



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 5<sup>TH</sup> DAY OF NOVEMBER, 2024**

**BEFORE**

**THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV**

**WRIT PETITION NO. 28361 OF 2024 (S-RES)**

**BETWEEN:**

1. SRI NAGARAJ G K  
S/O KARIBASAPPA,  
AGED ABOUT 31 YEARS,  
R/AT. NO.309, NASUKU NILAYA,  
5<sup>TH</sup> MAIN ROAD, BEML LAYOUT,  
BASAVESHWARNAGAR,  
BENGALURU-560 079.

... PETITIONER

(BY SRI. NAGARAJA HEGDE., ADVOCATE)

**AND:**

1. THE HON'BLE ADDL. LABOUR COMMISSIONER  
APPELLATE AUTHORITY UNDER POSH ACT, 2013,  
DIARY CIRCLE,  
BENGALURU - 560 029.
2. SMT. SAHANA SHEKHAR,  
(D/O. NOT KNOW TO THE PETITIONER)  
AGE: MAJOR.  
ADDRESS: JOHN HOPKINS UNIVERSITY,  
U.S.A. - 21218
3. SMT. HEMAVATHI M.N,  
THE DEPUTY DIRECTOR AND PRESIDING OFFICER,





INTERNAL COMMITTEE  
KARNATAKA HEALTH PROMOTION TRUST.

4. SMT. PRATHIBHA RAI.B,  
THE MEMBER OF THE INTERNAL COMMITTEE,  
KARNATAKA HEALTH PROMOTION TRUST.
5. SRI. BISUJAKSHA V.S,  
THE MEMBER OF THE INTERNAL COMMITTEE,  
KARNATAKA HEALTH PROMOTION TRUST.
6. SMT. SOWMYALAKSHMI BHAT,  
THE EXTERNAL MEMBER OF THE  
INTERNAL COMMITTEE,  
KARNATAKA HEALTH PROMOTION TRUST.
7. SRI MOHAN.H.L,  
THE CHIEF EXECUTIVE OFFICER,  
KARNATAKA HEALTH PROMOTION TRUST.

OFFICE ADDRESS OF THE RESPONDENTS  
I.T.PARK, 5<sup>TH</sup> FLOOR, 1-4,  
RAJAJINAGAR INDUSTRIAL AREA,  
BEHIND KSSIDC ADMIN OFFICE,  
RAJAJINAGAR,  
BENGALURU-560 044.

... RESPONDENTS

(BY MS. NAVYA SHEKAR, AGA FOR R1)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED FINAL ENQUIRY REPORT/ RECOMMENDATION DTD. 25.09.2024 SUBMITTED BY THE INTERNAL COMMITTEE/R-3 TO 6 IN NO.KHPT/IC/02/2024 AND THE ORDER DTD. 06.10.2024 PASSED BY THE R-7 IN NO. KHP/HR/TR/2024-25/E1124 AND



THE ORDER DTD. 08.10.2024 PASSED BY THE R-3 WHICH IS PRODUCED ANNEXURE-A, B, AND C RESPECTIVELY AND ETC.

THIS PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE S SUNIL DUTT YADAV

**ORAL ORDER**

Petitioner has called in question the correctness of Annexure-A which is a final report of the internal committee against Sexual Harassment of Women at Workplace and has also challenged the order of transfer from Bangalore to Koppal office at Annexure-B stated to have been made pursuant to the recommendation of the Committee.

2. It is the case of the petitioner that he was appointed as a Finance Officer on contract basis and during the course of his employment, the 2<sup>nd</sup> respondent lodged a complaint against him of sexual harassment at work place, which according to him is a false complaint. It is further submitted that petitioner had filed his detailed reply to the complaint of the 2<sup>nd</sup> respondent. It is



submitted that the internal committee has made out its recommendation by way of final report at Annexure-A and the employer has passed an order of transfer at Annexure-B. The petitioner submits that in the appeal filed before the Appellate Authority, an application for stay is filed and till date, no orders are passed and the Authority has merely issued notice in the appeal without considering granting an interim order of the impugned proceedings which has caused irreparable loss and injury to the petitioner.

3. Learned counsel for the petitioner would submit that in terms of the provisions under Section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (for short 'the Act') and under Rule 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (for short 'the Rules') the appellate authority has no power to consider the application for stay. Accordingly, it



is submitted that the petitioner having no remedy has approached this Court invoking writ jurisdiction.

4. Issuance of notice to respondent No.2 has been dispensed with as the Court does not intend to enter into the correctness of the order at Annexures-A and B in light of the appeal already having been preferred under Section 18 of the Act before the appellate authority. However, the contention of the petitioner raised in the form of legal grievance is that, once the appeal is filed, unless the application for stay is considered by the authority, cases where genuine grievance are raised would remain unaddressed till the appeal is decided which may take time with no relief in the interregnum.

5. Section 18 of the Act reads as follows:

**"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."*

6. Rule 11 of the Rules, 2013 reads as follows:

**"11. Appeal.-** *Subject to the provisions of section 18, any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clauses (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 appellate authority notified under clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946)."*

7. The provision under the Act and the Rules does not contain any stipulation regarding granting of interim



relief. It must be noticed however that the Act does not expressly prohibit the appellate authority to pass an interim order and once the appellate authority has the power to set aside impugned proceedings, it can be construed that the appellate authority also has implied power to consider passing of interim order of stay as well. This is the consistent position taken by this Court in the case of **Chikkathimmegowda vs. Deputy Commissioner<sup>1</sup>**, following the judgment of the Apex Court.

8. No doubt the Court cannot exercise its inherent power in conflict with what has been specifically provided under the Statute. When there is no such bar in regard to grant of interim relief under the statute, such power to grant interim relief could be considered.

9. The Bench of 3 Judges of the Apex Court in the case of **Income Tax Officer, Cannanore vs. M. K.**

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<sup>1</sup> ILR 1991 KAR 3238



**Mohammed Kunhi<sup>2</sup>**, while dealing with the powers of Income Tax Appellate Tribunal under Section 254 and 255 of Income Tax Act, 1961 in which provision at the relevant point of time, there was no specific power available to the Income Tax Appellate Tribunal to grant stay against the demand of tax, has held that such power to grant stay was inherent and was capable of being read into the powers of deciding the appeal itself. The relevant extracts are as follows:

*"6. .... It is a firmly established rule that an express grant of statutory power carries with it by necessary implication the authority to use all reasonable means to make such grant effective (Sutherland Statutory Construction, 3rd Edn., Articles 5401 and 5402). The powers which have been conferred by Section 254 on the Appellate Tribunal with widest possible amplitude must carry with them by necessary implication all powers and duties incidental and necessary to make the exercise of those powers fully effective. In Domat's Civil Law Cushing's Edn., Vol. 1 at p. 88, it has been stated:*

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<sup>2</sup> 1968 SCC Online SC 71





*It is the duty of the Judges to apply the laws, not only to what appears to be regulated by their express dispositions, but to all the cases where a just application of them may be made, and which appear to be comprehended either within the consequences that may be gathered from it."*

*7. Maxwell on Interpretation of Statutes, 11th Edn., contains a statement at p. 350 that "where an Act confers a jurisdiction, it impliedly also grants the power of doing all such acts, or employing such means, as are essentially necessary to its execution. Cui jurisdictio data est, ea quoque concessa esse videntur, sine quibus jurisdictio explicari non potuit". An instance is given based on Ex parte Martin [(1879) 4 QBD 212, 491] that "where an inferior court is empowered to grant an injunction, the power of punishing disobedience to it by commitment is impliedly conveyed by the enactment, for the power would be useless if it could not be enforced".*

10. Further, the principle is that every Court must be deemed to possess by necessary intendment all such powers as are necessary to make its orders effective. This principle is embodied in the maxim "*ubi aliquid conceditur,*



*conceditur et id sine quo res ipsa esse non potest*" which principle has been applied by the Apex Court in the case of **Smt. Savitri vs. Sri. Govind Singh Rawat**<sup>3</sup>, while allowing consideration of interim order in an application filed under Section 125 of Cr.P.C. before the Magistrate. The Apex Court has held as follows:

*"6. ....Whenever anything is required to be done by law and it is found impossible to do that thing unless something not authorised in express terms be also done then that something else will be supplied by necessary intendment...."*

11. Accordingly, it is to be held that the appellate authority despite the absence of specific provision for granting of interim order would have the power to consider the interim application.

12. In light of the above, without entering into the correctness of the orders impugned, the writ petition is disposed off, observing that the appellate authority has the power to consider the application of the petitioner for

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<sup>3</sup> AIR 1986 SC 984



stay, as may be appropriate upon the merits of the matter. The appeal memo at Annexure-K and the application for interim relief is also enclosed along with the appeal. In light of the same, the appellate authority to consider the request of the petitioner as is permissible under law in light of the observations made above. Such consideration of the interim relief must be made within an outer limit of two weeks from the date of receipt of certified copy of this order by the appellate authority. The appellate authority to endeavour to dispose off the appeal expeditiously. All contentions are kept open.

13. Accordingly, petition is disposed off.

**Sd/-  
(S SUNIL DUTT YADAV)  
JUDGE**

VP