

a BINU TAMTA v. HIGH COURT OF DELHI 257

(2014) 13 Supreme Court Cases 257

(BEFORE ALTAMAS KABIR, C.J. AND ANIL R. DAVE AND
RANJANA P. DESAI, JJ.)

BINU TAMTA AND ANOTHER . . . Petitioner;

b *Versus*

HIGH COURT OF DELHI AND OTHERS . . . Respondents.

Writ Petition (C) No. 162 of 2013, decided on July 17, 2013

Crimes Against Women and Children — Sexual harassment/Outraging modesty — Sexual harassment at Supreme Court and other courts — Directions issued

c — Formation of a Committee as suggested in *Vishaka*, (1997) 6 SCC 241 and framing of proper regulations in regard to gender sensitisation and prevention of sexual harassment of women at Supreme Court of India and in other courts — Supreme Court constituted Sub-Committee report and Draft Rules framed by one of the Advocate petitioners found suitable and accepted by Supreme Court and Gender Sensitisation and Sexual Harassment of Women at the Supreme Court of India (Prevention, Prohibition and Redressal) Regulations, 2013 in their final form approved and accepted while acknowledging that Rules may need correction based on future experience, Supreme Court in its administrative jurisdiction directed to arrange promulgation of the 2013 Regulations and to give wide publicity to the same — Copies to be sent to different High Courts in different States for framing similar rules in High Courts and District Courts to be followed in essence in all courts for providing safe working environment for women — Efforts of Advocate petitioners and ASG and Senior Advocates and Ms Asha Menon appreciated — Constitution of India — Arts. 15, 21 and 32 — Human and Civil Rights — Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 — Ss. 3 to 6 and 9 — Courts, Tribunals and Judiciary — Supreme Court, Federal Court and Privy Council — Gender Sensitisation and Sexual Harassment of Women at the Supreme Court of India (Prevention, Prohibition and Redressal) Regulations, 2013 (Paras 4 to 8)

Vishaka v. State of Rajasthan, (1997) 6 SCC 241 : 1997 SCC (Cri) 932; *Binu Tamta v. High Court of Delhi*, (2014) 13 SCC 257 (F2); *Binu Tamta v. High Court of Delhi*, (2014) 13 SCC 257 (F3), referred to

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<i>g</i>	<i>Chronological list of cases cited</i>	<i>on page(s)</i>
	1. (2014) 13 SCC 257 (F3), <i>Binu Tamta v. High Court of Delhi</i>	258c
	2. (2014) 13 SCC 257 (F2), <i>Binu Tamta v. High Court of Delhi</i>	258a-b
	3. (1997) 6 SCC 241 : 1997 SCC (Cri) 932, <i>Vishaka v. State of Rajasthan</i>	258a

ORDER

h 1. This writ petition was filed by two learned advocates of this Court, Ms Binu Tamta and Ms Vibha Datta Makhija, for certain reliefs on the basis of a newspaper report, which had reported about an incident which occurred in the Delhi High Court, alleging that an employee of the High Court had been filming lady advocates in the chamber toilet.

2. The filing of the writ petition led to the question of the formation of a Committee as suggested by this Court in *Vishaka v. State of Rajasthan*¹. This led to the further suggestion that proper regulations be framed in regard to gender sensitisation and to prevent sexual harassment of women at the Supreme Court of India and in other courts as well. In our order dated 23-4-2013², we had constituted a Sub-Committee with Mr Fali S. Nariman, learned Senior Advocate, as the Chairperson thereof, to look into the reports submitted by Ms Asha Menon in her capacity as Member-Secretary of the National Legal Services Authority and also to look into the draft rules prepared by Ms Vibha Datta Makhija and, thereafter, to submit a comprehensive set of draft rules on the basis of which orders could be passed.

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3. Such a report was submitted³ before us in its draft form and after

1 (1997) 6 SCC 241 : 1997 SCC (Cri) 932

2 *Binu Tamta v. High Court of Delhi*, WP (C) No. 162 of 2013, order dated 23-4-2013, (2014) 13 SCC 257 (F2), wherein it was directed:

“1. Pursuant to the order passed on 21-3-2013 in *Binu Tamta v. High Court of Delhi*, (2014) 13 SCC 305, the Member-Secretary of the National Legal Services Authority (NALSA), Ms Asha Menon, has submitted a report in which various issues have been raised. One of the important questions raised by her is in para 8 of the report, which indicates that, although, the Committees may be in place, there are no common guidelines available or adopted for the working of the said Committees. One other connected question raised is with regard to the space from where the Committees are to operate.

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2. The learned Attorney General has also raised certain issues, which also need to be considered if the Committees are to function meaningfully. Let a Sub-Committee be appointed with the following members, namely:

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1. Mr Fali S. Nariman, Senior Advocate, Chairperson.
2. Ms Indu Malhotra, Senior Advocate
3. Ms Vibha Datta Makhija
4. Ms Binu Tamta
5. Ms Meenakshi Arora
6. Mr Anand Grover, Senior Advocate and
7. Ms Asha Menon, Vice-Chairperson,

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to look into the reports submitted by Ms Menon, as well as the draft rules prepared by Ms Makhija, and, thereafter, to submit a comprehensive set of draft rules in respect whereof appropriate orders may be passed.

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3. Let this matter be listed on 7-5-2013, at 3.00 p.m. for submission of the draft guidelines by the Committee and consideration thereof.”

3 *Binu Tamta v. High Court of Delhi*, WP (C) No. 162 of 2013, order dated 3-7-2013, (2014) 13 SCC 257 (F3), wherein it was directed:

“1. Ms Binu Tamta and Ms Vibha Datta Makhija, the petitioners appearing in person, have filed before us a draft copy of what has been referred to as, the “Gender Sensitisation and Sexual Harassment of Women at the Supreme Court of India (Prevention, Prohibition and Redressal) Regulations, 2013.” A copy has also been provided to the learned Attorney General. The same, in our view,

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thorough discussion, the Committee was requested to make certain additions and alterations and now finally the Regulations referred to as, the “Gender Sensitisation and Sexual Harassment of Women at the Supreme Court of India (Prevention, Prohibition and Redressal) Regulations, 2013”, have been placed before us in its final form. The said Regulations have also been considered by the learned Attorney General, as also the learned Additional Solicitor General, Mr Sidharth Luthra. All the learned counsel are agreeable that the Regulations, in their present form, may be accepted and appropriate orders may be passed thereupon.

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4. We too have gone through the Regulations and find them to be suitable to tackle the menace of sexual predation in the court precincts for the present. The same may require changes, if necessary, based on future experience.

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5. We, accordingly, approve of and accept the aforesaid Regulations and direct the Supreme Court in its administrative jurisdiction to take note of the same and to arrange that the same are promulgated and given wide publicity. Copies of the same be sent to the different High Courts in the different States, so that they too may formulate their own regulations in the same manner, in order to contain harassment of women in court premises. The High Courts may also ensure that the same are implemented at the district level as well.

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6. One of the prayers in the writ petition is for issuance of a mandamus to Respondent 4 and all the High Courts and subordinate courts to draft and notify its rules for prevention of sexual harassment in court premises, inter alia, providing for permanent internal committees with effective punishment powers of the delinquent, for providing safe working environment for women and matters ancillary thereto. The said prayer is, in fact, covered by the directions given hereinabove and may, therefore, be followed in its essence and spirit by all the courts concerned.

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7. The writ petition is disposed of accordingly. What remains to be recorded is our appreciation, first to the two petitioners for having taken the initiative of bringing this matter to the notice of this Court, and then to Mr Fali S. Nariman and Mr Anand Grover, learned Senior Advocates, and the other members of the Committee, along with the learned Attorney General and the learned Additional Solicitor General, for extending their help and expertise in framing these Regulations, which we are certain will be acted by all concerned with the seriousness they deserve.

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8. We also express our appreciation of Ms Asha Menon’s efforts in providing necessary support as a member of the Committee towards the framing of these Regulations.

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(Footnote 3 contd.)

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requires a few modifications to indicate the source of power in framing these Regulations, as also certain other minor corrections, that are needed to be made.

2. Let this matter stand over till next Thursday (11-7-2013) at 3.30 p.m. and let this Bench be reconstituted on the said date for the aforesaid purpose.”