



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO. 16 OF 2017**

UNS Women Legal Association (Regd) .. Petitioner
Versus
Bar Council of India & Ors. .. Respondents

None for the petitioner.

Mr. Shekhar Jagtap with Ms. Sairuchita Chowdhary for respondent no.1 – Bar Council of India.

Dr. Milind Sathe, Senior Advocate with Ms. Meghna Goyalani i/by Mr. Yogendra Rajgor for respondent no.2-Bar Council of Maharashtra & Goa.

Smt. Jyoti Chavan, Addl. Govt. Pleader with Smt. Fatima Lakadawala, AGP for respondent no.4 – State.

**CORAM: ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.**

DATE: 7th JULY, 2025

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1. None for the petitioner.
2. The petitioner is a Women Advocates' Association and is registered under the Societies Registration Act, 1860. In this Public Interest Litigation (PIL), the petitioner, *inter alia*, seeks a direction to the Bar Council of India as well as Bar Council of Maharashtra & Goa to consider formation of a permanent internal grievance committee of women advocates in all State Bar Council offices and all Bar Associations of Maharashtra in view of the guidelines issued by the Supreme Court in ***Medha Kotwal Lele & Ors. vs. Union of India & Ors., (2013) 1 SCC 297*** and in view of the provisions of the Sexual Harassment of Women at Workplace (Prevention,

Prohibition and Redressal) Act, 2013 (hereinafter referred to as "the Act of 2013").

3. We have perused the record and heard Dr. Milind Sathe, learned senior counsel for Bar Council of Maharashtra & Goa, Mr. Shekhar Jagtap, learned counsel for Bar Council of India and Ms. Jyoti Chavan, learned Additional Government Pleader for State.

4. In the year 1997, Supreme Court recognized the right of women at the workplace in **Vishaka & Ors. vs. State of Rajasthan & Ors., (1997) 6 SCC 241**. Thereafter in the year 2013, Supreme Court issued specific guidelines in the matter of **Megha Kotwal Lele (Supra)** to Bar Council of India to look into implementation and formation of women committee at all State Bar Council and Bar Council of India. The Parliament thereafter enacted the Act of 2013, which is an Act which prevents sexual harassment of women at workplace as the same violates women's right to equality, life and liberty.

5. Sections 2(f), 2(g), 4 and 6 of the Act of 2013 are extracted below for the facility of reference:-

"2. Definition.- In this Act, unless the context otherwise requires, -

(a) to (e)

(f) "employee" means a person employed at a workplace for any work on regular, temporary, *ad hoc* or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express

or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name;

(g) "employer" means -

- (i) in relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;
- (ii) in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace.

Explanation.- For the purposes of this sub-clause "management" includes the person or board or committee responsible for formulation and administration of policies for such organisation;

- (iii) in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her employees;
- (iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker;

4. Constitution of Internal Complaints Committee. - (1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the "Internal Complaints Committee":

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committees shall consist of the following members to be nominated by the employer, namely:-

- (a) A Presiding Officer who shall be a women employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section (1):

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation:

- (b) not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;
- (c) one Member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:

Provided that at least one-half of the total Members so nominated shall be women.

(3) The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

(4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

(5) Where the Presiding Officer or any Member of the Internal Committee, -

- (a) contravenes the provisions of section 16; or
- (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
- (c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
- (d) has so abused his position as to render his continuance in office prejudicial to the public interest,

such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

6. Constitution and jurisdiction of Local Committee.- (1) Every District Officer shall constitute in the district concerned, a committee to be known as the "Local Committee" to receive complaints of sexual harassment from establishments where the Internal Committee has not been constituted due to having less than ten workers or if the complaint is against the employer himself.

(2) The District Officer shall designate one nodal officer in every block, taluka and tehsil in rural or tribal area and ward or municipality in the urban area, to receive complaints and forward the same to the concerned Local Committee within a period of seven days.

(3) The jurisdiction of the Local Committee shall extend to the areas of the district where it is constituted."

6. Thus it is evident that the provisions of the Act of 2013 apply where the relationship of employer and employee exists. Neither Bar Council of India nor Bar Council of Maharashtra & Goa can be said to be employer of advocates. Therefore, the provisions of the Act of 2013 do not apply insofar as it pertains to advocates. However, the same would apply insofar as it pertains to employees of the Bar Council of India as well as Bar Council of Maharashtra & Goa.

7. Learned senior counsel for the Bar Council of Maharashtra & Goa and learned counsel for the Bar Council of India state that an Internal Complaints Committee so far as it pertains to grievance of their respective employees has already been constituted under the provisions of the Act of 2013. Insofar as grievance of the lady advocates is concerned, suffice it to say that they have a forum under Section 35 of the Advocates Act, 1961 under which the Bar Council has jurisdiction to take action against any advocate for not just professional but also other misconduct.

8. In view of aforesaid, no further orders are required to be passed in this PIL. The same is accordingly disposed of.

(SANDEEP V. MARNE, J.)

(CHIEF JUSTICE)