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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.786 OF 2021

Dasharath Kallappa Bhosale

...Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

Dr. Chinmay Bhosale with Meghdeep M. Oak and Dhanashree
Pawar for the Petitioner.

Mr. R.P. Kadam, AGP for State.

CORAM : K.K. TATED &
R.I. CHAGLA, JJ.

DATE : 11TH MARCH, 2021

ORDER :

1. Heard learned Counsel for parties.
2. By this Writ Petition filed under Article 226 of the Constitution of India, the Petitioner is challenging the order dated 3rd December, 2020 passed by the Respondent No.2 - Local Complaints Committee, Pune imposing penalty on the Petitioner under the Sexual, Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Learned Counsel for the Petitioner submits that being aggrieved by the said order they preferred Appeal (IESO) No.1 of 2021 before the Industrial Court, Maharashtra, Pune. He submits that the Industrial Court, Pune rejected their Appeal by order dated 29th January, 2021 on the ground that they have no jurisdiction to entertain the Appeal. He further submits that the Industrial Court, Pune recorded in paragraph 5 of the order that, "*no notification has been issued in the name of the Industrial Court as per rule 11 of Prevention of Sexual Harassment Rule 2013*". Paragraphs 4 and 5 read thus:-

4. The conjoint reading of these provisions clearly show that the appeal against the recommendation lies to the Court or Tribunal in accordance with the provisions of the service rules applicable to the aggrieved person and in the absence of service rules, the appeal may be filed as may be prescribed under the rules. Rule 11 of Prevention of Sexual Harassment Rules, 2013 provides that the aggrieved person may prefer appeal to the appellate authority notified under clause 29 of the Industrial Employment (Standing Orders) Act, 1946.

5. This Tribunal is not the appellate authority of the appellant in accordance with the provisions of the service rules applicable to the appellant. In fact, this Tribunal or Court is not appellate authority under any of the service Rules applicable to public or private establishment. Further, Rule 2A of the IESO Act does not provide that this Tribunal is appellate authority. No notification has been issued in the name of

the Industrial Court as per rule 11 of Prevention of Sexual Harassment Rules 2013. Therefore, this Court holds that this Court has no jurisdiction to try and dispose of the appeal.

3. Learned Counsel appearing for the Petitioner submits that the Petitioner has filed this Petition under Article 226 of the Constitution of India challenging the order dated 3rd December, 2020 passed by the Respondent No.2.

4. Considering the submission made by learned Counsel for the Petitioner and the order dated 29th January, 2021 passed by the Industrial Court, Maharashtra, Pune, the following order is passed:-

a) The AGP is directed to file Affidavit of the concerned officer explaining whether they issued the notification under Rule 11 of the Prevention of Sexual Harassment Rule 2013 to notify the Appellate Authority, if not, then within how much they will issue said notification to notify the Appellate Authority. Said Affidavit to be filed on or before 24th March, 2021, with copy to other side.

b) Learned Counsel for the Petitioner submits that all the Respondents are served. He undertakes to file Affidavit of Service to that effect in the Registry within one week from

today. Statement is accepted.

c) The operation and implementation of the order dated 3rd December, 2020 passed by the Respondent No.2 - Local Complaint Committee, Pune District, Pune is stayed.

d) Stand over to 31st March, 2021.

[R.I. CHAGLA J.]

[K.K. TATED, J.]