

IN THE HIGH COURT OF KARNATAKA AT BANGGALORE

(ORIGINAL JURISDICTION)

W.P No. /2015

BETWEEN:

1. Mrs Anita Ravindra G. R
W/o Mr. Ravindra M. S
Aged 48 years,
Residing at # B-2/10
Near Bisilu Mamma Temple,
Vagdevingar - Gangothri Layout,
Mysore 570009

PETITIONER

AND

1. Sexual Harassment Complaints Committee
and Women & Child Welfare Commission,
Deputy Commissioner's Office
Department of Women and Child Development
Mysore
Represented by its Chairperson
2. Principal,
Regional Institute of Education
Demonstration Multipurpose School,
Regional Institute of Education,
Mysore
3. Chairperson,
Women's Cell
Regional Institute of Education
Demonstration Multipurpose School,
Regional Institute of Education,
Mysore
4. Commissioner for Persons with Disabilities
No. 55, 2nd Floor, "Abhaya Sankerna",
Resaldar Street (Plat Form Road),
Karnataka Slum Development Board Building,

Sheshadripuram, Bangalore – 560020

5. National Council of Educational Research and Training

Ministry of Human Resource & Development,
Sri Aurobindo Marg, New Delhi
Represented by its Director

6. Karnataka State Women's Commission

No. 107, Cauvery Bhavan
1st Floor, KHB Building
K.G. Road,
Bangalore-560009
Represented by its Chairperson

7. Mr. Rajkumar Tomar

S/o Khajana Singh,
aged about 61 years,
Residing at # 33, RMP Layout,
Vijaynagara IV Stage,
Mysore

8. Mr. Radhakrishnan. C

Working as P.G.T in English
DMS-RIE
Manasagangothri
Mysore - 570006

RESPONDENTS

MEMORANDUM OF WRIT PETITION UNDER ARTICLE 226 & 227 OF THE

CONSTITUTION OF INDIA 1950

The Petitioner above named submits as follows:

1. This petition is filed against Respondent No 1, 2, 3, 4 and 5 for not taking action against the various complaints of sexual harassment filed by the Petitioner aggrieved by the behaviour and sexual harassment at the hands of Respondent No 6 who was the In Charge Head Master of Demonstration Multipurpose School, Regional Institute of Education, Mysore and against Respondent No 7

who is also working as a teacher in the same Institution. The Petitioner is a woman with multiple disabilities and since 2012 she has been facing harassment in the form of sexual harassment and also harassment due to her disability at the hands of the Respondents 7 and 8. Despite making multiple complaints against the harassment by the Respondents 7 and 8, no action was taken by the Respondents No. 2,3,5 and 6. There were two grievance committees set up which enquired into the Petitioner's complaints, but these committees were not set up in accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("the Act"), and no orders or findings of any kind were passed by these Committees. The 2nd Respondent has not set up an Internal Complaints Committee to look into complaints of sexual harassment as required under the Act, and when finally the Petitioner's complaint was forwarded to the 1st Respondent Committee which acts as a Local Committee under the Act, it dismissed the Petitioner's complaint on the ground that it does not come within its jurisdiction without giving any reasons for the same. Till date, no action has been taken in enquiring into the complaint of the Petitioner, nor has any action been taken against the Respondents No. 7 and 8 and this amounts to a complete violation of the protection of the Petitioner's fundamental rights to work with dignity and equality as guaranteed under Articles 14 and 21 of the constitution. Hence this petition.

Brief Facts:

2. The Petitioner is a person with severe multiple disabilities. She has 75% hearing loss, Left Shoulder Disarticulation and Left Foot Equinus Contracture. (A Copy of the Petitioner's Certificate of Disability issued by the All India Institute of Speech and Hearing and Certificate for persons with Disability issued by Krishnaraj Government Hospital is annexed herein and marked as **ANNEXURE – A**)
3. The Petitioner has been working as a Post Graduate Teacher in Economics at the Demonstration Multipurpose School, RIE, Mysore, for the past 24 years. The Petitioner has been appointed as an Assistant Head Master in the

Demonstration School from 2009 to 2012. Subsequently, in the year 2012 the Respondent No. 7 was appointed as an in-charge Head Master of the School. After the Respondent No.7 joined the school as the In-charge Head Master, the Petitioner started facing a lot of harassment from him and from the Respondent No.8 who is also teaching in the same school, in the form of sexual harassment and harassment due to her disability.

4. It is submitted that due to her disability, the Petitioner used to take classes later in the day as it was not possible for her to take early morning classes due to fluid retention in her ears. When the 7th Respondent took over as Head Master, the Petitioner met with him and verbally explained to him her difficulty in attending the morning assembly and the Mass PT on Saturday due to her multiple-disabilities and requested that she may be exempt from attending the same, although she would be in school during that time doing her other work. Despite this, on 09.7.2012 the Respondent No. 7 sent a note to the Petitioner requesting her to attend the morning assembly and the Mass PT on Saturday. In reply to this note, on the same day the Petitioner wrote a letter to Respondent No. 7 stating that she was attending school from 8.30 am every day and was monitoring the students attending the assembly. She would monitor the students attending the assembly from 1st Floor but it was difficult for her to attend the assembly herself as she could not climb up and down the stairs frequently.

(A copy of the Note dated 9.7.2012 is annexed herein and marked as **ANNEXURE - B**)

(A copy of the reply sent by the Petitioner dated 9.7.2012 is annexed herein and marked as **ANNEXURE - C**)

5. Thereafter on 20.7.2012 the work allotment for the year 2012 – 2013 in form of a time table was created by the Respondent No.7 and the Petitioner was again allotted the first periods on 3 days a week despite her request for later hours of the day. This was highly difficult for the Petitioner due to her disability to handle the morning classes because she had a difficulty of blockage in her ears in the

morning. Further since Economics involves accounting concepts and the students needed more time to understand the subject she had requested block periods for her classes of XI B and XII B as was usually given in the preceding years. However this year, the same was not provided by the 7th Respondent. Due to this on 20.7.2012 the Petitioner wrote a letter to Respondent No. 7 explaining her need for exemption from the first period of the morning classes and stated that in the past her requests for teaching periods in the later parts of the day were being honoured keeping in mind her disability. However the Respondent No. 7 did not agree to the same despite there being teaching slots available for the later parts of the day, just to harass the Petitioner. On 20.7.2015 he sent a note to the Petitioner stating that the time table is prepared as per the administrative requirement and individual requests cannot be considered and that the administration is the better judge for the academic growth of the institution and of the students. Further Respondent No. 7 directed the Petitioner to provide a medical certificate if she was not medically fit or was unable to take up first period between 09.00 am to 10.00 am. This was extremely humiliating and harassing, as the Petitioner had already given her disability certificates and had been working in the said institution for the last 24 years where her disability was being accommodated.

(A copy of the Petitioner's letter dated 20.7.2012 is annexed herein and marked as **ANNEXURE - D**)

(A copy of the reply letter dated 20.7.2012 sent by Respondent No. 7 is annexed herein and marked as **ANNEXURE - E**)

6. In addition to the above harassment of not giving the Petitioner the class timings that would accommodate her disability, the Petitioner started facing a lot of harassment at the hands of Respondent No. 7 in other ways. There were many incidents wherein Respondent No. 7 when found a chance would mock at the Petitioner stating that the Petitioner took undue advantage of her disability. The Respondent No. 7 used to belittle the Petitioner by making disparaging remarks about her multi-disability and her inability to function in front of her students thus

humiliating the Petitioner in front of her students and also sexually harassing her. In one incident which was seriously embarrassing and humiliating to the Petitioner, when the Petitioner had to leave her class to use the bathroom which was located in the primary section, the only bathroom with western commode facilities, the Respondent No. 7 stopped the Petitioner and asked her reasons for leaving her class. Although it was embarrassing the Petitioner explained the reason only to find out that the Respondent No. 7 was sarcastic of her needs. Respondent No. 7 further would also comment disparagingly in front of others that she is a "langdi". All of this amounts to harassment which is due to her gender and disability and also amounts to sexual harassment. Due to all these kinds of harassment, the Petitioner made a complaint to the 2nd Respondent dated 25.7.2012 stating all these facts and how she was being victimized by the Respondent No.7 and requested the 2nd Respondent to look into the matter and do the needful.

(A Copy of the complaint dated 25.7.2012 is annexed herein and marked as **ANNEXURE – F**)

7. However since no action was taken by Respondent No. 2, the Petitioner on 6.8.2012 followed up with another letter seeking redressal for her grievance. The Respondent No. 7 continued his misbehaviour by harassing the petitioner, teasing her about her disability and passing sexual comments such as the Petitioner is a fully damaged good and why should she dress up and whom was she trying to attract and passed discriminating comments on her disability. Further Respondent No. 7 also passed comments such as how can the Petitioner being a disabled person lead a married life with her husband. The harassment by the Respondent No.7 was aggravated by the harassment also being carried out by the Respondent No.8, who is also teaching in the same institution and he was also encouraged by the Respondent No. 7 to harass the Petitioner. Unable to tolerate these comments the Petitioner made another representation to the 2nd Respondent but no action was taken by the Respondent No.2.

(A Copy of the letter dated 6.8.2012 is annexed hereina nd is marked as **ANNEXURE – G**)

8. During this time, since the Respondent No.7 was still not allowing the Petitioner any accommodation to teach during the later hours of the day due to her disability, the Petitioner was left with no option but to approach the State Commission for Persons with Disabilities being Respondent No. 4 vide letter dated 17.8.2012 even for such simple requests. Thereafter vide letter dated 29.8.2012 the Respondent No. 4 sent a letter to the Principal stating that ***“Employees with Disabilities cannot be compared to normal employees. It is the duty of the head of the institution to provide them suitable atmosphere at the work place such as physical, psychological, social and attitudinal barrier free atmosphere.....Therefore it is hereby informed to give relaxation to Smt. Anita Ravindra from taking classes in the first period keeping her disability in mind like she was given concession earlier.....”***

(A copy of the Petitioner’s letter dated 17.8.2012 is annexed herein and is marked as **ANNEXURE - H**)

(A copy of the letter dated 29.08.2012 is annexed herein and is marked as **ANNEXURE – J**)

9. It is submitted that during this time, the Petitioner was a Convener of the Examination Committee in the school. In one of the meetings of the Examination Committee she discovered that Respondent No. 7 was not following the procedure in calling for tenders. On 17.09.2012 the Petitioner sent a letter to Respondent No. 7 stating that as the Examination Committee was not involved in the various procedures of calling for tender and quotation and therefore it was not possible for the Committee members to sign on the documents concerning the answer booklets. However in reply to the Petitioner’s letter, on the same day the Respondent No. 7 sent a note expelling the Petitioner from the duties as a Convener of the Examination Committee on the ground that she had made such

a request to be relieved to the Commissioner for Persons with Disabilities dated 17.8.2012. This was completely false and the only reason she was removed as the Convener was to victimize her since she was speaking out against the illegal actions of the Respondent No. 7. In fact the letter dated 17.8.2012 addressed to the Commissioner for Persons with Disabilities was a complaint regarding the morning classes that were allotted to her and had nothing to do with the Petitioner wanting to be relieved of her duties as a Convener of the Examination Committee.

(A Copy of the Letter dated 17.9.2012 is annexed herein and marked as **ANNEXURE – K**)

(A Copy of the Note dated 17.9.2012 is annexed herein and marked as **ANNEXURE – L**)

10. Due to this kind of victimization and the continuous harassment that she was facing at the hands of Respondent No. 7 and further no proper and appropriate action taken by Respondent No. 2, the Petitioner was left with no option but to approach the Respondent No. 3 Women's Cell. On 3.4.2013 the Petitioner wrote to the Chairperson of the Women's Cell, Regional Institute of Education stating her grievances about how the Respondent No.7 was humiliating her due to her gender and disabilities and the harassment that she was facing and requested her to take action. Thereafter on 5.4.2013 two other teachers along with the Petitioner wrote a letter to the Respondent No. 3 Women's Cell, Regional Institute of Education complaining about the hostile work environment at the school caused by Respondent No. 7 and Respondent No.8. Despite the above complaints, no action was taken by the Respondent No. 3 Women's Cell, Regional Institute of Education, addressing the harassment caused by Respondent No. 7 and 8.

(A Copy the Letter dated 3.4.2013 is annexed herein and marked as **ANNEXURE – M**)

(A Copy of the Letter dated 5.4.2013 is annexed herein and marked as **ANNEXURE – N**)

11. Thereafter on 9.4.2013 the Petitioner wrote a letter to Respondent No. 5, NCERT, seeking redressal for her grievances.

(A Copy of Letter dated 9.4.2013 is annexed herein and marked as **ANNEXURE – P)**

12. Thereafter on 1.5.2013 a Grievance Redressal Committee, was formed by the RIE and a notice was sent to the Petitioner, Respondent No. 6 and Respondent No. 7 directing them to attend an enquiry on 3.5.2013 before the Committee. Subsequently on 3.5.2013, this Committee conducted an enquiry into the Petitioner's complaint. However there was no outcome or action taken based on the enquiry conducted and no order was passed by the said Committee.

(A Copy of the Notice dated 1.5.2013 is annexed herein and marked as **ANNEXURE – Q)**

13. Thereafter on 7.7.2013 the Petitioner wrote another letter to Respondent No.5 NCERT expressing her disappointment and dissatisfaction that no action was taken against her complaint against the Respondent No.7 and 8. On.8.7.2013 the Professor and Head of the National Council of Educational Research and Training via an email directed to the 2nd Respondent Principal to immediately send her a report on the actions taken in the Petitioner's case.

(A Copy of the Letter dated 7.7.2013 is annexed herein and marked as **ANNEXURE – R)**

(A Copy of the Email from Mrs. Saroj Bala Yadav dated 8.7.2013 is annexed herein and marked as **ANNEXURE – S)**

14. It is submitted that despite approaching various fora seeking redressal for her grievances no action was taken against the complaints filed by the Petitioner. Therefore the Petitioner on 9.7.2013 filed a complaint before the 4th Respondent being the Commissioner for Persons with Disabilities about her harassment at the hands of Respondent No. 7.

(A Copy of the Letter dated 9.7.2013 is annexed herein and marked as **ANNEXURE – T**)

15. It is submitted that the Respondent No. 2 constituted another Grievance Committee to look into the complaint initiated by the Petitioner and issued a notice to the Petitioner and Respondent No. 7 summoning them to attend an enquiry on 25.7.2013. It is submitted that even this Grievance Committee did not give any finding nor did it pass any order on the Petitioner's complaint. However after the enquiry on 25.7.2013 the Petitioner received a call from the Chairperson of the Committee requesting the Petitioner to attend another meeting on 26.7.2013 at 3.30pm. When the Petitioner attended the said meeting, to her shock, the Committee did not conduct any enquiry and asked her to agree to settle the matter and compromise, to which the Petitioner staunchly refused. Even this Committee did not pass any orders on her complaint.

(A Copy of the Notice dated 24.7.2013 is annexed herein and marked as **ANNEXURE – V**)

16. Aggrieved by this, the Petitioner wrote a letter to Respondent No.5 NCERT on 29.8.2013 expressing her disagreement with the manner in which the above Committee was conducting the enquiry. The Petitioner also made a representation on 23.10.2013 to the Respondent No. 4 Commissioner for Persons with Disabilities asking him to pass orders on her complaint and to provide her necessary reliefs.

(A Copy of the Letter dated 29.8.2013 is annexed herein and marked as **ANNEXURE – W**)

(A Copy of the Letter dated 23.10.2013 is annexed herein and marked as **ANNEXURE – X**)

17. After approaching various fora and fighting her battle against sexual harassment at the work place which resulted in vain, the Petitioner also approached Respondent No. 6 Commission requesting them to look into her case. The

Respondent No. 6 vide letter dated 20.3.2014 directed the Respondent No. 2 to constitute a committee as per the Supreme Court judgement in the Vishaka case, conduct an enquiry and submit a report within 15 days. However, this was not done.

(A Copy of the Letter dated 20.3.2014 issued by the Respondent No. 6 is annexed herein and marked as **ANNEXURE – Y**)

18. In the meantime, on 5.5.2014 in order to further harass the petitioner, Respondent No. 6 filed a false private complaint before the Judicial Magistrate First Class, Mysore bearing P.C.R No. 1389/2014 against the petitioner under section 420 of IPC for cheating and acquiring a site through the Regional College of Education Employees House Building Co-operative Society, Mysore. Based on this complaint, the police registered a case on 4.8.2014 bearing FIR No. 70/2014 under section 420 IPC and sent a notice dated 8.8.2014 to the Petitioner to be present before the police for an enquiry.

19. It is submitted that on 3.6.2014, the 1st Respondent through the Assistant Director, District Sexual Harassment Complaint Committee and Department for Women and Child Development, Mysore issued a notice directing the Petitioner to be present for an enquiry into her complaint of sexual harassment against the Respondent No. 7 and Respondent No. 8 on 10.6.2014.

(A Copy of the Notice dated 3.6.2014 is annexed herein and marked as **ANNEXURE – Z**)

20. The Petitioner appeared for the said enquiry before the 1st Respondent Committee which was the Local Inquiry Committee set up under the Prevention of Sexual Harassment of Women at the Workplace Committee Act 2013. Thereafter, vide order dated 23.6.2014 the 1st Respondent held that the Petitioner's complaint does not fall under its jurisdiction and dismissed the same on the said grounds.

(A Copy of the Order dated 23.6.2014 is annexed herein and marked as **ANNEXURE – AA**)

21. It is submitted that deprived of all help and support, the Petitioner on 10.7.2014 wrote a letter to the Respondent No. 6 Karnataka State Women's Commission requesting them to reconsider her complaint as the same has been dismissed on the account for lack of jurisdiction. Thereafter on 11.12.2014 Respondent No. 4 via letter directed Respondent No. 3 to conduct further investigation into the petitioner's sexual harassment complaint against Respondent No. 7 and 8 as there is a prima facie case made out on the facts of the case. However till date no enquiry has been conducted by Respondent No. 3.

(A Copy of the Letter dated 10.7.2014 is annexed herein and marked as **ANNEXURE – AB**)

(A Copy of the Letter dated 11.12.14 is annexed herein and marked as **ANNEXURE – AC**)

22. Hence aggrieved by this, the Petitioner has filed this petition. The Petitioner has not preferred any previous petition and no suit or petition is pending before any court of law. That as there being no other alternative and efficacious remedy the petitioner is approaching this Hon'ble Court under Article 226 and 227 of the Constitution of India among following other grounds.

GROUND:

23. **THAT** the 1st Respondent erred in passing the order dated 23.6.2014 concluding that the complaint filed by the Petitioner did not fall under its jurisdiction, without giving any reasons on the basis on which the Committee has come to such conclusion and hence the same deserves to be set aside.

24. **THAT** Section 2(n) of the Act defines "sexual harassment" which includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely: - (i) physical contact and advances; or (ii) a demand or

request for sexual favours; or (iii) making sexually coloured remarks; or (iv) showing pornography; or (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature. In the instant case Respondent 7 and 8 have made unwelcome verbal comments that have a sexual overtone and on the Petitioner's disability such as **"the Petitioner is a fully damaged good and why should she dress up and whom was she trying to attract"** and ***"how can the petitioner being a disabled person lead a married life with her husband"*** among other comments, which amounts to sexual harassment under the Act and the 1st respondent Committee failed to address this.

25. THAT the impugned order passed by the 1st Respondent being the Sexual Harassment Complaint Committee and Department for Women and Child Development Commission, Mysore holding that the complaint filed by the Petitioner did not fall under its jurisdiction is illegal and in violation of Section 6(3) of The Sexual Harassment of Women at Workplace (Prevention, Protection and Protection) Act, 2013 which clearly states that the Jurisdiction of the Local Complaints Committee shall extend to the areas of the district where it is constituted. As the 1st Respondent Committee is constituted in Mysore, and the complaints of the Petitioner arise of incidents that also took place in Mysore, the impugned order is baseless and illegal and deserves to be set aside and the complaint of the Petitioner deserves to be heard and tried afresh.

26. THAT for the sake of argument even if the 1st Respondent were of the view that it does not have jurisdiction to handle the Petitioner's Complaint, the 1st Respondent ought to have referred the case to an appropriate Committee which may be competent to hear the Complaint of the Petitioner, rather than dismiss the Petitioner's complaint after conducting an enquiry into the matter. The impugned order thus causes further harassment and mental agony to the Petitioner as she is being made to run from pillar to post, for the fault of the Respondents in not taking cognizance of her complaint of sexual harassment and not taking appropriate action as per the provisions of The Sexual

Harassment of Women at Workplace (Prevention, Protection and Protection) Act, 2013.

27.THAT the impugned order of the 1st Respondent dismissing the Petitioner's complaint on the ground that it did not have jurisdiction, provides no reasoning for the same, is a non-speaking order and hence is in violation of the principles of natural justice as guaranteed in Article 14 of the constitution and deserves to be set aside.

28.THAT the legislature's object in framing The Sexual harassment of Women At Work Place (Prevention, Prohibition and Redressal) Act, 2013 was to provide protection against sexual harassment for women at workplace and for the prevention and redressal of complaints of sexual harassment and matters connected therewith or incidental thereto. Sexual harassment is recognised as a violation of the fundamental rights of a woman to equality under Articles 14 and 15 of the Constitution of India and right to life and to live with dignity under Article 21 of the Constitution of India. Sexual harassment is also considered a violation of a right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment. Respondent No. 1 being constituted to address sexual harassment against women neglected its duty by passing an order that the case of the petitioner did not fall under its jurisdiction.

29.THAT although the Respondent No. 2 constituted two Grievance Committees and the said Committees conducted an enquiry into the complaints of the Petitioner on 3.5.2013 and 25.7.2013 respectively, none of these committees gave any finding or passed any order on the Petitioner's complaints. Section 11(1) of The Sexual Harassment of Women at Workplace (Prevention, Protection and Protection) Act, 2013 states that the Committee shall, "where the respondent is an employee, proceed to make an inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where

no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Internal Committee or Local Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code, and any other relevant provisions of the said Code. Further Section 13(1) of the Act states that the Committee as the case may be shall provide a report of its finding to the employer or the District officer within a period of 10 days from the date of completion of the enquiry and such report shall be made available to the concern parties. However in the instant case both the committees constituted by Respondent No. 2 although conducted an enquiry failed to make a finding into the complaints of the Petitioner and took no action as mandated under the said Act and therefore the actions of the 2nd Respondent are in complete violation of the provisions of the Act.

30. **THAT** under Chapter II of The Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, Section 4 requires every employer to constitute an “Internal Complaints Committee” to address complaints and grievances of sexual harassment. However the Respondent No.2 in spite of being directed by the State Commission for Women to constitute an Internal Committee and conduct an enquiry into the complaints filed by the Petitioner and further to file a report within 15 days, has failed to constitute an Internal Complaints Committee and conduct an enquiry into the grievance of its staff working in the Institution and deserves the interference of this Hon’ble Court.

31. **THAT** sexual harassment is a violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and a women’s right to life and to work with dignity under Article 21 of the constitution, which includes a right to a safe environment free from sexual harassment. In ***Vishaka & Ors vs State Of Rajasthan & Ors, (1997) 6 SCC 241***, the Hon’ble Supreme Court observed that equality in employment can be seriously impaired when women are subjected to sexual harassment in the workplace and issued guidelines to

ensure that the women have equal working conditions and are protected from sexual harassment. However in the instant case in spite of several complaints made by the Petitioner, neither the 2nd Respondent nor the 5th Respondent took any action to redress the grievances of the Petitioner and no orders were passed by several ineffective committees. The Respondents having failed to take any appropriate action on the complaints filed by the Petitioner for a period of over two years and clearly a case of miscarriage of justice and fundamental rights of the petitioner and deserves the intervention of this Hon'ble Court.

32. **THAT** the Hon'ble Supreme Court in ***Apparel Export Promotion Counsel v. A.K. Chopra*** (1999) 1 SCC 759, observed in the context of sexual harassment at the place of work, that incidents result in violation of the fundamental right to gender equality and the right to life and liberty, the two most precious fundamental rights guaranteed by the Constitution of India. It was further observed that the contents of fundamental rights guaranteed in our Constitution are of sufficient amplitude to encompass all faces of gender equality, including prevention of sexual harassment and abuse and the Courts are under a constitutional obligation to protect and preserve those rights. None of these rights of the Petitioner have been protected in the instant case as the Petitioner, having faced sexual harassment at work and harassment due to her disability, has been made to run from pillar to post without any redressal and the inaction on the part of the Respondents amounts to a violation of the Petitioner's fundamental rights under Articles 14, 19 (1) (g) and 21 of the constitution.

33. **THAT** Respondents No. 7 and 8 have committed an offence under section 509 of IPC which reads as *Word, gesture or act intended to insult the modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or*

with both. The 1st Respondent Committee ought to have taken action under the Act to also refer the Petitioner's complaint to the local police station for registration of an FIR as per the Act, which it failed to do, and hence amounts to a violation of the law.

34. **THAT** the Convention on the Elimination of All Forms of Discrimination Against Women, 1979 (CEDAW) and the Beijing Declaration directs all States Parties to take appropriate measures to prevent discrimination of all forms against women and under CEDAW, sexual harassment is a clear violation of the equality and dignity of women at the workplace. . The International Covenant on Economic, Social and Cultural Rights contains several provisions particularly important for women. Article 7 recognises her right to fair conditions of work and reflects that women shall not be subjected to sexual harassment at the place of work which may vitiate working environment. Article 6 of the UN Convention on Rights of Persons with Disabilities also recognises the additional discrimination faced by women with disabilities and it obligates the State to take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms. These international instruments cast an obligation on the Respondents No.s 1,2,3,4 and 5 to ensure that adequate and prompt action is taken to address complaints of sexual harassment of the Petitioner, and the same was not done, which requires the intervention of this Hon'ble Court.

PRAYER

WHEREFORE, in light of the above facts and circumstances, it is prayed that this Hon'ble Court may be pleased to:

- A. Issue a Writ in the nature of Certiorari or any other appropriate Writ, quashing the order passed by Respondent No. 1 dated 23.6.2014 produced herein as **ANNEXURE – AA**;
- B. Issue a Writ in the nature of Mandamus directing the 1st Respondent to conduct the enquiry afresh into the sexual harassment complaint filed by the Petitioner and pass appropriate orders within 2 months as per the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013;
- C. Direct the Respondent No. 2 to set up an Internal Complaints Committee as required under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013; and
- D. Pass any such other appropriate Writ, order or direction that seems fit under the circumstances explained above.

Place: Bangalore

Date:

Advocate for Petitioner

Address for Service:

Ashira Law

Advocates & Solicitors

D6, Dona Cynthia, 35, Primrose Road,

Bangalore -560025

