

(2025) 09 P&H CK 1012
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2455 Of 2024

Dr. Ashok Kumar Yadav

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 16-09-2025

Acts Referred:

Sexual Harassment Of Women At Workplace (Prevention, Prohibition And Redressal) Act, 2013 — Section 6, 7

Citation : (2025) 09 P&H CK 1012

Hon'ble Judges : Tribhuvan Dahiya, J

Bench : Single Bench

Advocate : Sukhbir Singh Goyat, Parveen Mehta

Final Decision : Dismissed

Judgement

Tribhuvan Dahiya, J

1. The petition has been filed inter alia seeking a writ of certiorari setting aside the inquiry report dated 07.12.2022, Annexure P-11, whereby the allegations of sexual harassment against the petitioner have been proved which has been presented for necessary action to the competent authority.

2. As per the facts apparent on record, in brief, a complaint for sexual harassment was filed against the petitioner, dated 31.01.2020, Annexure P-1, by an Assistant Professor working in the College where he was the officiating Principal. On receiving the complaint, the petitioner, vide memo dated 01.02.2020, appointed Smt. Kiran Yadav as Chairperson of Anti Sexual Harassment Committee which had six other members. This committee was in existence prior thereto with College Principal as the Chairman. Since the allegations were levelled against the petitioner himself, who was officiating as Principal at the relevant time, he appointed Smt. Kiran Yadav in his place vide the aforementioned letter. Thereafter, inquiry into the complaint was conducted by the committee which submitted a report dated 16.03.2020, Annexure P-3,

concluding that the allegations were baseless and stern action should be taken against the complainant for levelling unsubstantiated allegations.

2.1 Since the petitioner himself had constituted inquiry committee despite being an accused, the respondent-Department decided to constitute another inquiry committee in the Office of Director General, Higher Education and the allegations were again inquired into. As per its report dated 03.09.2020, Annexure P-5, the committee concluded that a recorded warning be issued to the petitioner for his misbehaviour with fellow female colleague and he be transferred out of the Government College to a far away place. Pursuant thereto, he was transferred vide office order dated 06.11.2020, Annexure P-6, and a warning for misbehaviour was also issued to him vide office order dated 26.12.2020, Annexure P-7.

2.2 Later, it came to the Department's notice that the inquiry committee at the Directorate level was not as per the requirements of law, and the complainant also made a representation in that regard. Considering the same, the Additional Chief Secretary to Government of Haryana, Higher Education Department, vide memo dated 10.05.2022, Annexure P-9, referred the complaint against the petitioner to Deputy Commissioner of the district with a request to conduct an inquiry as per the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (for short 'the 2013 Act') and submit report at the earliest. Vide another office order of the same date, the matter was re-considered and the order dated 26.12.2020, whereby the petitioner had been issued a recorded warning for misbehaviour, was withdrawn.

2.3 The local committee constituted in terms of Section 6 of the 2013 Act by the Deputy Commissioner inquired into the allegations afresh and submitted the impugned inquiry report, dated 07.12.2022, whereby allegations against the petitioner stood proved. It also remains a fact not denied that the petitioner on his own decided not to participate in the second and third inquiry conducted against him on advise tendered by his counsel. In these circumstances, the instant petition has been filed.

3. Learned counsel for the petitioner has contended that the third inquiry report is not sustainable in the eyes of law as the first inquiry report absolving the petitioner of any misconduct could have been challenged by filing an appeal within a period of three months which has not been done; therefore, it attained finality and any further inquiry into the allegations could not have been initiated. Secondly, it is contended that the second complaint is time-barred. The first complaint was made against the petitioner on 31.01.2020, upon which the first inquiry was instituted. The second complaint was made after about six months on 09.07.2020, beyond the limitation period and could not have been acted upon. Thirdly, it has been contended that the impugned inquiry has not been conducted by a duly constituted inquiry committee. In this regard, he has made a reference to an office order dated 02.05.2022 Annexure P-16, whereby a Local Complaint Committee has been constituted by District Programme Officer,

Women and Child Development, Narnaul, under Section 6 of the 2013 Act to settle complaints relating to sexual harassment of women at workplace. He contended that the third inquiry committee was not properly constituted as it had only four members, and the proceedings therefore were without jurisdiction.

4. Learned State counsel on the contrary contends that the first inquiry absolving the petitioner could not have been accepted by the Department as it was in violation of the Principles of Natural Justice. As the matter came to notice, the Departmental inquiry committee was constituted to inquire into the allegations. Since it was not in accordance with the provisions of 2013 Act, another inquiry committee had to be constituted. The complaint was assigned to the Local Complaint Committee vide a specific order, dated 10.05.2022, passed by the Additional Chief Secretary on considering the complainant's representation. And the orders passed by the Department based upon the recommendation of the second committee were also withdrawn vide separate order of the same date. The third inquiry committee has been validly constituted and the inquiry proceedings have been conducted in accordance with law. The petitioner himself refused to participate in it and cannot be allowed to challenge the same at this stage.

5. The submissions made by learned counsel for the parties have been considered.

6. It remains undisputed that on receipt of complaint of sexual harassment against the petitioner, he himself, vide memo dated 01.02.2020, appointed Chairperson of the Anti-Sexual Harassment Committee in the College, to inquire into the allegations against him. He was absolved of all the allegations/charges vide the committee's report dated 16.03.2020. Realising that constitution of the committee was in violation of the Principles of Natural Justice as the petitioner being the alleged wrongdoer could not have himself appointed Chairperson of the committee to inquire the allegations, it was decided to constitute another committee at the Department level to inquire into the allegations levelled. The committee so constituted submitted a report dated 03.09.2020, recommending that a recorded warning be issued to the petitioner for his misbehaviour with a fellow female colleague, and also that he should be transferred to a faraway place. The recommendations were accepted, and vide office order dated 06.11.2020, he was transferred to another college, and a warning for misbehaviour was also issued vide subsequent order dated 26.12.2020. Later, it came to the Department's notice that provisions of the 2013 Act would be applicable and the allegations were to be inquired into by a local committee constituted thereunder at the district level by the Deputy Commissioner. Accordingly, the complaint was referred to the local committee vide memo dated 10.05.2022. The committee submitted its report, dated 07.12.2022, impugned herein, concluding that the allegations against the petitioner were true and stood established. The petitioner willingly did not participate in the second and the third inquiry proceedings on the ground that the first inquiry proceedings had

attained finality as the same had not been challenged or set aside or cancelled so far, and further inquiries were non-est and could not have been instituted.

6.1. There is no denying the fact that first inquiry committee had been constituted in blatant violation of the Principles of Natural Justice, as the petitioner could not have been allowed to appoint Chairperson of the committee to inquire into the allegations against him. Being violative of the fundamental principle, *nemo iudex in causa sua* - no one should be a judge in one's own cause, the appointment lacked inherent jurisdiction. It was an egregious act on the petitioner's part, which nullified constitution of the committee itself and, consequently, the ensuing proceedings. The submission by learned counsel for the petitioner that both, the act as well as the proceedings/inquiry report, dated 16.03.2020, remain valid as the same have not been set aside, is flawed. The action is a nullity being violative of the basic legal principles, as aforementioned, and this Court has no hesitation in declaring it thus. Resultantly, the petitioner cannot claim innocence on the basis of first inquiry report, dated 16.03.2020.

6.2. The Departmental action of constituting the second committee to inquire into the allegations, and accepting its recommendations by passing the orders dated 06.11.2020 and 26.12.2020, regarding the petitioner's transfer and warning to him for the misbehaviour respectively, need not be examined since the punishment order has already been withdrawn vide office order dated 10.05.2022, and a fresh inquiry has been instituted as per provisions of the 2013 Act. The petition challenging the order of transfer and warning filed by the petitioner, CWP-1608-2021, has also been disposed of as infructuous vide order dated 10.04.2024. The second inquiry report dated 03.09.2020 was never challenged. Further, after passing of the withdrawal order, dated 10.05.2022, third inquiry committee was constituted in terms of the 2013 Act which submitted the impugned report dated 07.12.2022. The petitioner challenged it on two counts; (i) the second complaint was time-barred as it was filed after more than five months of filing of the first complaint and, (ii) the local committee had only four members, instead of the requisite five, and had not been properly constituted. The complaint cannot be termed as time- barred because the original complaint dated 31.01.2020 and the subsequent one dated 09.07.2020 are essentially the same; the two contain same allegations against the petitioner. Besides, the second complaint is only a kind of reminder to the authorities to take action in accordance with law and levels allegations of bias against Chairperson of the first committee who was appointed by the petitioner himself. The second objection is also not sustainable since as per the provisions of Section 7 of the 2013 Act, the local committee consists of Chairperson, one member to be nominated from amongst the women working in block, two members, of whom at least one is to be a woman, to be nominated from amongst such non-governmental organisations committed to the cause of women, and the concerned officer dealing with the social welfare or women and child development in the district as *ex officio* member. Accordingly, the committee is to consist of these five members. And as apparent from the order

dated 02.05.2022, Annexure P-16, the local committee which was asked to inquire into the complaint against the petitioner had been duly constituted in terms of government notification dated 23.04.2013 under Section 6 of the 2013 Act with five members.

7. Accordingly, finding no merit in the present petition, it stands dismissed.