLA, JJ.**

RESERVED ON : MAY 4, 2026.

PRONOUNCED ON : JUNE 16, 2026

Oral Judgement (Per Firdosh P. Pooniwalla J.)

- 1.** Rule. Rule made returnable forthwith with the consent of the Petitioner and Respondent Nos. 1 and 2 and heard finally.
- 2.** Respondent No.3, though served, has not appeared.
- 3.** This Writ Petition has been filed challenging the Order dated 29th August, 2023 passed by Respondent No.2 purporting to act under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal)

Act, 2013. (hereinafter referred to as “**the Sexual Harassment Act**”)

FACTS

4. The facts, as stated in the Writ Petition, are as under :-
- a) The Petitioner is working in the State Bank of India since the last 14 years.
 - b) The Petitioner was residing at Navi Mumbai and in order to travel to the bank which is situated at Bandra Kurla Complex (**BKC**) at Bandra, Mumbai, the Petitioner would travel by local train from Navi Mumbai to Kurla everyday and from Kurla railway station the Petitioner would take a shared autorickshaw to reach his bank at BKC.
 - c) On 24th March, 2023, the Petitioner, in his usual manner, opted to go to his bank at BKC from Kurla railway station in a shared autorickshaw. The Petitioner took a seat on the back side of the autorickshaw. As the autorickshaw was a shared autorickshaw, the autorickshaw driver took two more passengers.
 - d) It is the case of the Petitioner that, though the back seat of the autorickshaw is generally comfortable for two passengers, the

autorickshaw driver got three passengers seated on the back seat and therefore, the seating was uncomfortable.

e) On that date, the three passengers in the autorickshaw were the Petitioner, Respondent No.3 and another passenger. Respondent No.3 sat on the back seat at the entrance of the autorickshaw, the Petitioner was made to sit next to Respondent No.3 and the third passenger sat to the right of the Petitioner.

f) It is the case of the Petitioner that the said autorickshaw was a mode of public transport, and, by any stretch of imagination, could not have been termed as transport provided by the employer.

g) It is further the case of the Petitioner that, since the Petitioner was sitting in between Respondent No.3 and the third passenger, and in view of the bumpy ride of the autorickshaw due to the bad condition of the road, on some occasions, the Petitioner's left hand must have touched the Respondent No.3's bag, which she was carrying on her right arm, and Respondent No.3 took a very sensitive approach in the matter.

h) Respondent No.3 stopped the autorickshaw at the American Embassy near BKC and started abusing the Petitioner

as if the Petitioner had inappropriately touched her chest in the autorickshaw and she abruptly sprayed pepper spray in the eyes of the Petitioner, causing serious inconvenience to him.

i) Further, Respondent No.3 also started shouting and calling the crowd and started making accusations and abused the Petitioner in the most filthy language.

j) Looking at the gathering of the crowd and the aggression of Respondent No.3, the autorickshaw driver asked the Petitioner as well as Respondent No.3 to sit in the autorickshaw and he went ahead to “ONE BKC”, where again Respondent No.3 started calling her colleagues and asked them to come and hit the Petitioner.

k) The Petitioner immediately came out of the Autorickshaw and stood near the IDFC Bank at BKC, where Respondent No.3, who claimed to be the daughter-in-law of an Ex-Assistant Commissioner of Police, Mumbai, called her father-in-law and also called the Police. Then the police van came. The Petitioner was taken to the BKC Police Station and a case was registered against him under Section 354A of the Indian Penal Code, 1860.

l) Respondent No.3 also lodged a complaint against the Petitioner with the Internal Complaint Committee of her company where she was working as a Chef, by making an allegation of sexual assault against the Petitioner. The Internal Committee of the Company of Respondent No.3 forwarded the complaint to Respondent No.1, who referred the matter to the Internal Complaint Committee of the employer of the Petitioner i.e. Respondent No.2 herein.

m) After making an enquiry into the said complaint, by Order dated 29th August, 2023, the Respondent No.2 found the Petitioner guilty of sexual harassment and recommended that the employer must take action against the Petitioner as per the Service Rules.

m) The Petitioner, by a letter dated 28th November, 2023 address to the Deputy General Manager and CIRDO of State Bank of India, filed an Appeal against the said Order dated 29th August, 2023. The Appeal has been heard. However, by the Order dated 18th December, 2023 passed in the present Writ Petition, it was directed that no final Orders should be passed in the said Appeal without the leave of the Court. In view of the Order dated

18th December, 2023 passed by this Court, no final Order has been passed in the said Appeal.

SUBMISSIONS OF THE PETITIONER.

5. Mr. Anand Pande, the learned counsel appearing on behalf of the Petitioner, submitted that Respondent No.2 had jurisdiction to entertain a complaint, conduct an enquiry and pass an Order under the Sexual Harassment Act, if the sexual harassment had taken place at the “workplace” of the employee who is charged with sexual harassment. However, the alleged incident did not take place at the “workplace”. Therefore, the Order dated 29th August, 2023, was without the authority of law.

6. Mr. Pande submitted that “workplace” is defined under Section 2(o) of the Sexual Harassment Act. It includes any place visited by the employee arising out of or during the course of employment including transportation by the employer for undertaking such a journey.

7. Mr. Pande submitted that the definition of “workplace” shows that it includes only transportation provided by the employer for undertaking the journey to any place visited by the employee arising out of or during the course of employment.

8. Mr. Pande submitted that, in the present case, when the alleged incident of sexual harassment took place, the Petitioner was not travelling by any transport provided by the employer but by a public transport i.e. a shared autorickshaw. Therefore, the alleged incident did not take place in a “workplace”, and, therefore, Respondent No.2 had no jurisdiction to entertain or try or decide the complaint filed by Respondent No.3.

9. Mr. Pande further submitted that the finding of Respondent No.2 that, even though the incident allegedly happened in public transport on the way to the “workplace”, it falls within the wide definition of “workplace” as per Section 2(o)(v) of the Sexual Harassment Act, is totally erroneous.

10. Mr. Pande submitted that, for the aforesaid reasons, the Order dated 29th August, 2023 is without jurisdiction and is required to be set aside.

SUBMISSIONS OF RESPONDENT NOS. 1 AND 2.

11. Respondent Nos. 1 and 2 have filed Affidavit sworn by Mr. Anup Kumar, the Assistant General Manager (HR) of Respondent No.1, affirmed on 10th January, 2024, in reply to the Petition.

12. Mr. Abhijit Joshi, the learned counsel appearing on behalf of Respondent Nos. 1 and 2, submitted that the interpretation of “workplace” by

Respondent No.2 is correct and therefore, the Order dated 29th August, 2023 does not call for any interference.

13. Mr. Joshi further submitted that by virtue of the provisions of Section 2(a) (which defines “aggrieved woman”), Section 9 (complaint of sexual harassment) and Section 11 (enquiry into complaint) of the Sexual Harassment Act, the Respondent No.2 had jurisdiction to entertain the complaint of Respondent No.3. Mr. Joshi further submitted that Respondent No.2 had dealt with the issue whether the alleged incident took place at the “workplace” of the employee. The same does not affect the jurisdiction of Respondent No.1.

ANAYLSIS AND FINDINGS

14. At the outset, we must point out that we are entertaining this Writ Petition despite the Appeal filed by the Petitioner. As stated hereinabove, the Petitioner has filed an Appeal against the said Order dated 29th August, 2023. The said Appeal has been heard. No final Order has been passed in the Appeal in view of the Order dated 18th December, 2023 of this Court in the present Petition which directed that no final Order in the Appeal be passed without the leave of the Court. However, since, in the Petition, the Petitioner has raised an issue of jurisdiction of Respondent No.2 to entertain the

complaint of Respondent No.3, we are not inclined to relegate the Petitioner to an alternate remedy. It is well settled in law that when issues of jurisdiction are raised in a Writ Petition, the Court may not relegate the Petitioner to an alternate remedy of an Appeal.

15. Before we consider the rival contentions of the parties, it would be appropriate to refer to certain provisions of the Sexual Harassment Act which are relevant to our enquiry. Sections 2(a), 2(o), Section 9 and Section 11 of the Sexual Harassment Act are relevant and are set out hereunder :-

“2 (a) "aggrieved woman" means-

(i) in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;

(ii) in relation to dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

2(o) "workplace" includes-

(i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;

(ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service;

(iii) hospitals or nursing homes;

(iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;

(v) any place visited by the employee arising out of or during the course of employment / including transportation by the employer for undertaking such journey;

(vi) a dwelling place or a house;

9. Complaint of sexual harassment (1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident:

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

11. Inquiry into complaint. (1) Subject to the provisions of section 10, the Internal Committee or the local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the

police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

(2) Notwithstanding anything contained in section 509 of the Indian Penal Code (45 of 1860), the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

(3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents; and

(c) any other matter which may be prescribed.

(4) The inquiry under sub-section (1) shall be completed within a period of ninety days.”

16. Section 2(a)(i) provides that an aggrieved woman means any woman of any age, whether employed or not, who alleges to have been subjected to any act of sexual harassment by the Respondent in relation to a “workplace”.

17. Similarly, Section 9 provides that an aggrieved woman may make, in writing, a complaint of sexual harassment at the “workplace” to the Internal Committee if so constituted.

18. Therefore, in the light of the aforesaid provisions, the Internal Committee of a Company or an organisation can entertain a complaint of an aggrieved woman of being subjected to sexual harassment only at the “workplace”.

19. Respondent No.2 has come to the conclusion that the complaint made by Respondent No.3 against the Petitioner was in respect of a “workplace” by virtue of the provisions of Section 2(o)(v), which state that any place visited by the employee arising out of or during the course of employment, including transportation by the employer for undertaking said journey, would be included within the definition of the “workplace”.

20. It can be seen that Section 2(o)(v) includes within the meaning of “workplace” transportation by the employer for undertaking a journey to

any place visited by the employer arising out of or during the course of employment.

21. Therefore, in order to fall within the meaning of “workplace”, the transportation has to be provided by the employer.

22. In the present case, the Petitioner and Respondent No.3, alongwith one another passenger, were sharing an autorickshaw from the Kurla Railway Station to BKC at Bandra. Although the Petitioner was going to his office, the said transportation had not been provided either by his employer or the employer of Respondent No.3. In these circumstances, in our view, such transportation would not fall within the definition of a “workplace” as defined by Section 2(o)(v). For the said reason, in our view, the alleged incident has not taken place at a “workplace”.

23. Respondent No.2 cannot entertain a complaint of an aggrieved woman being subjected to sexual harassment if the alleged sexual harassment has not taken place at the “workplace”. For this reason, in our view, Respondent No.2 had no jurisdiction to entertain the complaint of Respondent No.3 and pass the Order dated 29th August, 2023. Therefore, in our view, the Order dated 29th August, 2023 of Respondent No.2 is un-sustainable in law and hence, liable to be set aside.

24. It is the submission of Mr. Joshi, on behalf of Respondent Nos. 1 and 2, that, by virtue of the provisions of Section 2(a), Section 9 and Section 11 of the Sexual Harassment Act, Respondent No.2 had jurisdiction to entertain the complaint of Respondent No.3. It was further the submission of Mr. Joshi that Respondent No.2 could then decide whether the alleged incident took place at the “workplace” of the employee.

25. We are unable to accept the said submission of Mr. Joshi. Section 9 of the Sexual Harassment Act provides that any aggrieved woman may make in writing a complaint of sexual harassment at a “workplace” to the Internal Committee if so constituted. In the light of the provisions of Section 9 of the Sexual Harassment Act, the Internal Committee of a company or organisation will have jurisdiction to entertain a complaint only if sexual harassment has taken place at a “workplace” as defined under Section 2(o) of the Sexual Harassment Act. Since, in the present case, as held by us, the alleged sexual harassment has not taken place at a “workplace”, Respondent No.2 had no jurisdiction to entertain the complaint of Respondent No.3. In these circumstances, the question, of Respondent No.2 entertaining the complaint and then deciding whether the alleged sexual harassment took place at a “workplace”, does not arise at all.

26. In our view, the law would mandate such an Internal Committee to first decide the jurisdictional question whether the alleged sexual harassment has taken place at a “workplace” and only if the answer to that question is in the affirmative, would the Internal Committee have jurisdiction to conduct a further enquiry in the matter.

ORDER

In the light of the aforesaid discussion and for the aforesaid reasons, the following Orders are passed :-

- a) Writ Petition is allowed in terms of prayer (b) which reads as under :

“(b) That the Hon’ble Court be pleased to set aside and quash the impugned order passed by the Respondent No.2 on the complaint of the Respondent No.3 dated 29.08.2023 being Exhibit-A to the Petition.”

- b) We make it absolutely clear that, in this Judgement, we have not gone into the merits of the controversy, i.e. whether the Petitioner had sexually harassed Respondent No.3 in the shared authorickshaw or not. The said aspect of the matter is left open to be dealt with in accordance with law in an appropriate proceeding.

- c) Rule is made absolute in the aforesaid terms.

d) In the facts and circumstances of the case, there will be no order as to costs.

(FIRDOSH P. POONIWALLA, J.)

(SUMAN SHYAM, J.)