

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

MISCELLANEOUS APPLICATION Diary No(s). 22553/2023

(Arising out of impugned final judgment and order dated 12-05-2023
in C.A. No. No. 2482/2014 passed by the Supreme Court of India)

AURELIANO FERNANDES

Petitioner(s)

VERSUS

THE STATE OF GOA & ORS.

Respondent(s)

WITH

MA 1688/2023 in C.A. No. 2482/2014 (III)
(IA No. 131628/2023 - CLARIFICATION/DIRECTION
IA No. 114246/2024 - EXEMPTION FROM FILING O.T.
IA No. 248631/2023 - EXTENSION OF TIME)

Date : 22-10-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

Amicus Curiae Ms. Padma Priya, Adv.

For Petitioner(s) Mr. Atul Jha, Adv.
Mr. Dharmendra Kumar Sinha, AORFor Respondent(s) Ms. Ruchira Gupta, Adv.
Mr. Shishir Deshpande, AOR
Ms. Pooja Tripathi, Adv.
Ms. Harshita Sharma, Adv.
Mr. Amit Kumar, Adv.
Mr. Abhishek Verma, Adv.

Mr. Avijit Mani Tripathi, AOR
Mr. T.K. Nayak, Adv.
Mr. Vikas Bansal, Adv.
Ms. Marbiang Khongwir, Adv.

Mr. Anando Mukherjee, AOR
Mr. Shwetank Singh, Adv.

Mr. Sameer Abhyankar, AOR

Mr. Aakash Thakur, Adv.

Mr. Rahul Kumar, Adv.

Mr. Aryan Srivastava, Adv.

Mr. Sarthak Dora, Adv.

Ms. Ayushi Bansal, Adv.

Mr. Sudarshan Singh Rawat, AOR

Ms. Saakshi Singh Rawat, Adv.

Mr. Ajay Bahuguna, Adv.

Mr. Siddhant Sharma, AOR

Mr. Sahil Bhalaik, AOR

Mr. Tushar Giri, Adv.

Mr. Siddharth Anil Khanna, Adv.

Mr. Ritik Arora, Adv.

Mr. Shivam Mishra, Adv.

Mr. Gowtham Polanki, Adv.

Mr. Murshlin Ansari, Adv.

Mr. Nishe Rajen Shonker, AOR

Mrs. Anu K Joy, Adv.

Mr. Alim Anvar, Adv.

Mr. Kanu Aggarwal, Adv.

Mr. Tadimalla Bhaskar Gowtham, Adv.

Mr. Krishna Kant Dubey, Adv.

Mr. Mrinal Elkar Mazumdar, Adv.

Mr. Mukesh Kr Verma, Adv.

Mr. Rajesh Singh Chouhan, Adv.

Mr. Piyush Beriwal, Adv.

Mr. Mukul Singh, Adv.

Mr. M.K. Maroria, Adv.

Mr. Shreekant Neelappa Terdal, AOR

Mr. Vikramjit Banerjee, A.S.G.

Mr. Adarsh Kumar Pandey, Adv.

Mr. Noor Rampal, Adv.

Ms. Sweksha, Adv.

Mr. Shashank Bajpai, Adv.

Ms. Alina Masoodi, Adv.

Mr. Amrish Kumar, AOR

Mr. Gurmeet Singh Makker, AOR

Mr. Abhimanyu Tewari, AOR

Ms. Eliza Bar, Adv.

Mrs. Aishwarya Bhati, A.S.G.
Mr. Mukesh Kumar Maroria, AOR
Mr. V Chitambaresh, Adv.
Mr. Shantnu Sharma, Adv.
Mr. Annirudh Sharma Ii, Adv.
Mr. Ishaan Sharma, Adv.
Mr. S K Singhania, Adv.
Mr. B K Satija, Adv.
Mr. Sarthak Karol, Adv.

Mrs. Aishwarya Bhati, A.S.G.
Mr. Shantnu Sharma, Adv.
Mr. Manish, Adv.
Mr. Ishaan Sharma, Adv.
Mr. N. Visaka Murthy, AOR

Mr. Tanmaya Agarwal, AOR
Mr. Wrick Chatterjee, Adv.
Mrs. Aditi Agarwal, Adv.

Ms. Rashmi Nandakumar, AOR

Ms. Diksha Rai, AOR
Ms. Aakanksha Kaul, Adv.
Ms. Apurva Sachdev, Adv.
Mr. Piyush Vyas, Adv.
Ms. Pur And Wali, Adv.
Mr. Aman Sahani, Adv.
Ms. Rhea Borkotoky, Adv.
Mr. Akash Saxena, Adv.

Mr. Shuvodeep Roy, AOR
Mr. Deepayan Dutta, Adv.
Mr. Saurabh Tripathi, Adv.

Mr. Manish Kumar, AOR
Mr. Suyash Vyas, Adv.

Ms. Swati G., AOR
Ms. Devyani Bhatt, Adv.
Ms. Abhipsa Mohanty, Adv.

Mr. Saurabh Rajpal, Adv.
Mr. Vinay Kumar Singh, Adv.

Mr. Divyanshu Kumar Srivastava, AOR

UPON hearing the counsel the Court made the following
O R D E R

Learned Amicus Curiae Ms. Padma Priya submitted that the Union of India has filed its affidavits. The status report filed by her states that the States of Uttar Pradesh, Uttarakhand and Bihar have filed their respective affidavits. The office report also notes that the States of Punjab, Uttarakhand, Meghalaya, Andhra Pradesh, Bihar, and Tripura have filed their respective affidavits. However, not all state counsel have served the affidavits on learned Amicus Curiae. She further submitted that the States of Uttar Pradesh, Uttarakhand, Goa, and Telangana who have also filed their respective affidavits have served those affidavits on her.

On the request made by learned counsel appearing for the respective States who have not filed any affidavit and also for the other States yet to revise their affidavit, time is extended up to 26.11.2024.

Copies of the affidavits and revised affidavits shall be served on learned Amicus Curiae on her e-mail I.D. : gmpadma@gmail.com

Ms. Aishwarya Bhati, learned ASG appearing for Union of India submitted a Note on SHe-Box Portal. The note reads as under :

"Note on SHe- Box Portal

Ensuring a safer workplace and providing easy access to redressal mechanisms are crucial steps

towards empowering women. The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, has been an instrumental legislation and plays a pivotal role in fostering a safe and secure working environment by actively preventing and addressing instances of sexual harassment in the workplace, that indirectly contributes to enhancing women's participation in the workforce.

2. Being the Nodal Ministry, the Ministry of Women and Child Development (MWCD) issues advisories to all Central Ministries/ Departments and State Governments/ UTs from time to time to ensure proper implementation of the Act including for setting up of IC and LC for all workplaces and to organize workshops and awareness programmes at regular intervals for sensitizing the employees.

2.1 The Union Minister of Women and Child Development launched a revamped version of SHe-Box on 29.08.2024 through webcast. The webcast was attended by all Secretaries and officers of Central Ministries/Departments, Chief Secretaries and Principal Secretaries of Women Child Departments of all States/UTs. The new portal is a unique initiative of the Ministry of Women and Child Development to provide a publicly available centralised repository of information related to Internal Committees and Local Committees formed across the country, whether in a government or a private sector and this will also provide a common platform to file complaints and track the status of such complaints. The new portal includes features such as centralized database of Internal Committees and Local Committees, complaints registered on the portal will be directly forwarded to the Internal Committee/Local Committee of the concerned workplaces within the Central Ministries/Departments, States/UTs and in the Private sector. The portal provides for designating a nodal officer by every workplace, who will be required to ensure updation of data/information on a regular basis for real time monitoring of complaints.

2.2 An Office Memorandum bearing the user id login credentials was sent out to all Central Ministries/Departments and States/UTs on 02.09.2024. A D.O. letter from Secretary WCD dated 04.09.2024 was sent to the Secretaries of all Central

Ministries/Department and to all the Chief Secretaries of all the States/UTs requesting to update the details of Nodal Officer and details of IC/LC on the portal.

3. Sexual Harassment electronic Box (SHe-Box) is an effort of the Government of India to provide a single window access to every woman, irrespective of her work status, whether working in an organised or unorganised, private or public sector, to facilitate the registration of complaint related to sexual harassment. Any woman facing sexual harassment at workplace can register their complaint through this portal. Once a complaint is submitted to the 'SHe-Box', it will be directly sent to the concerned authority having jurisdiction to take action into the matter.

4. It's a major step towards women empowerment by ensuring them a safer workplace and an easy access to redressal mechanism. This platform would provide a secure and confidential way for women to report instances of harassment and fostering a culture of accountability. The portal would not only help in addressing immediate concerns, but also contribute to long-term cultural changes in workplaces, making them more inclusive and supportive for women.

5. Another important aspect of the 'SHe-Box' portal is a robust data management system. The Act mandates the appropriate government to monitor the implementation of the Act and maintain data on number of cases filed and disposed of in respect of the Sexual Harassment Act. However, there was no centralised data base system available to access the details of IC/LC and no. of complaints received under the SH Act. In alignment with this commitment, the launch of the improved version of SHe-Box Portal marks a significant advancement in addressing and managing complaints of sexual harassment at workplace and would also provide a common platform to file complaints and track the status of such complaints.

6. So far, 82 Central Ministries/Departments and all 36 States/ UTs have uploaded the details of Nodal officer and their ICs. Also, details of 548 ICs out of 785 Districts have been uploaded on the portal.

7. Discussions with private sector entities and corporations have been initiated by the Ministry for on-boarding their nodal officers and ICs on the portal and continuous follow-up is being done to start the

on-boarding process soon."

With reference to the Note, learned ASG submitted that in order to not only prevent but also take cognizance of sexual harassment, the Government of India has constituted/devised an electronic (SHe-Box Portal) Portal to provide one-stop access to every woman irrespective of her work status, whether in an organized or unorganized, private or public sector and to facilitate the registration of complaint relating to sexual harassment. Learned ASG submitted that the said device would assist a lady who has suffered sexual harassment in the workplace to make a complaint against the perpetrator.

In response to this, learned Amicus Curiae submitted that it may not be possible for a lady who is a victim of sexual harassment to directly access the "SHe-Box".

In the circumstances, certain directions may be issued so that this facility is made available to a woman who has suffered sexual harassment to effectively make her complaint. In this regard, our attention was also drawn to Section 9 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.

We take note of the submissions of learned ASG as well as learned Amicus Curiae and we direct that the National Legal Services Authority (NALSA) as well as the State Legal Services Authorities as well as the authorities constituted at the District and Taluka level may take note of the

contents of this order and facilitate any lady who has suffered sexual harassment at the workplace to register her complaint effectively before the Internal Committee constituted in the workplace and if not, to assist the victim in accordance with law.

A copy of this order shall be transmitted by the Registry of this Court to the Member Secretary, NALSA as well as to the Member Secretaries of each of the State Legal Services Authorities for onward transmission to the Member Secretaries of the District Legal Services Authorities as well as the Taluka Legal Services Authorities so as to effectively assist and facilitate a woman who has suffered sexual harassment at the workplace to make a complaint in case such an assistance is sought. For this purpose, sufficient publicity may be given by way of legal awareness programmes.

It is needless to observe that access to justice is as important as rendering of justice. In the absence of there being any forum where the complaint can be made, the victim would only suffer further. Therefore, it is the obligation and duty of all concerned under the Act and particularly the employers whether in the governmental, public or private sector to ensure that the Internal Complaints Committees are constituted forthwith wherever they have not been constituted.

It is further observed that the Ministry of Labour of the Union of India as well as the Departments of Labour in

the respective State Governments in consultation with the Department of Women and Child Development both at the Union as well as at the State Level shall take steps to ensure that the provisions of the Act are effectively implemented by issuing directions for the constitution of the Internal Complaints Committees where they have not yet been constituted and also for ensuring the said Committees work in accordance with law in letter and spirit of the Act and train the employees in the form of giving training and creating awareness about the rights of the women in workplaces.

National Legal Services Authority through the Member Secretary may also issue suitable directions to all the State Legal Services Authorities to ensure compliance of these directions and to seek reports of compliances. In view of the aforesaid directions, the concerned State Legal Services Authorities are to comply with the directions to be issued by National Legal Services Authority in the matter of implementation of the aforesaid directions and in the matter of compliance to be made on the implementation of the provisions of the Act.

Directions issued to NALSA and State Legal Services Authorities are in addition to and not in substitution of the directions issued to the State Governments.

List this matter on 3rd December, 2024 along with W.P. (c) No. 1224 of 2017.

It is also expected that the Department of Labour,

Department of Women and Child Development in all the States as well as the Union of India shall render all assistance to the National and State Legal Services Authorities respectively for effective implementation of the Act.

(NEETA SAPRA)
COURT MASTER (SH)

(DIVYA BABBAR)
COURT MASTER (NSH)