

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 182 OF 2013

DR.MILAN DESAI ...Petitioner
Versus
THE GOA UNIVERSITY THROUGH ITS REGISTRAR AND 3 ORS. ...Respondents

Mr. Girish Sardessai, Advocate for the Petitioner
Mr. A. Agni, Advocate for the Respondent No.1
Mr. D.B. Ambekar, Advocate for the Respondent No.2
Mr. A.N.S. Nadkarni, Advocate General with Mr. D. Lawande,
Government Advocate for the Respondent No.3

CORAM: MRS. ROSHAN S. DALVI &
MR. F.M. REIS, JJ.
DATED: 18TH FEBRUARY, 2014

ORAL ORDER:

Rule. Made returnable forthwith.

1. A female employee complained of sexual harassment. The Respondent no.1 followed the due legal process of investigating the complaint before a Committee appointed by it. The respondent No.2, against whom the complaint was made, was censured. Respondent No.2 appealed before His Excellency the Governor of Goa and the Chancellor of the Goa University.
2. In the appeal His Excellency the Governor of Goa essentially

considered a part of a letter written by the complainant to the respondent No.1 University and the displeasure note issued by the University upon such letter. The complainant has not been heard in the appeal.

3. The complainant complains that the entire perspective of the complaint has changed and in fact she has been re-victimised upon her letter and the consequent displeasure note. The letter inter alia runs thus:

"...I do not believe that Dr. Vinay Kumar's sexual harassment in my case is borne out of any sexual interest. It is a form of power play with a desire to humiliate, harm and destroy me".
(emphasis supplied)

4. The letter, therefore, records the kind of sexual harassment, but does not deny it. It will have to be seen in appeal whether the kind of sexual harassment described in the letter would fall within the definition of sexual harassment or harassment at the work place.
5. The doctrine of sexual harassment enunciated in the Vishaka case adopted and relied upon International Conventions of the United Nations, of which India is a member State, such as the Convention on Elimination of all forms of Discrimination Against Women (CEDAW) to draw guidelines until the Parliament would enact a law on the subject. The Committee as also the appellate authority would have to consider the totality of the concept of

sexual harassment which is to protect a woman's right to undisturbed atmosphere at the work place.

6. The learned Advocate General fairly conceded that because the petitioner/complainant was not heard in appeal the order of His Excellency the Governor of Goa dated 6th August, 2010 be set aside and the appeal be heard afresh upon hearing the complainant and respondent No.2 against whom the complaint has been filed as also the respondent No.1 University.
7. Order accordingly. Rule is granted to that extent.
8. Consequently though the displeasure note has been challenged by the petitioner no order in that regard is passed at present.
9. Rule is granted to the above extent. Writ Petition is disposed off accordingly.

F.M. REIS, J.

MRS. ROSHAN DALVI, J.

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