

ITEM NO.54

COURT NO.6

SECTION PIL

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D I A

Writ Petition(s)(Criminal) No(s). 24/2012

NISHA PRIYA BHATIA

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

(with appln. (s) for directions and office report)

Date : 15/12/2014 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Petitioner-in-person,Adv.

For Respondent(s) Mr. Ranjit Kumar, SG
Mr. Rana Mukherjee, Adv.
Ms. Meenakshi Grover, Adv.
Mr. B. V. Balaram Das,Adv.UPON hearing the counsel the Court made the following
O R D E R

Heard Ms. Nisha Priya Bhatia, petitioner-in-person, and Mr. Ranjit Kumar, learned Solicitor General along with Mr. Sudhir Walia, learned counsel for the respondents.

Though many a relief has been prayed for in the writ petition, yet the petitioner appearing in person has addressed us as regards the justifiability of the issuance of the press note dated 19.8.2008 it is contended by her that the Press Information Bureau, Government of India could not have issued such a press note and definitely the nature of the press note affects and offends the individual dignity of a citizen especially when the petitioner was a Class-I officer working in RAW.

It is further urged by the petitioner that she had made complaints with regard to sexual harassment from time to time and

Signature Not Verified
certain committees had been established to enquire into it, but Digitally signed by

they did not give any kind of fruitful results. We intend to make Gulshan Kumar Arora

Date: 2015.03.25

13:02:18 IST

it clear that we are not going to comment on the findings recorded Reason:

by the Committees established by the Union of India on the lines of Vishaka guidelines and the finding returned by them in praesenti. The grievance that was highlighted by the petitioner

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is that the existence of the press note has caused immense harassment to her and also to her two daughters who are 26 and 23 years old.

Be it noted, press note has its own genesis. An allegation

was made that the petitioner attempted to commit suicide in the Prime Minister's Office. It is revealed from the record that the Delhi Police lodged an FIR before the Learned Magistrate under Section 309 of the Indian Penal Code against the petitioner.

The issue that emanates for consideration in such circumstance is, whether it was appropriate and apt on the part of the competent authority of Government of India to issue a press note which would be in the public domain. We can understand and appreciate an explanation being given that legal action had been taken against the person who had attempted to commit suicide but, unfortunately, the press note is otherwise. The petitioner, in her agony, has drawn our attention to various paragraphs of the press note. For the sake of clarity/convenience, we think it appropriate to reproduce the press note in entirety :

"PRESS INFORMATION BUREAU
GOVERNMENT OF INDIA

Cabinet Secretariat
Press Note - Fact Sheet on Suicide Attempt by Ms.
Nisha Priya Bhatia

20:28 IST

Ms. Nisha Bhatia, Director in Cabinet
Secretariat, lodged a complaint last year
alleging sexual harassment by her Joint
Secretary.(1)

The complaint was enquired into by the
Complaint Committee constituted as per the
guidelines laid down by the Supreme Court in this
regard. An external lady officer was also
co-opted as per these guidelines. The officer,
however, withdrew her complaint.(2)

The officer was given several opportunities
to present her case, but she refused to cooperate
with the committee. Notwithstanding, the
committee completed the inquiry on May 19, 2008
and found that her allegations could not be
substantiated. Moreover, the committee found
that her behavior on a number of occasions, duly
documented by the committee, appear to indicate a
'disturbed state of mind' and recommended medical

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counselling.(3)

The findings were communicated to Competent
Authority in the Government.(4)

Meanwhile, a number of complaints have been
received from different officers of the
organization against Ms. Bhatia. These range
from alleged unauthorized communication and
contact with media, insubordination, misbehavior,
abuse of authority and sending of objectionable
and offensive SMSs to senior officials of the
government.(5)

Based on examination of reports of her
'erratic' behaviour, a senior medical officer of
the All India Institute of Medical Sciences
(AIIMS) opined 'presence of Psychiatric illenss
in her and advised Psychiatric opinion to assess
her condition'.(6)

Ms. Bhatia was advised to go for medical counselling, which she refused.(7)

In view of these complaints of misconduct, a preliminary enquiry was ordered on August 8, 2008. When the officer was informed about initiation of the enquiry today, the 19th of August, she indicated that she would not appear in any proceedings, and warned that the department would face the consequences. (8)

It is subsequently learnt that she went to the PMO and attempted to commit suicide. She was immediately shifted to hospital for medical care and her family was informed about the incident. (9)"

At this juncture, we must state that the criminal proceedings that were instituted against the petitioner under Section 309 of the IPC ended up in acquittal. Mr. Ranjit Kumar, learned Solicitor General, would submit that the Delhi Police did not pursue it up in an appropriate manner. However, the fact remains that said judgment of acquittal has not been assailed by Delhi Police which had initiated the prosecution. It has attained finality from all spectrums.

In the instant case, as we observe, the press note refers to various facets. The third paragraph of the press note would show, there is a comment about her mental state. Assuming an officer is in a disturbed state of mind, there could have been a proceeding

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against him or her as per the service rules but we fail to fathom, how could be a press note of the present nature could be issued calling a person in 'disturbed state of mind'. True it is, it has been based on the finding of some observations made by the Committee, but definitely there was no justification to bring it within public domain. That apart, what we find from the reports of the Committee is that that committee which was constituted for dealing with sexual harassment alleged by the petitioner could have addressed itself with regard to establishing or not proving of such allegations but there was no justification, however stretched, to record that the complainant was in a "disturbed state of mind". That was definitely the transgression of the authority assigned to the Committee. Be that as it may, the Committee's report should not have been reflected in the press note.

At this juncture, we are obliged to refer to the fifth para of the press note which indicates that number of complaints had been received from different officers from the organization against the petitioner and they range from alleged unauthorized communication and contact with media, insubordination, misbehavior, abuse of authority and sending of objectionable and offensive SMSs to senior officials of the Government. This again, in our considered view, could have been a matter of the departmental enquiry and not the subject matter of the press note. Had the petitioner not cooperated with the departmental enquiry, the rules would have taken care of the same. It is inconceivable, how it can form the foundation of the press note.

The petitioner has also drawn our attention to the press note which comments on her behaviour. As paragraph six of the report would show that there have been reports from a senior medical officer of AIIMS about her erratic behaviour and presence of psychiatric illness on her to the effect that there is an advice for assessing her condition. As we notice, the second Committee that had submitted its report on 23.01.2009, it had recorded a finding which reads as follows :

"On the basis of inputs provided by the R&AW, the PIB had issued a Press Note on the suicide attempt of Ms. Bhatia on August 19, 2008. One of the points referred to the opinion of a senior Medical Officer of the All India Institute of Medical Sciences relating to "presence of a psychiatric illness in her and psychiatric opinion to assess her condition." Shri Ashok Chaturvedi in his deposition before the Complaints Committee indicated that the medical opinion was informally obtained. He also declined to name the doctor who had given the opinion on Ms. Nisha Priya Bhatia.

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The Complaints Committee feels that such a comment without an authorized reference and medical opinion on Ms. Bhatia, was not warranted. This situation would amount to defaming an officer. This is in gross violation of the rights of an individual."

On proper appreciation of the aforesaid, it can definitely be stated that the foundation and the fulcrum on which the press note was issued has no basis. The press note, as we perceive, creates a concavity in the reputation a citizen and indubitably against an officer whatever rank he/she holds. There was no reason to issue a press note. We can understand that the press note is issued that a crime has been registered against the person concerned as it is a cognizable crime but we cannot appreciate issuance of such a press note which affects the dignity, reputation and privacy of an officer.

In view of the aforesaid, we quash the press note dated 19.08.2008. Needless to emphasise, when we quash a press note or anything, it does not exist in the eye law and it has to be understood that it had never existed for any purpose at any point of time.

Let the matter be listed in the second week of March 2015.

(Gulshan Kumar Arora)
Court Master

(H.S. Parasher)
Court Master