



Andreza

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION No. 15 OF 2026

1. [REDACTED] [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

...Petitioner

Versus

1. [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

2. [REDACTED]
 [REDACTED]
 [REDACTED]

3. [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

4. [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

...Respondents

Mr. Shivraj Gaonkar, Advocate for the Petitioner.

Mr. Rishikesh Gawas, Additional Government Advocate for Respondent Nos. 1 and 2.

Ms. Annelise Fernandes, Advocate for the Respondent No. 3.

CORAM : DR. NEELA GOKHALE, J.

RESERVED ON : 16th APRIL 2026
PRONOUNCED ON : 20th APRIL 2026

JUDGMENT

1. Rule. Rule made returnable forthwith. With the consent of learned Counsel appearing for the respective parties, the matter is taken up for final hearing. Learned Counsel appearing for the Respondents, waive notice.

2. By way of the Petition, the Petitioner seeks to quash and set aside the impugned Order dated 26th November, 2025 passed by the Industrial Tribunal and Labour Court in Appeal No. SH/01-2025 as being illegal, perverse and without jurisdiction. He also seeks a direction to the Industrial Tribunal to restore the said appeal to its file and hear and decide the same on merits in accordance with law. In the alternative, the Petitioner seeks a direction to the Respondent No. 1 (Directorate of Skills Development and Entrepreneurship) to initiate Disciplinary Proceedings against the Respondent No. 3 for his misconduct in instigating a false and malicious complaint against the Petitioner.

3. The issue involved in the present matter commenced with a

complaint of sexual harassment made by the Respondent No. 4 against the Petitioner. She later retracted her complaint stating that she was forced to make the same, on threats of future harassment by her Principal i.e., the Respondent No.3. The Internal Complaints Committee ('ICC'), relying on her retracted statement, closed the proceedings, however, concluding that she was forced by an 'unknown source' to make the complaint. The ICC omitted the name of the Respondent No.3 from its conclusion and instead recorded that the Complainant was instigated by an 'unknown source' to make the complaint against the Petitioner. The grievance of the Petitioner is limited to this omission.

4. The Petitioner is a permanent Government servant, working as a Lower Division Clerk with the Respondent No. 1. He was the accused before the ICC constituted by the Respondent No. 1 under the Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013 ('POSH Act'). The Respondents No. 1 and 2 are the Employers; the Respondent No. 3 is the Principal of the Respondent No.2-Institute and Respondent No. 4 is the Complainant.

5. On 29th November 2024, the Respondent No. 4 addressed a complaint to the Director of the Respondent No. 1 against the Petitioner herein, alleging that the Petitioner was harassing her on basis of her disability. She also alleged that the Petitioner did not cooperate with her

and frequently passed discriminating comments such as '*go to hell*' and other such remarks. He frequently stared at her in an unpleasant and unprofessional manner and also behaved in an aggressive and abnormal way. She thus, requested the authorities concerned to take immediate action against the Petitioner.

6. An ICC was constituted to inquire into the complaint of Respondent No. 4. The Petitioner filed his reply dated 2nd January, 2025 denying the allegations made by the Complainant and raised a suspicion that the complaint was made by the Respondent No. 4, on an instigation of a third person.

7. The ICC conducted a preliminary inquiry on 3rd January, 2025. The Respondent No. 4 admitted that her complaint was not prepared by her and she was unaware of the contents of the said letter. She further stated that the Petitioner had neither sexually harassed her nor troubled her on the basis of her disability. In fact, she clearly stated that the complaint was prepared by the Respondent No. 3 i.e., the Principal of the Institute and she was threatened to sign the same with consequences, if she refused. On 6th January, 2025, on the basis of her retraction, she withdrew all the charges of sexual harassment against the Petitioner in a letter submitted to the ICC. The ICC confirmed that she was not under any pressure to withdraw her complaint and the Respondent No. 4

affirmed that she wished to withdraw her complaint as the allegations contained therein were false.

8. On the basis of her letter of retraction as well as her statement, the ICC concluded that the complaint was instigated by an ‘unknown source’ to file a false sexual harassment case against the Petitioner, by force feeding a concept that the Respondent No. 3 might harass her in future.

9. Accordingly, the Inquiry Report dated 10th January 2025, recommended to the Employer that the case of the Respondent No. 4 was a malicious complaint. The ICC also recorded that the Petitioner agreed to the fact that some ‘unknown source’ had influenced the Respondent No. 4 to file the sexual harassment complaint against him as she was intellectually disabled person. Thus, the inquiry was closed and the penalties for the Complainant under the POSH Act were waived.

10. The Petitioner was aggrieved by the conclusion recorded by the ICC to the extent that the ICC observed that the complaint was instigated by an ‘unknown source’ despite the retraction letter of the Respondent No. 4 clearly stating that she was instigated and threatened by the Respondent No. 3 to make the complaint against him.

11. Hence, he preferred an Appeal before the Industrial Tribunal and Labour Court, Government of Goa, which is the Appellate Authority

notified under clause (a) of Section 2 of the Industrial Employment (Standing Orders) Act of 1946 ('20 of 1946') under the provisions of Section 18 of the POSH Act. His contentions were as under:-

(a) The ICC overlooked the mandate of Section 14 of the POSH Act and closed the proceedings without recommending any action against Respondent No. 3.

(b) The ICC failed in its duty to recommend action against the Respondent No. 3 to the Employer for threatening the Respondent No. 4 and instigating her in making the false complaint.

(c) The ICC erred in concluding that the perpetrator was 'unknown' when in fact, the Respondent No. 4 had clearly named the Respondent No. 3, who instigated her to make a false complaint; and

(d) The ICC was protecting the Respondent No.3 for reasons best known to it.

The Petitioner has thus sought quashing of the Inquiry Report of the ICC while holding Respondent No.3 liable for action under Section 14 of the POSH Act, pertaining to punishment for false or malicious complaint.

12. The Respondent No. 3 appeared in the Appeal and challenged the maintainability of the Appeal. The Tribunal dismissed the Appeal, holding the same to be not maintainable. The Tribunal held that the

Petitioner was not affected by the conclusion of the ICC directly and that there was no actual inquiry conducted to verify the statement of the Respondent No. 4-Complainant, as to whether she was instigated and forced to complain against him by the Respondent No. 3. The Tribunal held that the Respondent No. 4 herself is a grown-up person employed with the Respondents No. 1 and 2 and no action can be initiated against Respondent No. 3 under Section 14 of the POSH Act, without ascertaining the veracity of her statement. The Tribunal further observed that considering the retraction statement of Respondent No. 4, she cannot be considered to be a truthful witness to launch prosecution against Respondent No. 3. The Tribunal also agreed with the contention of Respondent No. 3 that the POSH Act being a special Act, enacted to protect against Sexual Harassment at Workplace and for matters connected thereto, the same cannot be a forum to settle the score of one employee against another or against a Superior. Since no direct injury was caused to the Petitioner and neither could he show that it was the Respondent No. 3, who with malicious intent instigated the Respondent No. 4 to file a false complaint, her mere retraction statement cannot be the basis for the Tribunal to intervene in the findings/report of the ICC. Accordingly, the Appeal was dismissed. It is this Order of dismissal which is assailed by the Petitioner in the present Petition.

13. Heard Mr. Shivraj Gaonkar, learned Counsel appearing for the Petitioner, Mr. Rishikesh Gawas, learned Additional Government Advocate representing the Respondent nos. 1 and 2 and Ms. Annelise Fernandes, learned Counsel representing the Respondent No. 3. I have carefully perused the papers with their assistance.

14. Admittedly, the proceedings before the ICC were initiated by the complaint of Respondent No. 4, alleging her sexual harassment at workplace, against the Petitioner. Within two months of the same, the Respondent No. 4 issued a letter dated 6th January 2025, to the Respondent No. 2-Employer specifically and clearly naming the Respondent No. 3 as the instigator of the said complaint. The relevant contents of her letter read thus:

“SUB:-Revocation of my sexual harassment complaint dated 29/11/2024 against [REDACTED]

Sir,

I was forcibly instigated to sign on a pre-prepared sexual harassment complaint against my colleague [REDACTED] LDC of this Institute at the instance of [REDACTED] Principal in his cabin on 29/11/2024. The Principal showed me a footage from his mobile of [REDACTED], LDC during his tenure at Govt ITI, Pernem and seeing the revengeful nature of [REDACTED] Principal to harass and defame my colleague [REDACTED] LDC forced me to sign on the pre-prepared false sexual harassment complaint. The Principal mentioned in his pre-prepared false sexual harassment letter that the behaviour of [REDACTED] LDC is aggressive (verbally/physically), abusive and abnormal. That [REDACTED] [REDACTED] LDC frequently stares at me and other female staffs in an unpleasant and unprofessional manner. That [REDACTED]

██████████ LDC said "Go to Hell" to me when I requested for help. The ██████████ LDC passes discriminating remarks on me and shouts at me.

I deny to all the allegations cited in the pre-prepared sexual harassment letter by ██████████ Principal. During his tenure in this Institute ██████████ LDC has never behaved aggressively and abusively with me in this Institute. He has always helped me in a very polite manner with queries in FVC bills and never shouted at me. ██████████ LDC always tried his level best to help me. He has never starred at me in a very unpleasant and unprofessional manner and always maintained a colleague relation with me. He never said "Go to Hell" come and at times when he was very busy with his Accounts work he referred me to other staffs for help in a very polite manner ██████████ ██████████ LDC was doing the Accounts work allocated to him by work allotment Order and neither interfered in my work nor forcefully allocated work of his own.

The said footage may be related to some incident that must have occurred in Govt ITI, Pernem and is not at all related in this false sexual harassment complaint. The incident as shown in the footage could have been properly investigated at Govt ITI Pernem that provoke ██████████ LDC in the said footage instead of that the ██████████, Principal is misusing the said footage to only defame ██████████, LDC at all instances. As during that course of time ██████████, Principal was also the Principal at Govt ITI, Pernem. The Principal also told me that he will bring witnesses of other female staffs from this Institute and other ITI's to support me in this false sexual harassment complaint against ██████████, LDC.

██████████, Principal was taking advantage of my Intellectual Disability and projecting me to defame and destroy the service career of ██████████, LDC under different sections of sexual harassment and other sections of harassment applicable to persons with disabilities as mentioned in his pre-prepared sexual harassment complaint. I further say that I was forced and threatened by ██████████, Principal of dire consequences.

I further say that ██████████, LDC has not done any sort of harassment to me. All the sexual harassment allegations levelled against ██████████, LDC are falsely interpreted

by [REDACTED], Principal in his pre-prepared sexual harassment complaint. I and [REDACTED], LDC are innocent. The conspiracy is made by [REDACTED], Principal to fulfil his arrogant, revengeful soul motive to destroy the integrity of work, service career and malign the reputation and character of [REDACTED], LDC. I hereby sincerely tender my apology to [REDACTED], LDC for the inconvenience caused due to this false sexual harassment complaint by me due to pressure and coercion by [REDACTED], Principal.

I am herewith submitting this letter without any coercion for your kind perusal and to keep the record straight. For further necessary action in the matter please.

Your's sincerely,

[REDACTED]

L.D.C.”

15. A copy of the retraction letter was also sent to the Director of the Respondent No. 1, the State Commissioner for Person with Disabilities and the Presiding Officer of the ICC.

16. The Inquiry Report also records the reply of the Petitioner. It also records the statement of the Respondent No. 4 that she was threatened with dire consequences by the Respondent No. 3 and forced to sign the said complaint-letter against the Petitioner. Having noted the contents of the retraction letter, the ICC clearly failed in the discharge of its duties to specify that the complaint was being closed on account of false allegations made against the Petitioner, at the behest of the Respondent No. 3, who instigated the Respondent No. 4. The ICC clearly erred in

recording that the Respondent No. 4 was instigated by an ‘unknown source’ to file the false complaint, under threat of future harassment, despite it being a matter of record that the source of instigation was ‘known’ to be the Respondent No. 3.

17. The error on the part of the ICC in recording the instigator to be an ‘unknown source’ instead of naming the Respondent No. 3 is a cause of action to the Petitioner to prefer an Appeal before the Industrial Tribunal under Section 18 of the POSH Act. Section 18 reads thus:-

“18. Appeal - (1) Any person aggrieved from the recommendations made under sub-section (2) of Section 13 or under clause (i) or clause (ii) of sub-section (3) of Section 13 or sub-section (1) or sub-section (2) of Section 14 or Section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.

(2) The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations.”

18. In the present case, the Petitioner is clearly a person aggrieved by the recommendations made by the ICC and has a statutory right to prefer

an appeal in the manner prescribed under the POSH Act. It is not necessary for the Petitioner or a person aggrieved by the ICC's recommendation to show any direct injury caused to him. The Tribunal has observed that the retraction statement of the Respondent No. 4 cannot be believed to demonstrate malicious intent on part of the Respondent No. 3. The Tribunal also held that in the absence of any inquiry in the veracity of the retraction statement of the Respondent No. 4, neither the act of instigation nor the malicious intent of the Respondent No. 3 is proved, to warrant grant of relief as sought by the Petitioner. The observation of the Tribunal to the extent of the veracity of the statement of the Respondent No. 4-Complainant, is correct, since the same is on a mere statement of the Respondent No. 4 in her retraction letter.

19. A plain reading of the Inquiry Report of the ICC indicates that the recommendation and conclusion of the ICC was recorded on a preliminary inquiry. Before the proceedings could be taken further, the Respondent No. 4 addressed her retraction letter, specifically naming the Respondent No. 3-Principal as the instigator of the false complaint under threat of future harassment. In these circumstances, there was no occasion for the ICC to proceed further with a substantive inquiry. The fact remains that the complaint was malicious and false in nature. The

Petitioner cannot be deprived of his statutory right to Appeal against the Inquiry Report of the ICC under the provisions stipulated in the POSH Act. Thus, merely because the statement of the Respondent No. 4 cannot be taken as the gospel truth, in the absence of a substantive inquiry in that regard, it cannot be a ground *per se* to dismiss the Petitioner's Appeal as not maintainable. To that extent, the findings of the Industrial Tribunal cannot be sustained.

20. The grievance of the Petitioner in the appeal before the Tribunal as well as in this petition, is limited to the omission of the name of the Respondent No. 3 as the source of instigation. Having closed the complaint on the basis of the retraction letter sent by the Respondent No. 4-Complainant, the ICC cannot selectively omit to name the source of instigation, when he is named in the same retraction letter. The conclusion of the ICC in its Inquiry Report to the extent that it records that some 'unknown source' has influenced the Respondent No. 4 to file a false sexual harassment complaint against the Petitioner, cannot be sustained. The Tribunal ought to have considered this grievance of the Petitioner. There is a jurisdictional error on the part of the Tribunal in failing to address the said limited grievance of the Petitioner. The Petitioner has sought restoration of the appeal to its original file before the Industrial Tribunal, with a direction to re-hear the appeal on merits.

However, I am of the considered view that the exercise of remanding the appeal to be reheard by the Tribunal will be an exercise in futility. No purpose will be served by remanding the matter to the Tribunal for addressing the grievance of the Petitioner, limited to the omission of the Respondent No.3's name in the conclusion of the Inquiry Report. The grievance of the Petitioner, to the extent that the ICC failed to record the name of the Respondent No. 3, as having instigated the Complainant to make the complaint under threat of future harassment, despite relying on the retraction statement, is valid. The ICC cannot selectively omit to name the Respondent No. 3 while relying on the retraction statement.

21. This Court, in its jurisdiction under Article 227 of the Constitution is well-equipped with the powers to correct the said error made by the Tribunal and the ICC in the Inquiry Report. Hence, the Order of the Tribunal dated 26th November 2025 passed in Appeal No.SH-01/2025 deserves to be quashed and set aside. The words 'unknown source', appearing in the Conclusion paragraph of the Inquiry Report dated 10th January 2025 of the ICC, require to be modified to the extent that the same shall be read as the Respondent No. 4 was instigated by the Respondent No. 3 to file a false sexual harassment case against the Petitioner.

22. Having held that the Petitioner is well within his statutory right

to prefer an Appeal before the Industrial Tribunal under Section 18 of the POSH Act, his prayers at clause (b) and (c) of his Appeal are premature and thus, untenable at this stage. He has sought to hold Respondent No. 3 as liable for action under Section 14 of the POSH Act, for making a false and malicious complaint against him, through the Respondent No. 4 and has also sought directions to be issued to the Respondents No. 1 and 2 to take disciplinary action against Respondent No. 3 for making false and malicious complaint. Similarly, the Petitioner's prayer clause (c) to direct disciplinary proceedings against Respondent No. 3 also cannot be granted. Section 14 of the POSH Act, reads thus:-

“14. Punishment for false or malicious complaint and false evidence - (1) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of Section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the Complainant under this section:

Provided further that the malicious intent on part of the Complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.”

23. Section 9 of the POSH Act provides that a complaint of sexual harassment can be made by an ‘aggrieved woman’. Section 9(2) permits such a complaint to be made by a legal heir of an aggrieved woman or such other person as may be prescribed, if such a woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise.

24. Section 2(a) of the POSH Act defines an aggrieved woman. It reads as thus:

“(a) “aggrieved woman” means—

(i) in relation to a workplace, a woman, of any age, whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;

(ii) in relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

25. Since a complaint under this Act, can be made only by an aggrieved woman or on her behalf, as contemplated under Section 9, the provision prescribing punishment for making malicious complaint is also applicable only to the person making the complaint i.e., the aggrieved woman or a person making the complaint. In the present matter, the Respondent No.3 is neither the aggrieved woman nor a person making the complaint. He is dragged in the proceedings, pursuant to the retraction statement of the Respondent No. 4-Complainant. Admittedly, no substantive inquiry is made to establish the veracity of the statement as there was no occasion for the same. The ICC merely accepted the statement of the Complainant and closed the proceedings.

26. The extent of penalty powers of the ICC under Section 14 of the Act are limited to making a recommendation to the employer or the District Officer, as the case may be, to take action against the woman or

the person who has made the complaint under sub-section (1) or sub-section (2) of Section 9, as the case may be. The statute does not provide for action/punishment, for false or malicious complaint or giving false evidence before the ICC, against a person who may have instigated a woman or a person making the complaint. The action or punishment contemplated under Section 14 of the Act is limited to the woman or person making the complaint. In the present case, it is the Respondent No. 4 who is the author of the complaint. It may be that she was threatened with dire consequences of future harassment that propelled her to make the false complaint against the Petitioner. The Petitioner may be within his rights in seeking action against the Respondent No. 4. However, his prayer to direct disciplinary action against the Respondent No. 3 under the POSH Act is misplaced and hence, rejected.

27. In view of the aforesaid discussion, the Order dated 26th November 2025 passed by the Industrial Tribunal and Labour Court in Appeal No. SH-01/2025 is quashed and set aside. Instead of restoring the said Appeal to the original file of the Industrial Tribunal, to decide the same on the limited aspect of omitting the name of the Respondent No. 3 as the person who instigated the Respondent No. 4 to file the false sexual harassment case against the Petitioner, it is directed that the conclusion of the ICC will read as thus:-

“The Respondent No. 3 instigated the Respondent No. 4 to file a false sexual harassment case against the Petitioner.”

28. Accordingly, the Petition is allowed. Rule is made partly absolute.

29. The Petitioner is at liberty to initiate appropriate proceedings against the Respondent No. 3, before an appropriate forum, if permissible in law. If such proceedings are initiated against the Respondent No. 3, it is needless to say that he shall be afforded an opportunity of being heard to defend himself.

DR. NEELA GOKHALE, J.