

**IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION**

**WRIT PETITION (CRIMINAL) NO(S). 284/2020**

**MS. X**

**Petitioner(s)**

**VERSUS**

**UNION OF INDIA & ORS.**

**Respondent(s)**

**O R D E R**

The petitioner before this Court was a Constable in the Border Security Force and she made a complaint of sexual harassment against one of the officers, who is not a party in this writ petition.

According to the petitioner, since the BSF had not taken any action on the complaint made by the petitioner, she was constrained to file a writ petition before this Court. In the writ petition, a detailed counter affidavit has been filed. However, the petitioner has not chosen to file any rejoinder affidavit.

In the counter affidavit, the stand taken by the Department is that initially, on the complaint made by the petitioner, an inquiry was constituted under The Sexual Harassment of Women at Workplace (Prevention,

Prohibition and Redressal) Act, 2013 (hereinafter referred to as, “the Sexual Harassment Act”), but nothing came out on the complaint and the officer was discharged of all the charges.

Subsequently, the matter came to the Inspector General for final approval of the order and a General Security Force was constituted and fresh inquiry was conducted, but this time under the Border Security Force Act, 1968, which held a detailed inquiry and proceedings were held in the matter and finally a punishment was awarded, such as i) 89 days of rigorous imprisonment in custody, ii) forfeiture of 5 years of service for the purpose of promotion and iii) forfeiture of 5 years of past service for the purpose of pension.

This Court has been informed that these punishments have been carried out and the concerned employee has not even filed an appeal against the order.

The petitioner, however, is not satisfied with the punishment imposed on the respondent and would argue that the punishment was liable to be imposed on the petitioner under the Sexual Harassment Act and

copy of the Inquiry Report under the BSF Act was not supplied to the petitioner under Section 13 (1) of the Sexual Harassment Act. The facts that the copy of the inquiry report was not supplied to the Petitioner is an admitted fact. To this extent, there has been a violation of Sexual Harassment Act. Section 13(1) is reproduced below :-

*“13. **Inquiry report.**—(1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.”*

In case of violation of the same, penalty has to be imposed under Section 26 of the Sexual Harassment Act. Section 26 reads as under :-

*“26. **Penalty for non-compliance with provisions of Act.**—(1) Where the employer fails to —  
(a) constitute an Internal Committee under*

*sub-section (1) of section 4;*

*(b) take action under sections 13, 14 and 22;  
and*

*(c) contravenes or attempts to contravene or  
abets contravention of other provisions of this  
Act or any rules made thereunder,*

*he shall be punishable with fine which  
may extend to fifty thousand rupees.*

*(2) If any employer, after having been  
previously convicted of an offence punishable  
under this Act subsequently commits and is  
convicted of the same offence, he shall be  
liable to—*

*(i) twice the punishment, which might have  
been imposed on a first conviction, subject to  
the punishment being maximum provided for  
the same offence:*

*Provided that in case a higher punishment  
is prescribed under any other law for the time  
being in force, for the offence for which the  
accused is being prosecuted, the court shall  
take due cognizance of the same while  
awarding the punishment;*

*(ii) cancellation, of his licence or withdrawal, or  
non-renewal, or approval, or cancellation of the  
registration, as the case may be, by the  
Government or local authority required for  
carrying on his business or activity.”*

The reply of the BSF is that the Report of the Inquiry Committee was not given to the petitioner, as she was not an accused and moreover, the Inquiry Report did not find anything material against the accused person.

Be that as it may, we are of the view that Inquiry Report ought to have been given to the victim as it is required to be given under Section 13 (1) to all the “concerned parties”. Petitioner is definitely a concerned party.

On the facts of this case where the Inquiry Report was not been given to the petitioner, there has clearly been a violation of Section 13 of the Act. We therefore impose a penalty of Rs. 25,000/- which will be given to the petitioner by the Border Security Force.

Apart from the above lapse, we are of the opinion that punishment in any case has already been given to the concerned employee, which meets the ends of justice. Nothing further needs to be done.

With the above observations and directions, the writ petition is disposed of.

Pending interlocutory application(s), if any, is/are disposed of.

.....**J.**  
**[ SUDHANSHU DHULIA ]**

.....**J.**  
**[ AHSANUDDIN AMANULLAH ]**

**New Delhi;**  
**DECEMBER 04, 2024.**

ITEM NO.23

COURT NO.14

SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Criminal) No(s). 284/2020

MS. X

Petitioner(s)

VERSUS

UNION OF INDIA &amp; ORS.

Respondent(s)

IA No. 68825/2024 - APPLICATION FOR PERMISSION

IA No. 111633/2020 - EXEMPTION FROM FILING O.T.

IA No. 111631/2020 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES

Date : 04-12-2024 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SUDHANSHU DHULIA  
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAHFor Petitioner(s) Mr. Prashant Kumar, AOR  
Mr. Anand Kumar Pandey, Adv.For Respondent(s) Mr. Vikramjeet Banerjee, A.S.G.  
Ms. Rukhmini Bobde, Adv.  
Ms. Swati Ghildiyal, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. Ishaan Sharma, Adv.  
Mr. Arvind Kumar Sharma, AOR  
  
Mr. Gurmeet Singh Makker, AOR  
  
Mr. Vikramjit Banerjee, A.S.G.  
Ms. Swarupama Chaturvedi, Sr. Adv.  
Mr. Durga Dutt, Adv.  
Ms. Rukhmini Bobde, Adv.  
Mr. Raghav Sharma, Adv.  
Mr. Raman Yadav, Adv.  
Mr. Jagdish Chandra Solanki, Adv.  
Dr. N. Visakamurthy, AOR  
  
Mr. Amrish Kumar, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The Writ Petition is disposed of in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed  
of.

(JAYANT KUMAR ARORA)  
ASST. REGISTRAR-CUM-PS

(SAROJ KUMARI GAUR)  
ASSISTANT REGISTRAR

(Signed order is placed on the file)