



**207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-33153-2024 (O&M)
Date of Decision: 04.05.2026**

U.T. Pumps and Systems Private Limited

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Chanchal K. Singla, Senior Advocate with
Ms. Deepinder Kaur, Advocate,
Ms. Medha Dewan, Advocate and
Mr. Rahul Aaryan, Advocate
for the petitioner.

Ms. Svaneel Jaswal, Addl. A.G., Haryana.

Mr. Bimal Maini, Advocate
for respondent No.4.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 24.01.2024 (Annexure P-14) whereby respondent has imposed penalty of Rs.50,000/- upon it under Section 26 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (for short 'POSH Act, 2013').

2. Mr. Bimal Maini, Advocate has put in appearance on behalf of respondent No.4 and filed his power of attorney. Registry is directed to tag the same at an appropriate place on the case file.

3. The respondent constituted a Committee comprising of four Officers to inquire into allegations levelled in the complaints dated 12.09.2018 and 15.09.2018. The complaints were filed by respondent No.4 who was one of the employees of the petitioner. There was allegation of sexual harassment at workplace. On the basis of aforesaid complaints, FIR No.92 dated 27.09.2018 under Sections 354-A and 509 of IPC was registered at Mahila Police Station, Faridabad. The Committee noticed that complainant filed complaints on 12.09.2018 and 15.09.2018 and at that point of time, there was no Internal Complaint Committee (for short 'ICC') constituted by petitioner. The Committee vide its report dated 22.11.2023 proposed to impose penalty upon petitioner under Section 26 of POSH Act, 2013. The respondent by impugned order dated 24.01.2024 imposed penalty of Rs.50,000/- upon petitioner.

4. Learned counsel representing the petitioner submits that petitioner constituted ICC on 01.01.2014 comprising four members and complainant was one of the members. Due to marriage of one of the members, the ICC was not functional and could not be immediately constituted. The moment petitioner received complaints from complainant-respondent No.4, ICC was constituted on 17.09.2018. The respondent has imposed penalty on the sole ground that ICC was constituted after receipt of complaints.

5. Learned State counsel submits that ICC was constituted after filing of complaints by respondent No.4, thus, penalty was rightly imposed under Section 26 of POSH Act, 2013.

6. Learned counsel for respondent No.4 submits that petitioner constituted ICC after her complaints, thus, petitioner was liable to pay penalty.

7. Heard the arguments and perused the record.

8. From the perusal of record, it is evident that petitioner in the first instance constituted ICC on 01.01.2014 and respondent No.4-complainant was one of the members of the ICC. The ICC was not functional at the time of lodging complaints by respondent No.4-complainant. The complaints were lodged on 12.09.2018 and 15.09.2018 and ICC was re-constituted on 17.09.2018. The respondent has imposed penalty under Section 26 alleging violation of Section 4 of POSH Act, 2013. Sections 4 & 26 are reproduced as below:-

“4. (1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the “Internal Complaints Committee”:

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committee shall consist of the following members to be nominated by the employer, namely: -

(a) a Presiding Officer’ who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section (1):

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer

shall be nominated from any other workplace of the same employer or other department or organisation;

(b) not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;

(c) one member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:

Provided that at least one-half of the total Members so nominated shall be women.

(3) The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

(4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

(5) Where the Presiding Officer or any Member of the Internal Committee,-

(a) contravenes the provisions of section 16; or

(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest,

such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the

vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

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26. (1) *Where the employer fails to-*
- (a) constitute an Internal Committee under sub-section (1) of section 4;*
 - (b) take action under sections 13, 14 and 22; and*
 - (c) contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder,*
- he shall be punishable with fine which may extend to fifty thousand rupees.*
- (2) If any employer, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to*
- (i) twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence:*
Provided that in case a higher punishment is prescribed under any other law for the time being in force, for the offence for which the accused is being prosecuted, the court shall take due cognizance of the same while awarding the punishment;
 - (ii) cancellation, of his licence or withdrawal, or non-renewal, or approval, or cancellation of the registration, as the case may be, by the Government or local authority required for carrying on his business or activity.”*

9. As per petitioner, ICC was constituted on 17.09.2018. The report was prepared on 25.09.2018 and it was submitted before District Officer, Faridabad on 17.10.2018. The date of constitution of ICC may be

manipulated, however, it is undisputed that report was submitted with District Officer on 17.10.2018 which must have been prepared prior to said date. The original committee was constituted on 01.01.2014. Penalty under Section 26 POSH Act, 2013 is imposed where employer fails to constitute an internal complaint committee. Expression ‘fails’ means inaction on the part of employer. Penalty can be imposed where there is intentional lapse. In the present case, the petitioner initially constituted committee in 2014 and re-constituted after receipt of complaint from respondent No.4-complainant. There seems no mala fide intention or intentional lapse on the part of petitioner, thus, penalty is not justified.

10. In the backdrop, this Court finds that penalty imposed by respondent deserves to be set aside and accordingly, impugned order dated 24.01.2024 (Annexure P-14) is hereby set aside.

11. *Allowed.*

12. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

04.05.2026
Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No