

Kerala High Court: Internal Committee's failure to serve copy of complaint to the accused is violative of principles of natural justice

In the recent case of *Vineeth V.V. v. Kerala State Electricity Board and Ors.*,¹ a single judge bench of the Hon'ble High Court of Kerala ("**Kerala HC**") quashed the inquiry report prepared by the internal committee ("**IC**") and held that failing to serve a copy of complaint and other relevant documents to the accused, which is mandatory under Rule 7 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 ("**POSH Rules**"), is in violation of principles of natural justice.

Brief Facts

Mr. Vineeth V. V. ("**Petitioner**"), an assistant engineer (suspended) at Kerala State Electricity Board Limited ("**Respondent No. 1**") approached the Kerala HC for quashing the inquiry report issued by the IC of Respondent No. 1 and to reinstate his employment. A complaint under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("**POSH Act**") was filed against the Petitioner and subsequently, proceedings were initiated by Respondent No. 1's IC. The report prepared by the IC was considered as preliminary, based on which, allegations raised against the Petitioner were proved by an enquiry officer, separately appointed by Respondent No.

Petitioner, placing reliance on Rule 7 of the POSH Rules, contended that although proceedings were initiated by IC, the IC failed to comply with the POSH Rules as they neither sent a copy of complaint nor the relevant documents to the Petitioner, as mandated under the POSH Rules. The Petitioner, referring to the inquiry report, submitted, that witnesses were examined in his absence and that he was not given an opportunity to cross examine the said witnesses. Petitioner additionally sought constitution of a new IC under Section 2 of POSH Act, contending that the previous IC's president was facing disciplinary proceedings and hence, their participation in the IC proceedings was violative of Section 4(5) of POSH Act.

Issue

The issue before the Kerala HC was, whether the inquiry report issued by the IC is in violation of POSH Act and POSH Rules, vis-à-vis the principles of natural justice.

¹ WP (C) No. 9331 of 2024.

Observations

The Kerala HC observed that as per Rule 7(2) of POSH Rules, upon receipt of complaint, IC is required to serve copies of complaint and supporting documents to the respondent (Petitioner in the given case) within a period of 7 (seven) working days. Subsequently, as per Rule 7(3) of POSH Rules, respondent is required to be given an opportunity to file a reply to the complaint along with the list of documents and details of witnesses, within a period of 10 (ten) working days. Further, as per Rule 7(4) of POSH Rules, IC is required to conduct inquiry in accordance with principles of natural justice by providing reasonable opportunity to respondent to be heard and present their case.

In light of above, the Kerala HC, while quashing the inquiry report, held that the inquiry report was issued in violation of principles of natural justice and also against Rule 7 of the POSH Rules. Further, based on contention raised by Petitioner regarding presiding officer facing disciplinary proceedings, the Kerala HC directed constitution of a new IC according to Section 4(5) of POSH Act and subsequently, held that the entire proceedings should be completed strictly in accordance with POSH Act and POSH Rules, after providing the Petitioner with an opportunity of hearing.

Conclusion

The directions of the Kerala HC in the current case re-affirms significance of following principles of natural justice to ensure a safer workplace and to maintain transparency in the process as provided under POSH Act and POSH Rules. Several Indian courts have time and again reiterated the importance of adhering to prescribed statutory procedures and due process, particularly in the context of conducting investigations and internal disciplinary proceedings. In such cases, reliance on principles of natural justice, is key. This applies for investigations under the POSH Act as well. In a key judgment, the Hon'ble Supreme Court of India in *Aureliano Fernandes v. State of Goa and Ors*,² making observations regarding POSH Rules and principles of natural justice had earlier held that:

"53 At the same time, however, women centric the Guidelines and the Act may have been, they both recognize the fact that any inquiry into a complaint of sexual harassment at the workplace must be in accordance with the relevant rules and in line with the principles of natural justice. The cardinal principle required to be borne in mind is that the person accused of misconduct must be informed of the case, must be supplied the evidence in support thereof and be given a reasonable opportunity to present his version before any adverse decision is taken. Similarly, the concerned employer is also expected to act fairly and adopt a procedure that is just, fair and reasonable....."

From an organisational perspective, it is germane for management as well as the IC to understand and more importantly, implement prescriptions under the POSH Act to prevent scenarios where proceedings are challenged or nullified on grounds of procedural defects, or where lack of due process (including principles of natural justice) is observed. Aside from employee awareness, management and ICs should be sufficiently trained to understand the likelihood of nuances that may arise out of procedural deviations. As part of mandated workshops for IC members, adequate knowledge training on the above aspects becomes relevant, and is advisable to consider.

² Civil Appeal No. 2482 of 2014.

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This Prism has been prepared by:



Gerald Manoharan
Partner



Sonakshi Das
Partner



Vishal Bijlani
Associate

		
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For more details, please contact km@jsalaw.com

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