

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**MUMBAI**

**ORIGINAL APPLICATION NO.1016 OF 2021**

**DISTRICT : NASHIK**

Shri Sopan Ramnath Kasar, )  
Age 55 years, Deputy Collector, )  
District Supply Officer, Ahmednagar, )  
R/o Plot No.33, Bajirao Nagar, Tidke Colony, Nashik )..Applicant

Versus

1. The State of Maharashtra, )  
Through the Secretary, )  
Revenue & Forest Department, Mantralaya, )  
Mumbai )
2. District Collector, Nashik )
3. Internal Women's Complaint Redressal )  
Committee, Nashik )
4. Smt. Manisha Purushottam Igave, )  
Age 34 years, occ. Service, )  
R/at Yeolat, Tel. Yeola, District Nashik )..Respondents

Shri A.S. Gaikwad – Advocate for the Applicant

Smt. K.S. Gaikawad – Presenting Officer for Respondent No.1 to 3

Shri E.R. Dhokale and

Shri S.D. Dhongade – Advocate for Respondent No.4

CORAM : Smt. Justice Mridula Bhatkar, Chairperson  
Smt. Medha Gadgil, Member (A)  
RESERVED ON : 13<sup>th</sup> June, 2023  
PRONOUNCED ON: 28<sup>th</sup> June, 2023  
PER : Smt. Medha Gadgil, Member (A)

### **J U D G M E N T**

1. The applicant, who is Deputy Collector, now working as Sub Divisional Officer prays that this Tribunal be pleased to call for the records and proceedings of the impugned order dated 14.9.2021 passed by the Internal Womens Complaint Redressal Committee, Nasik and after considering the legality, validity and propriety of the same, this Hon'ble Tribunal be pleased to quash and set aside the same.

2. The applicant is facing the enquiry on the basis of the complaint filed by Respondent no. 4. Hence, Respondent no. 4 is required to be heard. Respondent no. 4 is served and learned counsel for the applicant has filed the service affidavit. Thereafter, through Court also Respondent no. 4, the complainant was served. Respondent no. 4, filed her appearance through advocate Shri E.R. Dhokale and S. Dhongade on 25.11.2022. On 9.12.2022, learned counsel for Respondent no. 4 seeks time to file reply. Learned counsel for Respondent no. 4 files affidavit in reply on 23.12.2022. The learned counsel for Respondent no. 4, though they were directed specifically by order dated 26.4.2023 to remain present today, they are absent.

3. Learned counsel for the applicant submits that the complaint was filed by Respondent no. 4 on 24.8.2021 and subsequently supplementary complaint was filed on 29.8.2021. Learned counsel for the applicant

submits that copy of the supplementary complaint was not provided to the present applicant during the enquiry. Though the applicant made application on 15.9.2021, to the Internal Committee to give documents, it was rejected on 28.9.2021, on the ground that the information is confidential.

4. Learned counsel for the applicant gave the history of the said matter. He stated that this complaint made to the Internal Women's Complaint Redressal Committee, Nasik, against him was because he had initiated a departmental enquiry against Respondent no. 4, who was working as Talathi in Saigaon, Nasik on the basis of a complaint made by Smt Sangita S. Wankhede on 31.1.2020 to the Circle Office, Nagarsol. Subsequently, the Circle Officer, Nagarsol A.B Gayake, issued notice dated 18.6.2020 to Respondent no. 4, asking her to explain about the details of irregularities in Mutation Entries. As Respondent no. 4, failed to give a reply, a second show cause notice was issued on 30.6.2020. As no reply was given to the same, the Circle Officer, Nagarsol proposed that lawful action should be taken against her through the Tahsildar, Yeola, Nasik. The Tahsildar, Yeola further issued a show cause notice to Respondent no. 4 on 31.7.2020 to give her an opportunity to explain why 29 Mutation Entries were deliberately kept pending. The Tahsildar in turn forwarded the report under the provisions of Rule 8 of the Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 and proposed that a departmental enquiry should be initiated against Respondent no. 4.

5. On 5.10.2020. the Sub Divisional Officer issued show cause notice to Respondent no. 4 on the basis of the proposal submitted by the Tahsildar, Yeola. Respondent no. 4 submitted her reply on 16.10.2020 giving her explanation regarding irregularities in Mutation Entries. However, in the reply she had not made any complaints of sexual harassment at work place (Prevention, Prohibition and Redressal) Act,

2013 to the higher authority. The applicant states that on 13.7.2021 a departmental enquiry was proposed as her explanation was not considered satisfactory. Respondent no. 4 gave reply to the said charge sheet on 22.7.2021 wherein again she has not mentioned anything about any allegations or sexual harassment. As her explanation was not found satisfactory, a departmental enquiry was initiated against her and Enquiry Officer and Presiding Officer was appointed on 2.8.2021.

6. Learned counsel for the applicant further pointed out that on 9.8.2021 considering the policy of the Government regarding transfers, Respondent no. 4 was transferred to Tal-Nandgaon along with 14 other Talathis, on account of administrative exigencies. Respondent no. 4, approached this Tribunal on 12.8.2021 challenging the said transfer order. On 16.8.2021, Respondent no. 4 filed an FIR, C.R No. 341/2021 under the provisions of Section 354 against the applicant by making allegations about sexual harassment. In this the learned Judicial Magistrate, First Class, granted bail to the applicant on 24.8.2021. Learned counsel for the applicant further stated that the complaint was made by Respondent no. 4 only on account of her transfer order dated 9.8.2021 and also on account of her previous departmental enquiry on administrative grounds. On 23.8.2021, this Tribunal stayed the transfer order of Respondent no. 4. Thereafter, on 24.8.2021, after a period of one year, Respondent no. 4 for the first time made complaint to the Internal Women's Complaint Redressal Committee, Nasik for the said sexual harassment. He, therefore, contended that the complaint was a total afterthought a counter blast to the transfer order and the departmental enquiry. The said Committee passed the impugned order on 14.9.2021. He stated that the order is self-contradictory to their own findings and therefore be set aside. Subsequently, on 22.10.2021, the District Collector, issued a notice to the applicant seeking his explanation to the said report and the order dated 14.9.2021 submitted by the Internal

Women's Complaint Redressal Committee. The applicant gave explanation to the said show cause notice on 1.11.2021, stating that the order of the Committee is illegal and contrary to the provisions of the Act.

7. Learned counsel further pointed out that he made a detailed representation to the Investigation Officer, Yeola Police Station in connection with C.R No. 341/2021 and requested them to inquire into the incident dated 3.8.2020 under the provisions of Section 161. Learned counsel further pointed out that the order passed by the Committee was self-contradictory and given without any proper, valid and substantial reasons. He further pointed out that the alleged incident was dated 3.8.2020, whereas she filed complaint on 6.8.2021 and filed complaint before the Internal Women's Complaint Redressal Committee on 24.8.2021. He further stated that the Committee over looked the fact that departmental enquiry pending are initiated against the applicant and therefore prayed that the said order should be quashed and set aside.

8. Per contra, learned Presenting Officer on the basis of the affidavit in reply dated 20.3.2022 filed on behalf of Respondent no. 2, stated that the Respondent has sent the recommendation report dated 14.9.2021 of the Committee to the State Government through the Divisional Commissioner, Nasik. Learned P.O, relied on the affidavit in reply dated 24.3.2022 filed by Anant J. Shetye, Under Secretary in the office of Addl. Chief Secretary, Revenue & Forest Department, Mantralaya, Mumbai, confirmed that a departmental enquiry was initiated against Respondent no. 4 on account of the irregularities, that is issuing notice without mentioning the dates for certifying the Mutation Entry in respect of 29 entries and for not mentioning dates on such Mutation entries. It is denied that the order passed by the Internal Women's Complaint Redressal Committee is without following due procedure and she further stated that the Committee has relied on the evidence adduced before passing the order

dated 14.9.2021. She, therefore, prayed that there was no need for interference in the order passed by the Committee dated 14.9.2021 as the Committee has taken a fair decision after adopting the principles of natural justice.

9. Respondent No.4 was represented by Shri E.R. Dhokale and Shri S.D. Dhongade, Ld. Advocates. However, although initially affidavit in reply on behalf of respondent no.4 was filed on 23.12.2022 the Ld. Advocates did not appear on all subsequent dates. When the matter was heard on 26.4.2023, Ld. Advocates Shri E.R. Dhokale and Shri S.D. Dhongade were directed to remain present on the next date i.e. 8.6.2023. When the matter was called out on 8.6.2023, while the Ld. Advocate for the applicant and Ld. PO were present, however, Ld. Advocates for respondent no.4; though they were directed specifically by order dated 26.4.2023 to remain present; were absent. So in all fairness the matter was placed in the afternoon to seek their appearance. However, when the matter was called out at 4.00 p.m. they were absent. Hence, the matter was fixed on 13.6.2023. Even on 13.6.2023 they were absent.

10. In all fairness we rely on the affidavit in reply dated 23.12.2022 filed by respondent no.4. In the said affidavit respondent no.4 has stated that on 3.8.2020 the applicant called her to his residence between 2 p.m. to 3 p.m. He mentioned that while offering her glass of water, he behaved inappropriately. She narrated about the said incident to some of her colleagues who advised her not to speak about it as the applicant was senior. She further mentioned that applicant then issued her a show cause notice on 5.10.2020 on the basis of false and fabricated complaints and report prepared by Tahsildar Yeola dated 31.7.2020. On 13.7.2021 after her reply dated 16.10.2020 the applicant instituted DE by filing charge sheet against her. Further applicant appointed on 2.8.2021 independent enquiry officer Shri Arun M. Borse from the office of

Divisional Commissioner, Nashik to carry out enquiry in respect of charge sheet. During pendency of enquiry the applicant issued her transfer order on 9.8.2021 to another place at Kasari, Taluka Nandgaon. She allege that the motive behind passing such order of transfer was only to harass her for not fulfilling the demand of sexual favour. She challenged the said transfer order in this Tribunal by filing OA No.573/2021 and the said transfer order was stayed by order dated 23.8.2021 by observing that the applicant while passing the transfer order had not taken prior approval of the immediate superior transferring authority mentioned in the table of Section 6 of the Transfer Act. She further stated that she registered FIR against the applicant under Section 354-A and 504 of IPC on 16.8.2021 with Yeola Police Station in respect of incident which occurred on 3.8.2020. CR No.I-341/2021 was registered with the Yeola City Police Station. The applicant filed Bail Application and by order dated 24.8.2021 the applicant was granted bail by Ld. JMFC, Yeola, District Nashik.

11. Respondent no.4 further stated in her affidavit that she filed a complaint with the Internal Women's Complaint Redressal Committee, Nashik constituted under the Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act, 2013 on 24.8.2021. She stated that the order of Internal Committee dated 14.9.2021 wrongly held that there was no evidence to prove the incident occurred on 3.8.2020. She further stated that she has not committed any irregularities and the 29 mutation entries were not kept pending deliberately. She further denied that the complaint filed on 24.8.2021 before the Internal Committee was time barred and bad in law in the eyes of law. She denies rest of the submissions of the applicant and prays that the OA filed by the applicant deserves to be dismissed.

12. This is a serious matter as it relates to the matter of alleged sexual harassment of lady employee at the hands of her superior. We have

carefully examined the submissions of the Ld. Advocate for the applicant, Ld. PO as also the affidavit filed by respondent no.4. In this matter it is important to note the chronology of the events as they occurred because it has a direct bearing on the case. As the matter is very serious, we have carefully examined the sequence of events as they occurred. The complaint was filed by one Smt. Sangita Sudam Wankhede on 31.1.2020 to the Circle Office against the applicant, who was working as Talathi. The Circle Officer issued notice to respondent no.4 on 18.6.2020 and second show cause notice was also issued for serious irregularities by her as mentioned therein. As no reply was given to the notice, the Circle Officer proposed lawful action against respondent no.4 through Tahsildar, Yeola for 29 mutation entries and irregularities committed by respondent no.4 who was working as Talathi, Saigaon, Tal. Yeola. In turn notice was issued to respondent no.4 on 31.7.2020 giving her opportunity to explain the matter and forwarded his report to SDO, Yeola on 18.8.2020.

13. Subsequently, the SDO issued show cause notice to respondent no.4 on the proposal submitted by Tahsildar. SDO issued a show cause notice on 5.10.2020 and DE was proposed against her on 13.7.2021. Respondent no.4 was transferred on 9.8.2021 and she filed FIR being CR No.341/2021 on 16.8.2021. Respondent no.4 made complaint to Internal Committee, Nashik on 24.8.2021 and they passed their order on 14.9.2021.

14. We have carefully examined the order/report submitted by the Internal Committee dated 14.9.2021. It is clear from the report of the Internal Committee that the operative part of the order is self contradictory. The said order dated 14.9.2021 reads as under:



- “१. तक्रार अर्जात नमूद दि.०३/०८/२०२० दुपारी २.०० ते ३.०० या कालावधी घडलेली घटना घडल्याचे पुराव्याअभावी दिसून येत नाही.
२. परंतु दिनांक ०३/०८/२०२० नंतर अर्जात नमूद असणाऱ्या घटना असल्याचे व त्यातून तिला मानसिक त्रास होत असल्याचे समितीसमोर उपलब्ध कागदपत्र व साक्षीपुरावे यावरून निर्दशनास येते.
३. मा. जिल्हाधिकारी नाशिक यांनी श्री. सोपान कासार, उपविभागीय अधिकारी येवला यांचे विभागप्रमुख म्हणून महाराष्ट्र नागरी सेवा अधिनियम अन्वये व कामाच्या ठिकाणी महिलांचा लैंगिक छळ (प्रतिबंध, मनाई व विवरणा) अधिनियम २०१३ मधील नियम ९ अन्वये कार्यवाही करणेबाबत समिती शिफारस करीत आहे.
४. संबंधितांना आदेशाची बजावणी करणे यावी.
५. सदरचा अर्ज आदेशानंतर नस्तीबंद करण्यात येत आहे. ”

15. It is difficult to see how the Internal Committee arrived at conclusion of recommending action against the applicant when as per their own findings there is no proof that such an incident took place on 3.8.2020 as stated in para 1 of the operative order. This contradiction makes it difficult for us to reach a conclusion as to on what basis the Committee has stated that the incident actually occurred.

16. From the chronology of events it is clear that DE was proposed against respondent no.4 even before the alleged incident of 3.8.2020. It is seen that notice was issued to respondent no.4 for lapses in her official work even on 18.6.2020 and 30.6.2020 by Circle Officer, Nagarsol. Subsequently, the report regarding the same was forwarded by the Circle Officer to the Tahsildar, Yeola who issued notice dated 31.7.2020 to respondent no.4. This Internal Committee report is a quasi judicial one. All allegations of sexual harassment at the workplace are serious in

nature and need to be examined carefully. However, in this case the committee has itself given contradictory findings. The findings in the report of the Internal Committee are contradictory wherein para 1 says that incident dated 3.8.2020 is not proved on account of lack of evidence but para 2 says that they have reached the conclusion that applicant suffered mental agony on account of the incident. Moreover, respondent no.4 took over one year to file complaint about the alleged incident which took place on 3.8.2020 whereas she filed complaint on 16.8.2021 after show cause notice was issued to her by Tahsildar Yeola.

17. Considering all these factors, we hold that the impugned order dated 14.9.2021 passed by the Internal Women's Complaint Redressal Committee, Nasik is required to be quashed and set aside.

18. Original Application is allowed. Impugned order dated 14.9.2021 is quashed and set aside. No order as to costs.

**Sd/-**

**(Medha Gadgil)**  
**Member (A)**  
**28.6.2023**

**Sd/-**

**(Mridula Bhatkar, J.)**  
**Chairperson**  
**28.6.2023**

Dictation taken by: S.G. Jawalkar.