



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 6561 OF 2025

Naresh Lilanath Thombre, Aged 54 years, Occ: Service,
R/o Near Laxmi Sabhagruh, Bapatwadi, Wardha-442001.

PETITIONER

.....VERSUS.....

1. The Joint Director, Vocational Education & Training,
Regional Office, Civil Lines, Nagpur-440001.
2. The Principal, Industrial Training Institute, Hanuman
Tekdi, Mahada Colony, Wardha-442001.
3. Internal Complaint Committee, Govt. Industrial
Training Institute, Wardha, Through its Chairman/
President Sunita Rajendra Narkhede, R/o Womens
Hostel, Matru Sewa Sangh, Wardha, Tahsil
And District Wardha – 442001.
4. Arti Rohidas Pawar (Arti Pramod Ghorpade),
Aged: Major, Occ: Service, R/o M-9, New Mhada
Colony, Opp. Govt. I.T.I. Pratap Nagar, Wardha,
442001 (Permanent Resident of Nashik).

RESPONDENTS

WITH

WRIT PETITION NO. 6552/2025

Ganesh Shivramji Ghuse, Aged 51 years, Occ: Service,
R/o Raju Petkar Layout, Gairy Nagar, Sawangi Meghe,
Wardha, Tahsil and District Wardha-442001.

PETITIONER

.....VERSUS.....

1. The Joint Director, Vocational Education & Training,
Regional Office, Civil Lines, Nagpur-440001.
2. The Principal, Industrial Training Institute, Hanuman
Tekdi, Mahada Colony, Wardha-442001.
3. Internal Complaint Committee, Govt. Industrial
Training Institute, Wardha, Through its Chairman/
President Sunita Rajendra Narkhede, R/o Womens
Hostel, Matru Sewa Sangh, Wardha, Tahsil
And District Wardha – 442001.
4. Arti Rohidas Pawar (Arti Pramod Ghorpade),
Aged: Major, Occ: Service, R/o M-9, New Mhada
Colony, Opp. Govt. I.T.I. Pratap Nagar, Wardha,
442001 (Permanent Resident of Nashik).

RESPONDENTS

Shri V.A. Dhabe, counsel for the petitioner in Writ Petition no.6561 of 2025.
Shri Inamul Haque, counsel for the petitioner in Writ Petition no.6552 of 2025.
Ms K.H. Bhondge, Assistant Government Pleader for the respondent nos.1 and 3.
Shri D.S. Kanwale, counsel for the respondent no.4.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE ON WHICH ARGUMENTS WERE HEARD : MARCH 27, 2026

DATE ON WHICH JUDGMENT IS PRONOUNCED : MARCH 30, 2026

JUDGMENT

RULE. Rule made returnable forthwith and heard finally with consent of the learned counsel for the parties.

2. The petitioners have challenged the interim orders passed by the Industrial Court, Nagpur rejecting the applications under Section 30(2) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (for short, 'the Act of 1971').

3. Since the controversy involved in both the petitions is identical and based on same set of facts and even same arguments are advanced in support of both the petitions, they are taken up together and decided by this common judgment.

4. Brief facts of the case are as follows:-

The petitioners are in the employment of the respondent nos.1 and 2 wherein petitioner in Writ Petition No.6561 of 2025 Naresh Liladhar Thombre was appointed as store-keeper and the petitioner in Writ Petition No.6552 of 2025 Ganesh Shivramji Ghuse was appointed as Craft Inspector and both were posted at I.T.I. Wardha at the time when the controversy arose. The respondent no.4 is also in employment of the respondent nos.1 and 2 and was appointed as Craft Instructor.

On 17.06.2025 the respondent no.4 issued a legal notice through her lawyer addressed to the respondent no.2 making various allegations of sexual harassment against the petitioners. Based on this complaint, the Internal Complaints Committee (for short, 'the ICC') conducted an enquiry and submitted its report dated 15.07.2025. The ICC recorded its recommendations in its report and recommended that the petitioners herein be transferred from Wardha and their one increment be stopped. In view this recommendation, the respondent no.1 issued transfer order dated 21.07.2025 thereby transferring the petitioner Ganesh Shivramji Ghuse from Wardha to Industrial Training Institute Bhamragad, District Gadchiroli and Naresh Liladhar Thombre to Pombhurna, District Chandrapur respectively. Both the petitioners challenged the transfer order as well as the orders of withholding one increment by filing complaint before the Industrial Court, Nagpur bearing Complaint ULP No.164 of 2025 (Ganesh Versus The Joint Director & Others) and Complaint ULP No.165 of 2025 (Naresh Versus The Joint Director & Others). In both these proceedings, they filed an interim application (Exhibit U-2) seeking interim stay to their transfer orders. The applications were contested on merits and by order dated 14.10.2025, the Industrial Court rejected the interim applications. The petitioners have challenged these interim orders passed by the Industrial Court by way of these writ petitions.

5. Shri V.A. Dhabe, learned counsel for the petitioner in Writ Petition No.6561 of 2025 primarily submitted that the impugned orders passed by the Industrial Court are without considering the crucial issue that the

transfer orders were issued by way of punishment and without conducting any departmental enquiry as required under the Maharashtra Civil Service (Conduct) Rules, 1979. It is submitted that the transfer orders are issued with *mala fide* intention and despite exoneration of the petitioners from the enquiry conducted by the ICC, the transfer orders are issued on the basis of recommendations. It is also submitted that the enquiry conducted by the ICC was itself defective since despite there being allegations against the Principal of the Institute, no enquiry was conducted against the Principal and with prejudiced mind, the petitioners were targeted. He therefore submitted that the respondents have indulged in unfair labour practices and the petitioners were entitled for grant of interim relief. He also submitted that the enquiry conducted by the ICC was in contravention of the provisions of Sections 6 to 14 and 19(i) of the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013 (for short, 'the POSH Act') and Rules 7 and 9 of the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (for short, 'the POSH Rules') framed thereunder. In support of his submissions, he placed reliance on the following judgments:-

- i. ***Kiran Singh & Others Versus Chaman Paswan & Others*** [AIR 1954 SC 340].
- ii. ***Chandrabhai K. Bhoir & Others Versus Krishna Arjun Bhoir & Others*** [AIR 2009 SC 1645].
- iii. ***Garden Reach Shipbuilders and Engineers Limited Versus Grse Limited Workmens Union & Others*** [2025 SCC OnLine SC 582].

- iv. ***Gurnam Singh (Dead) Through Legal Representatives & Others Versus Gurbachan Kaur (Dead) by Legal Representatives*** [(2017) 13 SCC 414].
- v. ***State of Karnataka & Others Versus Gadilingappa & Others*** [2010(1) Scale 655].
- vi. ***Somesh Tiwari Versus Union of India & Others*** [(2009) 2 SCC 592].
- vii. ***Dr.Vijayakumaran C.PV Versus Central University of Kerala & Others*** [(2020) 12 SCC 426].
- viii. ***Vishaka & Others Versus State of Rajsthan & Others*** [(1997) 6 SCC 241].

6. By inviting attention to the position of law laid down by the judgments in ***Kiran Singh & Others, Chandrabhai K. Bhoir & Others, Garden Reach Shipbuilders and Engineers Limited*** and ***Gurnam Singh (Dead) Through Legal Representatives & Others*** (supra), he submitted that it is settled that a decree or order which is passed without jurisdiction is a nullity. He submitted that despite there being allegations against the Principal, the enquiry Committee constituted at the instance of the Principal had conducted the enquiry and thus the Committee itself acted without jurisdiction. By relying on the position of law laid down in ***Gadilingappa & Others*** (supra), he submitted that the illegality committed by the Committee cannot be allowed to be perpetuated. On the point of challenge to the transfer order, by raising ground of malafides, he relied on the judgment in ***Somesh Tiwari*** and ***Dr.Vijayakumaran C.PV*** (supra). He also placed reliance on the judgment of the Hon'ble Supreme Court in ***Vishaka & Others*** (supra) and invited attention to the guidelines laid down thereunder.

7. Per contra, Ms K.H. Bhondge, learned Assistant Government Pleader for the respondent nos.1 and 3 and Shri D.S. Kanwale, learned counsel for the respondent no.4 vehemently opposed the petition. The learned Assistant Government Pleader submitted that the transfer order was issued on the recommendations of the ICC and in view of the conduct on the part of the petitioners causing harassment to the women employees, recommendations were made by the ICC. She submitted that although the Committee has not recorded direct findings of sexual harassment against the women employees, however it has been categorically observed that the acts of sexual harassment were not proved on account of lack of evidence. She also submitted that the ICC found no reason to disbelieve the allegations levelled by the women employee and after giving consideration to all the relevant aspects made recommendations in the report. She submitted that the transfer order and the order withholding one increment cannot be considered to be punitive but, are justified in the interest of protection of rights of the women employees. She submitted that the petitioners are transferred on administrative grounds and have been relieved of their charge at ITI, Wardha and their transfer is already effected. She submitted that as such there is no question of stay to the transfer order. She supported the order passed by the Industrial Court rejecting the application for grant of stay to the transfer orders of the petitioners.

8. Shri D.S. Kanwale, learned counsel for the respondent no.4 also opposed the petitions and submitted that the complaint filed before the

Industrial Court itself are not tenable since the reliefs claimed are in the nature of challenge to the report of the ICC before the Industrial Court. He also submitted that the petitioners have already filed their representations/appeal against the report of the ICC and as such the contentions based on the challenge to the report are misplaced. He also submitted that in view of the enquiry conducted by the ICC, there is no question of again conducting any enquiry under the Maharashtra Civil Services (Conduct) Rules, 1979 (for short, 'the Rules of 1979'), as claimed by the petitioners. In support of his submissions, he placed reliance on the judgment of the Hon'ble Supreme Court in *Medha Kotwal Lele & Others Versus Union of India & Others* [(2013) 1 SCC 297], *Aureliano Fernandes Versus State of Goa & Others* [(2024) 1 SCC 632] and *Ms X Versus Union of India & Others* [2020 SCC OnLine Del 1618].

9. In the wake of these contentions, rival controversy fall for my consideration.

10. It has to be seen that the challenge raised by the petitioners is to the interim orders passed by the Industrial Court refusing their application for grant of interim stay. The complaints filed by the petitioners are pending adjudication before the Industrial Court, Nagpur. The orders of transfer as well as the orders withholding one increment are based on the recommendation of the ICC. Thus, the primary question involved in the instant petitions is to the tenability of the interim orders passed by the Industrial Court on the application for stay.

11. Pertinent to note, the ICC has not recorded any conclusions about the petitioners having committed the acts of sexual harassment. Since the allegations against the petitioners are not proved, an issue arises about recourse to action based only on the recommendation of the ICC. This is not the case of transfer of the employees pending enquiry before the ICC. It has also to be noted that the transfer orders record that the petitioners have breached Rule 22A and 3(i) of the Rules of 1979 and based on this observation, the petitioners are directed to be transferred. The transfer order also refers to the allegations levelled by the women employee and therefore the issue arises about nature of transfer order being punitive or only administrative. Pertinent to note, these issues are the subject matter of adjudication in the complaint cases filed by the petitioners before the Industrial Court. Further, the allegations about non-compliance with the provisions of POSH Act while conducting an enquiry by the ICC are the subject matter of appeal/representation which is already filed by the petitioners by challenging the said report. As such, the issue which arises for consideration in the instant matter restricted to challenge to the interim orders passed by the Industrial Court.

12. It has to be noted that while considering the challenge to the transfer orders, the Industrial Court has given due consideration to the grounds of challenge. The primary contentions on behalf of the petitioners to challenge the transfer orders are about *malafide* action on the part of the respondents. In this regard, it has to be noted that the transfer orders are issued by considering the recommendations of the ICC.

Although the allegations of sexual harassment does not appear to have been proved conclusively, it has been observed by the ICC that the direct evidence to establish sexual harassment is not usually available. It has also to be noted that it is not the petitioners' case nor there is any evidence to establish that the complaint made by the lady employee was actuated with malice. These directions appear to be reasonable by considering the fact that the acts of sexual harassment in the nature of passing inappropriate comments against the woman employee are not in public vicinity. Thus, it has to be seen that the ICC, having appreciated the entire available material before it, thought it proper to recommend transfer of the petitioners. The transfer orders issued by the respondent no.1 based on these recommendations cannot therefore prima-facie be considered to be actuated with malice.

13. A perusal of the impugned orders passed by the Industrial Court reveal that while entertaining challenge to the transfer orders, the relevant issues about grounds of transfer have been dealt with. On the basis of material available before it, the Court has recorded its prima-facie observations and having found that the transfer orders are issued on the basis of reports of the ICC, it is concluded that the transfer orders cannot be termed as *mala fide* being transfers within the scope of Unfair Labour Practices defined under Item 3 Schedule IV of the Act of 1971. It has to be noted that the contentions raised by the petitioners alleging Unfair Labour Practices on account of orders of transfer as well as withholding increments is subject matter of adjudication in the complaint cases which

would be decided after the evidence is led by the parties. At this stage, when the transfer orders are already effected, the issue of granting stay to the transfer orders appears to have been properly decided by considering the documents at its face value. The transfer orders being issued by considering the recommendations of the ICC, therefore, cannot be considered to be *mala fide* transfers warranting interference at this stage. It has to be noted that undisputedly, transfer is an incident of service and since the challenge to the transfer order is already a subject matter of adjudication in the complaint cases, I do not find any need to interfere with the impugned orders rejecting the stay applications.

14. As regards the contentions canvassed on behalf of the petitioners that the transfer orders are issued without conducting any additional enquiry under Rule 22A of the Rules of 1979, it has to be noted that an enquiry was conducted by the ICC in which the petitioners have participated. The position of law dealing with this aspect is laid down by the Hon'ble Supreme Court in ***Medha Kotwal Lele*** (supra) in which it is held that the Committee as envisaged by the Hon'ble Supreme Court in the judgment in ***Vishaka*** (supra) will be deemed to be an inquiry authority for the purposes of the Central Civil Services (Conduct) Rules, 1964 and the report of the Complaints Committee shall be deemed to be an inquiry report under the CCA Rules. Paragraph 6 of the judgment in ***Medha Kotwal Lele*** (supra) is reproduced below being relevant in the facts of the case:-

“6. In one of these matters, Medha Kotwal Lele, this Court has passed certain orders from time to time. Notices were issued to all the State Governments. The States have filed their responses. On 26.04.2004, after hearing the learned Attorney General and the learned counsel for the States, this Court directed as follows: (SCC p.311, para 2)

“2. ... ‘Complaints Committee as envisaged by the Supreme Court in its judgment in Vishaka case, SCC at p. 253, will be deemed to be an inquiry authority for the purposes of the Central Civil Services (Conduct) Rules, 1964 (hereinafter called “the CCS Rules”) and the report of the Complaints Committee shall be deemed to be an inquiry report under the CCS Rules. Thereafter the disciplinary authority will act on the report in accordance with the Rules.”

This Court further directed in the order dated 26-4-2004 that similar amendment shall be carried out in the Industrial Employment (Standing Orders) Rules. As regards educational institutions and other establishments, the Court observed that further directions would be issued subsequently.”

15. The position of law laid down in this judgment is considered by the Hon’ble Supreme Court in ***Aureliano Fernandes*** (supra). Thus, for the purpose of deciding the controversy in the instant petitions, challenging the interim orders passed by the Industrial Court, it appears that the reasons recorded by the Industrial Court while rejecting the application for stay are in tune with the position of law. Due consideration is given to the relevant aspects and the reasoning recorded by the Industrial Court does not appear to be perverse. Having regard to the abovementioned factual and legal aspects, I do not find any need to interfere with the impugned orders. It has to be noted that the contentions canvassed on behalf of the petitioners alleging *mala fides* in issuing the transfer orders or challenging the report of the ICC for non-compliance with other

provisions of the POSH Act are subject matter of adjudication before the appropriate authority and these issues are not decided by these petitions.

16. Since the orders passed by the Industrial Court are not required to be interfered with, the writ petitions deserve to be dismissed and the same are dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)

APTE