



Shweta Khanapur
Senior Associate

BOMBAY HC ON POSH APPELLATE AUTHORITY

A. Introduction

In the *Sunita Jasmine* case,¹ the Bombay High Court (“**HC**”), on 30th July 2021, upheld the jurisdiction of the Industrial Court at Mumbai as the appropriate authority in case where a petitioner wishes to avail the remedy of appeal against decision of the Internal Committee (“**IC**”) constituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“**POSH Act**”).

B. Facts

1. Sunita Jasmine (“**SJ**”), was aggrieved by findings of the IC rejected her complaint of sexual harassment at workplace. Her writ petition before the HC sought the quashing and setting aside of the findings of the IC and for constituting an independent external committee to conduct a *de novo* enquiry into the conduct of the respondents as well as other reliefs.

C. Analysis

2. The HC placed reliance on its decision in the *P* case² holding that an aggrieved person may prefer to avail the remedy of appeal under Section 18³ of the POSH Act before the appellate authority notified under the Section 2(a)⁴ of the Industrial Employment (Standing Orders) Act, 1946 (“**SO Act**”).
3. Section 18 of the POSH Act prescribes that any person aggrieved by recommendations of the IC or the non-implementation of the recommendations may prefer appeal to the court or tribunal as per the service rules or where no service rules exist, as may be prescribed. Accordingly, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (“**POSH Rules**”) prescribes that appeal may be preferred to the appellate authority notified under Section 2(a) of the SO Act.
4. The Industrial, Energy and Labor Department of the Government of Maharashtra notified on 31st March 2021⁵ that the Industrial Court at Mumbai is the Appellate Authority to exercise appellate functions under the SO Act over Mumbai city and Mumbai Sub-Urban District.

¹ *Sunita Jasmine Pauldas Gladston Somervel vs. State of Maharashtra and Ors.* (30.07.2021 – BOM HC): MANU/MH/4457/2021.

² *P Vs. Aditya Birla Capital Shared Services Limited* W.P. (L). No. 3972 of 2021. Please refer to the judgment [here](#).

³ Deals with Appeals under POSH Act.

⁴ Appointment of Appellate Authority.

⁵ Text of [Notification](#).

D. Conclusion

The HC has granted SJ the liberty to avail her remedy by filing for an appeal before the Industrial Court at Mumbai. The HC found it fit not to intervene in the decision of the IC but instead directed that the SJ is at liberty to appeal against IC's findings before the Industrial Court.

This *Counselence Connect* contains information in a nutshell on a recent change in law.

This is not legal advice and must not be treated so. For legal advice, please contact us at: info@counselence.com. Past issues of *Counselence Connect* are available on the 'Newsletters' page of our [website](#).