



2026:AHC-LKO:26942

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**WRIT - A No. - 9112 of 2025**

**Reserved**

**A.F.R.**

Km. Sunita Devi

.....Petitioner(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Deptt. State Tax Lko. And 4  
Others

.....Respondent(s)

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Counsel for Petitioner(s)	:	Sharad Pathak
Counsel for Respondent(s)	:	C.S.C.

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**Along with :**

**1. Writ - A No. 9114 of 2025:**

Pratibha and 4 others

Versus

State of U.P. Thru. Addl. Chief Secy. Deptt. State Tax Lko. and 4  
others

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**HON'BLE MANISH MATHUR, J.**

1. Heard Mr. Sharad Pathak learned senior counsel assisted by Ms. Priya Singh learned counsel for petitioner and Mr. S.M. Singh Royekwar learned Additional Advocate General assisted by Mr. Akash Sinha learned state counsel for opposite parties.

2. Writ A No. 9112 of 2025 and writ A No. 9114 of 2025 having the same cause of action had earlier been consolidated and are being adjudicated upon by this common judgment and order.

3. Petition has been filed challenging orders dated 5th August 2025 and 6th August 2025 whereby petitioners have been suspended from service in contemplation of departmental inquiries.

4. It is submitted that upon a complaint being made on 27th July 2025 regarding allegation of sexual harassment against another officer (hereinafter referred to as the delinquent) under provisions of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as 'Act of 2013') an Internal Complaints Committee was constituted on 28th July 2025 with petitioners being included as members thereof. Vide letter dated 29th July 2025, the Joint Commissioner (Establishment) directed the committee to submit its report within the same day. In terms of the aforesaid directions, proceedings under the Act of 2013 were initiated and statement of complainant, of the delinquent employee and other witnesses were recorded on the same date on 27th July 2025. Application was submitted by the delinquent seeking time to give a reply for which a day's time was granted and was subsequently submitted on 30th July 2025. On the basis of aforesaid proceedings, the committee submitted its report dated 31st July 2025 exonerating the delinquent whereafter the delinquent employee was placed under suspension from service vide order dated 3rd August 2025 and subsequently vide impugned orders, the petitioners who were members of the Internal Complaints Committee were also suspended from service pending departmental proceedings.

5. It is submitted that as per the Act of 2013, the report submitted by Internal Complaints Committee was only recommendatory in nature and was subject either to acceptance or rejection by the head of the department. It is submitted that the impugned order does not advert as to whether the said report was ever rejected by the head of department and a perusal of impugned order will also reveal that there is no specific or even prima facie satisfaction recorded that any deliberate attempt was made by the entire committee for absolving the delinquent. Learned counsel further submits that even otherwise the impugned order is against provisions of Rule 4 of the U.P. Government Servants (Discipline and Appeal) Rules 1999 inasmuch as the proceedings may not result in any major penalty.

6. It is also submitted that initiation of departmental inquiry only on the basis of report submitted by the committee sets a very dangerous precedent since it may have the consequence of such committees being compelled to submit a tailor made report as per wishes of employer

instead of an impartial one.

7. Learned counsel further submits that it is settled law that a quasi-judicial authority should not be proceeded against departmentally merely on the basis of opinion submitted by it since it has larger implications with regard to fairness of proceedings. It is submitted that pressure exerted upon the committee is evident from the order constituting the committee indicating a report to be submitted within one day although Rule 7 of the Rules of 2013 framed under the Act clearly stipulate a timeline for conclusion of said proceedings. Learned counsel has placed reliance on following judgments to buttress his submissions:-

Union of India & others Vs. J. Ahmed, (1979) 2 SCC 286; P.C. Joshi Vs. State of U.P. & others (2001) 6 SCC 491; Krishna Prasad Verma Vs. State Of Bihar & Others (2019) 10 SCC 640; Sadhna Chaudhary v. State of U.P & Another (2020) 11 SCC 760; Amresh Srivastava Vs. State Of M.P & Others (2025) SCC Online 693; Nirbhay Singh Suliya v. State of M.P & another, Civil Appeal no. 40 of 2026 (arising out of SLP (C) No. 24570 of 2024

8. Mr. S. M. Singh, Royekwar learned counsel appearing on behalf of state has refuted submissions advanced by learned counsel for petitioner with submission that the complainant was promoted as a Sales Tax Officer on 27th February 2025 whereafter the delinquent contacted her on phone even before she joined and after facing multiple episodes of sexual harassment by the delinquent, she was able to muster courage to lodge a formal complaint on 27th July 2025. Taking cognizance of the said complaint, the state government directed Commissioner (State Tax) to submit his report. Directions for constitution of the internal complaints committee were also issued.

9. It is submitted that the committee thereafter required Smt. Vibha Pandey, Joint Commissioner (Executive) to submit her testimony regarding the allegations. The said lady vide letter dated 30th July 2025 unequivocally accepted the fact that the complainant had earlier as well reported her harassment by the delinquent.

10. Learned counsel submits that in its report dated 31st July 2025, the committee has exonerated the delinquent ignoring testimony of Smt. Vibha Pandey and by taking into account the testimony of irrelevant witnesses. It is further submitted that subsequently on 2nd August 2025, the complainant presented an audio recording of the proceedings of committee and submitted the same through a pen drive as she apprehended an incorrect recommendation judging by the hostile conduct of members of the committee. He submits that it is in pursuance thereof that taking true version of the proceedings of committee as available in the audio, recommendation for suspension of the members of committee was made on 3rd August 2025 whereafter impugned orders have been passed.

11. Learned counsel submits that there was a deliberate and intentional effort on the part of members of the committee to exonerate the delinquent employee since the committee has conveniently disregarded the written testimony of Smt. Vibha Pandey, Joint Commissioner (Executive).

12. Learned counsel has further submitted that members of committee themselves were privy to the conduct of delinquent and had the opportunity to know about the sexual harassment being faced by complainant on multiple previous occasions but despite having such knowledge, the members of committee acted in a partisan manner and proceeded to protect the delinquent. He therefore submits that it is in view of such efforts to exonerate the delinquent employee that disciplinary proceedings have been resorted to and is not only on the basis of decision taken by the committee.

13. He submits that disciplinary proceedings can be initiated against officers even if the conduct is an exercise of quasi-judicial powers and that courts should not ordinarily interfere with an order of suspension which in the present case is justified considering gravity of charges. It is submitted that in case the delinquents are permitted to join in the same office, it may result in mischief and tampering of evidence.

14. Learned counsel has further submitted that Section 13(4) of the Act of 2013 mandates that the employer or the district officer shall act upon the recommendation within 60 days of its receipt and therefore the recommendation of the committee would be mandatory in nature. He further submits that it is the prerogative of the employer to discipline the workforce and incidents of sexual harassment should not go unpunished. Any attempt to protect such perpetrators should be dealt with in an exemplary manner to ensure deterrence. Learned counsel has also adverted to paragraph 4 of the counter affidavit to indicate discrepancies in the conduct of proceedings by the committee to submit that such discrepancies clearly indicated a deliberate attempt on the part of members of the committee to protect the delinquent employee. He submits that report with regard to preliminary inquiry against petitioners has already been produced in sealed cover before this court. Learned counsel has placed reliance on following judgments to buttress his case:-

Union of India and Others Versus KK Dhawan, (1993) 2 SCC 56; Zunjarrao Bhikaji Nagarkar Versus Union of India and Others, (1999) 7 SCC 409; Union of India And Another Versus Ashok Kumar Aggarwal, (2013) 16 SCC 147 and State of Orissa Versus Bimal Kumar Mohanty, (1994) 4 SCC 126

15. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, the questions which are required to be adjudicated upon are, therefore, as follows:-

A) Whether recommendations of the Internal Complaint Committee made in terms of Section 13(3) of the Act of 2013 are mandatory or directory?

B) Whether the impugned orders of suspension from service are in consonance with Rule 4 of UP Government Servants (Discipline and Appeal) Rules of 1999 ?

**Answer regarding question No. A**

16. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, for purposes of adjudication of this question, provisions of Sections 11, 13, 18 and 26 require examination along with Rules 7 and 9 of the Rules of 2013 framed under this Act.

17. The provisions are as follows:-

### **Section 11**

*" 11. Inquiry into complaint. (1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable:*

*Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:*

*Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.*

*(2) Notwithstanding anything contained in section 509 of the Indian Penal Code (45 of 1860), the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to*

*the aggrieved woman by the respondent, having regard to the provisions of section 15.*

*(3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:-*

*(a) summoning and enforcing the attendance of any person and examining him on oath,*

*(b) requiring the discovery and production of documents; and*

*(c) any other matter which may be prescribed.*

*(4) The inquiry under sub-section (1) shall be completed within a period of ninety days."*

### **Section 13**

*"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.*

*(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.*

*(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be-*

*(i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or*

*where no such service rules have been made, in such manner as may be prescribed;*

*(ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:*

*Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman:*

*Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee or, as the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.*

*(4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him."*

## **Section 18**

*"18. Appeal. - (1) Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.*

*(2) The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations."*

## **Section 26**

***"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."*

## **Rule 7**

***"7. Manner of inquiry into complaint. (1) Subject to the provisions of section 11, at the time of filing the complaint, the complainant shall submit to the Complaints Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.***

***(2) On receipt of the complaint, the Complaints Committee shall send one of the copies received from the aggrieved woman under sub-rule (1) to the***

*respondent within a period of seven working days.*

*(3) The respondent shall file his reply to the complaints along with his list of documents, and names and addresses of witnesses, within a period not exceeding ten working days from the date of receipt of the documents specified under sub-rule (1).*

*(4) The Complaints Committee shall make inquiry into the complaint in accordance with the principles of natural justice.*

*(5) The Complaints Committee shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if the complainant or respondent fails, within sufficient cause to present herself or himself for three consecutive hearings convened by the Chairperson or President Officer, as the case may be:*

*Provided that such termination or ex parte order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.*

*(6) The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Complaints Committee*

*(7) In conducting the inquiry, a minimum of three Members of the Complaints Committee including the President Officer or the Chairperson, as the case may be, shall be present."*

## **Rule 9**

**"9. Manner of taking action for sexual harassment.-***Except in cases where service rules exist, where the Complaints Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be, to take any action including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service or undergoing a counselling session or carrying out community service."*

18. Section 11 of the Act of 2013 pertains to inquiry into complaint with sub section (1) indicating that the inquiry contemplated therein is to be in accordance with provisions of service rules applicable upon the delinquent or in case of absence of such rules, in such manner as may be prescribed. The Local Committee has also been granted a power to forward the complaint to police for registering case under Section 509 IPC, if prima facie case exists.

19. Section 11 (3) of the Act of 2013 indicates that Internal Committee or the Local Committee, as the case may be, for purposes of making an inquiry, shall have the same powers as vested in civil court under the Code of Civil Procedure 1908 pertaining to summoning, enforcing attendance and examination of any person, requiring discovery and production of documents and any other matter.

20. Section 13 pertains to the inquiry report with Section 13(3)(i) granting powers to the Internal Committee or the Local Committee to recommend to the employer or the district officer to take action for sexual harassment as a misconduct in accordance with provisions of service rules or in such manner as may be prescribed, where no such service rules have been made.

21. Thus the aforesaid provision indicates that upon submission of inquiry report, the only power vested in the employer or the district officer is to treat the sexual harassment as a misconduct in case the report is against the delinquent and to act in accordance with provisions of the service rules or in such manner as may be prescribed.

22. A conjoint reading of Sections 11 and 13 of the Act of 2013 therefore is indicative that once the inquiry has been conducted in terms of Section 11 of the Act of 2013, no further inquiry is contemplated under Rule 7 of the U.P. Government Servants (Discipline and Appeal) Rules 1999 which are applicable in the present case or even under any other service rules which may be applicable. The aforesaid sections also indicate that in case a report is submitted against the delinquent, the employer is vested only with the power to take action against the delinquent in accordance with

provisions of service rules or as may be prescribed, treating the sexual harassment as a misconduct.

23. Rule 7 of the Rules of 2013 made in terms of the Act of 2013 contemplates the manner of inquiry into complaint and is analogous to the nature and procedure of inquiry contemplated under Rule 7 of the Rules of 1999.

24. Rule 9 of the aforesaid Rules of 2013 indicate the manner of taking action for sexual harassment and confers power upon the complaints committee to recommend the nature and type of action which is to be taken by the employer or the district officer including termination of such employee.

25. It is thus evident from perusal of aforesaid provisions that the nature of inquiry to be conducted into a complaint of sexual harassment by the Internal Committee or the Local Committee in terms of Sections 11, 13 read with rules 7 and 9 of the Rules is conclusive in nature, which does not warrant any further proceedings except for the employer to punish the delinquent employee treating such sexual harassment as a misconduct. The Act does not contemplate any further inquiry at the behest of the employer or the district officer concerned.

26. It is also relevant that Section 18(1) of the Act of 2013 provides for an appeal only against the recommendations made by the committee under Sections 13, 14, 17 or non implementation of the recommendations.

27. It is relevant that there is no appeal provided from any order or action taken by the employer or the district officer as the case may be.

28. Section 26(1)(b) of the Act of 2013 also provides for a penalty in case the employer fails to take action under Sections 13, 14, and 22. The aforesaid provisions again pertain to recommendations made by the committee under Sections 13 and 14 and for the employer to include information in annual report in terms of Section 22 of the Act.

29. The aspect of whether such provisions can be held to be mandatory or merely directory would therefore also require consideration which has been enunciated upon by Hon'ble Supreme Court in the case of May George versus Special Tehsildar and others (2010) 13 SCC 98 in the following manner:-

*"25. The law on this issue can be summarised to the effect that in order to declare a provision mandatory, the test to be applied is as to whether non-compliance with the provision could render the entire proceedings invalid or not. Whether the provision is mandatory or directory, depends upon the intent of the legislature and not upon the language for which the intent is clothed. The issue is to be examined having regard to the context, subject-matter and object of the statutory provisions in question. The Court may find out as to what would be the consequence which would flow from construing it in one way or the other and as to whether the statute provides for a contingency of the non-compliance with the provisions and as to whether the non-compliance is visited by small penalty or serious consequence would flow therefrom and as to whether a particular interpretation would defeat or frustrate the legislation and if the provision is mandatory, the act done in breach thereof will be invalid."*

30. The aforesaid aspect signifies that a statute or a provision must be construed with regard to its intent, which is meaningful and fulfills the object and purport of such intention. The doctrine also indicates that meaning of words used in a provision is required to be comprehended to advance the purpose of object and to remedy the mischief, if any, which it sought to remedy. Context includes reading the statute or the provision as a whole with the surrounding circumstances so that its intention is in consonance with the policy in order to give it a meaningful object. Aforesaid proposition has been enunciated by Hon'ble the Supreme Court in Vivek Narayan Sharma and others (Demonetisation Case-5 J.) v. Union of India and others reported in (2023) 3 SCC 1 in the following manner:-

*"137. A statute must be construed having regard to the*

*legislative intent. It has to be meaningful. A construction which leads to manifest absurdity must not be preferred to a construction which would fulfil the object and purport of the legislative intent"*

*"148. It is thus clear that it is a settled principle that the modern approach of interpretation is a pragmatic one, and not pedantic. An interpretation which advances the purpose of the Act and which ensures its smooth and harmonious working must be chosen and the other which leads to absurdity, or confusion, or friction or contradiction and conflict between its various provisions, or undermines, or tends to defeat or destroy the basic scheme and purpose of the enactment must be eschewed. The primary and foremost task of the Court in interpreting a statute is to gather the intention of the legislature, actual or imputed. Having ascertained the intention, it is the duty of the Court to strive to so interpret the statute as to promote or advance the object and purpose of the enactment. For this purpose, where necessary, the Court may even depart from the rule that plain words should be interpreted according to their plain meaning. There need be no meek and mute submission to the plainness of the language. To avoid patent injustice, anomaly or absurdity or to avoid invalidation of a law, the court would be justified in departing from the so-called golden rule of construction so as to give effect to the object and purpose of the enactment. Ascertainment of legislative intent is the basic rule of statutory construction"*

31. Similarly, in the case of X v. Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi and another reported in (2023) 9 SCC 433, the Rule of purposive interpretation has been indicated as follows:-

*"31. The cardinal principle of the construction of statutes is to identify the intention of the legislature and the true legal meaning of the enactment. The intention of the legislature is*

*derived by considering the meaning of the words used in the statute, with a view to understanding the purpose or object of the enactment, the mischief, and its corresponding remedy that the enactment is designed to actualise. [Justice G.P. Singh. Principles of Statutory Interpretation, (Lexis Nexis, 2016), at p. 12: State of H.P. v Kailash Chand Mahajan, 1992 Supp (2) SCC 351 1992 SCC (L&S) 874; Union of India v Elphinstone Spg. & Wvg Co. Lid. (2001) 4 SCC 139] Ordinarily, the language used by the legislature is indicative of legislative intent. In Kanai Lal Surv Paramnidhi Sadhukhan (Kanai Lal Sur v. Paramnidhi Sadhukhan, 1957 SCC OnLine SC 8: AIR 1957 SC 907], Gajendragadkar, J. (as the learned Chief Justice then was) opined that "the first and primary rule of construction is that the intention of the legislature must be found in the words used by the legislature itself". But when the words are capable of bearing two or more constructions, they should be construed in light of the object and purpose of the enactment. The purposive construction of the provision must be "illuminated by the goal, though guided by the word". [Kanta Goel v. B.P. Pathak, (1977) 2 SCC 814] Aharon Barak opines that in certain circumstances this may indicate giving "an unusual and exceptional meaning to the language and words used. [Aharon Barak, Purposive Interpretation in Law, (Princeton University Press, 2007), at p. 306.]"*

32. Upon applicability of aforesaid judgments in the present facts and circumstances it thus transpires that the intent of legislature and the wordings of the Act confer complete power upon the complaints committee not only to inquire into the complaint of sexual harassment but also to make its recommendations in terms of Sections 13 and 14 of the Act of 2013 which are required to be complied with by the employer or the district officer, treating such a recommendation to be a misconduct. As indicated herein above, Section 26 (1)(b) of the Act also imposes penalty upon the employer for non-compliance of recommendations made by the complaint committee. As has also been discussed herein above, provision of appeal in Section 18 of the Act has been provided only

against the recommendations of the complaints committee and not against action taken by the employer in terms thereof.

33. In terms of surrounding circumstances, as well as looking into the intention of legislature and to give a meaningful object to the Act of 2013 so that it ensures a smooth and harmonious working and is also reasonable, it can thus be deduced from the aforesaid provision that the recommendations made by the complaints committee under Section 13 or 14 of the Act of 2013 are mandatory in nature and not merely recommendatory or directory.

34. So far as submission of learned counsel for petitioner with regard to discrepancy in language used in Section 12 (3) read with Section 13 of the Act is concerned, no doubt under Section 12(3), it has been directed that the employer shall implement recommendations made under sub section (1) of Section 12 of the Act with the said words missing in Section 13 of the Act but nonetheless in view of surrounding circumstances as discussed herein above pertaining to appeal under Section 18 only from the recommendations of complaints committee and penalty clause under Section 26(1)(b), the nature of report submitted by committee under Sections 13 and 14 of the Act are conclusive and require implementation by the employer without any further action contemplated.

35. In view of discussion made herein above, the report submitted by complaints committee although indicated as recommendation, nonetheless is held to be mandatory in nature.

36. That question No.A therefore is answered against the petitioner and in favour of the opposite parties.

**Answer regarding Question No. B**

37. Apropos the said question regarding validity of the impugned order of suspension, learned counsel for petitioner has submitted that the order impugned has clearly been passed without application of mind since it does not address or record any prima facie satisfaction with regard to

complicity of the petitioners regarding charges levelled against them. It is submitted that the report dated 31st July 2025 has included every fact pleaded before the committee including the objectionable conduct of the delinquent and it is only when the committee came to a definitive conclusion that the complaint did not fall within purview of definition of the term 'sexual harassment' that the report was submitted accordingly. It is further submitted that had there been any intention to save the delinquent, objectionable behavior of the delinquent would not have required to be mentioned. It is further submitted that there is no allegation against the petitioners that report submitted or decision arrived at was on account of any extraneous consideration and therefore even if assumed, though not admitted, mere error in the manner of conducting inquiry or error of appreciation of facts cannot be a ground to initiate disciplinary proceedings.

38. It is further submitted that petitioners were nominated as members of the committee just one day before the inquiry i.e. 28th July 2025 and the committee was compelled to conclude the inquiry in two days on pressure being exerted by the head of office to conclude it within one day and it is in such compelling circumstances that the report was submitted on 31st July 2025 incorporating all the evidence which was taken during the inquiry proceedings.

39. Learned counsel further submits that the report has not been challenged by any party in appeal under Section 18 of the Act and on the contrary authorities have relied upon the said report while suspending the delinquent officer.

40. It is submitted that in case members of the Internal Complaint or the Local Committee are proceeded against departmentally only because the report was not according to wishes of the higher authorities, it would set a very dangerous precedent. He further submits that petitioners are unnecessarily being harassed for the past seven months and have also not been allowed to join their duties in compliance of interim order dated 13th August 2025 which clearly indicates that suspension is being resorted to as a mode of punishment since the report submitted was not in accordance

with wishes of the authorities.

41. Mr. S.M. Singh Royekwar learned counsel for state has refuted submissions advanced by learned counsel for petitioners with the submission that petitioners are not being proceeded against with a view to harass them but on account of their deliberate and intentional acts to scuttle the proceedings. He submits that the committee has conveniently disregarded written testimony of Smt. Vibha Pandey, Joint Commissioner (Executive) State Tax, Aligarh-B who was earlier posted as Joint Commissioner (Executive) State Tax, Mathura in which she had verified allegations made by the complainant.

42. It is further submitted that the members of committee themselves were privy to the conduct of the delinquent and had the opportunity to know about sexual harassment being faced by the complainant on multiple previous occasions but despite the knowledge, members of the committee did not act in a fair manner and proceeded to protect the delinquent. He further submits that an audio recordings of proceedings of the committee was submitted by the complainant clearly indicating that members of the committee admitted multiple times with regard to the delinquent attempting to harass the complainant. He submits that in the audio recordings of the proceedings of the committee which was submitted by the complainant, the female members are clearly heard stating and verifying the aspect of harassment being suffered by the complainant. He further submits that on the contrary, the committee has relied upon testimonies of persons who were neither cited as eye witnesses to the incident by the victim or by the delinquent and it is in view of gravity of charges that petitioners have been placed under suspension in contemplation of departmental proceedings in terms of Rule 4 of Rules of 1999.

43. Upon consideration of submissions advanced by learned counsel for the parties and perusal of material on record, it is thus evident that petitioners have been suspended from service pending departmental proceedings on the allegation of deliberately exonerating the delinquent.

44. For a better appreciation of the aforesaid dispute, it would be convenient to advert to Rule 4 of the Rules of 1999 which are as follows:-

*" 4. Suspension (1) A Government Servant against whose conduct an in-quiry is contemplated, or is proceeding may be placed under suspension pending the conclusion of the inquiry in the discretion of the Appointing Authority:*

*Provided that suspension should not be resorted to unless the allegations against the Government Servant are so serious that in the event of their being established may ordinarily warrant major penalty:*

*Provided further that concerned Head of the Department empowered by the Governor by an order in this behalf may place a Government Servant or class of Government Servants belonging to Group "A" and "B" posts under suspension under this rule:*

*Provided also that in the case of any Government Servant or class of Gov. ernment Servants belonging to Group "C" and 'D' posts, the Appointing Authority may delegate its power under this rule to the next lower authority.*

*(2) A Government Servant in respect of, or against whom an investigation, inquiry or trial relating to a criminal charge, which is connected with his position as a Government Servant or which is likely to embarrass him in the discharge of his duties or which involves moral turpitude, is pending, may, at the discretion of the Appointing Authority or the Authority to whom the power of suspension has been delegated under these rules, be placed under suspension until the termination of all proceedings relating to that charge.*

*(3) (a) A Government Servant shall be deemed to have been placed or, as the case may be, continued, to be placed under suspension by an order of the Authority Competent to suspend, with effect from the date of his detention, if he is detained in*

*custody, whether the detention is on criminal charge or otherwise, for a period exceeding forty-eight hours.*

*(b) The aforesaid Government Servant shall, after the release from the custody. inform in writing to the Competent Authority about his detention and may also make representation against the deemed suspension. The Competent Authority shall, after considering the representation in the light of the facts and circumstances of the case as well as the provision contained in this rule, pass appropriate order continuing the deemed suspension from, the date of release from custody or invoking or modifying it.*

*(4) Government Servant shall be deemed to have been placed, or as the case may be, continued to be placed under suspension by an order of the Authority Competent to suspend under these rules, with effect from the date of his conviction if in the event of a conviction for an offence he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed removed consequent to such conviction. "*

45. The aforesaid rule therefore clearly prescribes that suspension of an employee can be resorted to in contemplation of departmental inquiry provided the charges levelled against the delinquent are serious enough to merit major penalty.

46. In the present case, the allegation levelled is that the petitioners made a concerted effort to exonerate the delinquent by not following their duties and responsibilities.

47. Thus it transpires that the entire gist of allegations levelled against petitioners is of making a concerted and deliberate effort for exonerating the delinquent against whom complaint had been filed. In the counter affidavit filed on behalf of state, it has been stated that the committee in its report dated 31st July 2025 has concealed several facts and relied upon irrelevant evidences to exonerate the delinquent. A procedural error has been indicated with regard to conduct of proceedings particularly for

ignoring the letter issued by Smt. Vibha Pandey.

48. From the written submissions submitted on behalf of State of U.P., it appears that the complainant had been promoted as State Tax Officer on 27 February 2025 whereafter she was contacted by the delinquent by telephone on 28th February 2025 and upon her joining on 4th March 2025 as the State Tax Officer in Mathura, she faced multiple episodes of sexual harassment due to which a complaint was filed. Taking cognizance of the said complaint dated 27th July 2025, the state government, vide order dated 28th July 2025 directed the Commissioner, State Tax, to submit his report. Subsequently, the Internal Complaint Committee was constituted on 29th July 2025. The said order constituting the committee indicates a direction at the instance of the state government that the report was required to be submitted on the same day itself. However since the same was not possible, the committee required Smt. Vibha Pandey, Joint Commissioner to submit her testimony. In pursuance thereof, the said lady submitted her letter on 30th July 2025 and after taking testimony of various witnesses, report was submitted on 31st July 2025 exonerating the delinquent whereafter the complainant presented audio recording of the proceedings of the committee on 2nd August 2025 along with a letter and pen drive addressed to the Commissioner, State Tax, indicating hostile conduct by the members of committee whereafter the impugned proceedings have taken place.

49. From perusal of counter affidavit and the written submissions on behalf of State of UP., the primary gist of allegations appears to be that proceedings were conducted while ignoring the material testimony of Smt. Vibha Pandey and taking into account statements of irrelevant witnesses. With regard to disciplinary action being taken for exercise of quasi judicial power, the Supreme Court in the case of K.K. Dhawan (supra) has enunciated as follows:-

*" 28. ....we are not concerned with the correctness or legality of the de-cision of the respondent but the conduct of the respondent in discharge of his duties as an officer. The legality of the orders with reference to the nine assessments*

*may be questioned in appeal or revision under the Act. But we have no doubt in our mind that the Government is not precluded from taking the disciplinary action for violation of the Conduct Rules. Thus, we conclude that the disciplinary action can be taken in the following cases:*

*(i) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty.*

*(ii) if there is prima facie material to show recklessness or misconduct in the discharge of his duty,*

*(iii) if he has acted in a manner which is unbecoming of a Government servant;*

*(iv) if he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of the statutory powers;*

*(v) if he had acted in order to unduly favour a party.*

*(vi) if he had been actuated by corrupt motive, however small the bribe may be because Lord Coke said long ago "though the bribe may be small, yet the fault is great".*

*29. The instances above catalogued are not exhaustive. However, we may add that for a mere technical violation or merely because the order is wrong and the action not falling under the above enumerated instances, disciplinary action is not warranted. Here, we may utter a word of caution Each case will depend upon the facts and no absolute rule can be postulated."*

50. The said aspect was thereafter elaborated in the case of Junjar Rao Bhikha Ji Nagarkar (supra) in the following manner:-

*"40. When we talk of negligence in a quasi-judicial adjudication, it is not negligence perceived as carelessness, inadvertence or omission but as culpable negligence. This is*

*how this Court in State of Punjab v. Ex-Constable Ram Singh 13 interpreted "misconduct" not coming within the purview of mere error in judgment, carelessness or negligence in performance of duty."*

*"42. Initiation of disciplinary proceedings against an officer cannot take place on information which is vague or indefinite. Suspicion has no role to play in such matter. There must exist reasonable basis for the disciplinary authority to proceed against the delinquent officer. Merely because penalty was not imposed and the Board in the exercise of its power directed filing of appeal against that order in the Appellate Tribunal could not be enough to proceed against the appellant. There is no other instance to show that in similar case the appellant invariably imposed penalty.*

*43. If every error of law were to constitute a charge of misconduct, it would impinge upon the independent functioning of quasi-judicial officers like the appellant. Since in sum and substance misconduct is sought to be inferred by the appellant having committed an error of law, the charge-sheet on the face of it does not proceed on any legal premise rendering it liable to be quashed. In other words, to maintain any charge-sheet against a quasi-judicial authority something more has to be alleged than a mere mistake of law, e.g., in the nature of some extraneous consideration influencing the quasi-judicial order. Since nothing of the sort is alleged herein the impugned charge-sheet is rendered illegal. The charge-sheet, if sustained, will thus impinge upon the confidence and independent functioning of a quasi-judicial authority. The entire system of administrative adjudication whereunder quasi-judicial powers are conferred on administrative authorities, would fall into disrepute if officers performing such functions are inhibited in performing their functions without fear or favour because of the constant threat of disciplinary proceedings. "*

51. Subsequently in the case of P.C. Joshi (supra) it has been held that the possibility on a given set of facts to arrive at a different conclusion is not a ground to indite a judicial officer for taking one view. The relevant paragraph is as follows:-

*"7. ....That there was possibility on a given set of facts to arrive at a different conclusion is no ground to indict a judicial officer for taking one view and that too for alleged misconduct for that reason alone. The enquiry officer has not found any other material, which would reflect on his reputation or integrity or good faith or devotion to duty or that he has been actuated by any corrupt motive. At best, he may say that the view taken by the appellant is not proper or correct and not attribute any motive to him which is for extraneous consideration that he had acted in that manner. If in every case where an order of a subordinate court is found to be faulty a disciplinary action were to be initiated, the confidence of the subordinate judiciary will be shaken and the officers will be in constant fear of writing a judgment so as not to face a disciplinary enquiry and thus Judicial officers cannot act independently or fearlessly. Indeed the words of caution are given in K.K. Dhawan case and A.N. Saxena case that merely because the order is wrong or the action taken could have been different does not warrant initiation of disciplinary proceedings against the judicial officer. In spite of such caution, it is unfortunate that the High Court has chosen to initiate disciplinary proceedings against the appellant in this case."*

52. In the case of R.R. Parekh versus High Court of Gujarat, 2016 (14) SCC 1, it has been held as follow:-

*"16. The issue of whether a judicial officer has been actuated by an oblique motive or corrupt practice has to be determined upon a careful appraisal of the material on the record. Direct evidence of corruption may not always be forthcoming in every case involving a misconduct of this nature. A wanton breach of*

*the governing principles of law or procedure may well be indicative in a given case of a motivated, if not reckless disregard of legal principle. In the absence of a cogent explanation to the contrary, it is for the disciplinary authority to determine whether a pattern has emerged on the basis of which an inference that the judicial officer was actuated by extraneous considerations can be drawn. Cases involving misdemeanours of a judicial officer have to be dealt with sensitivity and care. A robust common sense must guide the disciplinary authority. At one end of the spectrum are those cases where direct evidence of a misdemeanour is available. Evidence in regard to the existence of an incriminating trail must be carefully scrutinised to determine whether an act of misconduct is established on the basis of legally acceptable evidence. Yet in other cases, direct evidence of a decision being actuated by a corrupt motive may not be available. The issue which arises in such cases is whether there are circumstances which an considerations have actuated a judicial officer can legitimately be inference that extraneous drawn. Such an inference cannot obviously be drawn merely from a hypothesis that a decision is erroneous. A wrong decision can yet be a bona fide error of judgment Inadvertence is consistent with an honest error of judgment A charge of misconduct against a judicial officer must be distinguished from a purely erroneous decision whether on law or on fact. The legality of a judicial determination is suoject to such remedies as are provided. law for testing the correctness of the determination. It is not the correctness of the verdict but the conduct of the officer which is in question. The disciplinary authority has to determine whether there has emerged from the record one or more circumstances that indicate that the decision which forms the basis of the charge of misconduct was not an honest exercise of judicial power The circumstances let into evidence to establish misconduct have to be sifted and evaluated with caution. The threat of disciplinary proceedings must not demotivate the honest and independent officer Yet on the other hand, there is a*

*vital element of accountability to society involved in dealing with cases of misconduct. There is on the one hand a genuine public interest in protecting fearless and honest officers of the District Judiciary from motivated criticism and attack Equally there is a genuine public interest in holding a person who is guilty of wrongdoing. responsible for his or her actions. Neither aspect of public interest can be ignored Both are vital to the preservation of the integrity of the administration of justice"*

53. In the recent judgment of Nirbhay Singh Suliya( supra), it has been held as follows.:-

*"My esteemed brother Justice K.V. Viswanathan has penned an ineffable judgment. This judgment will go a long way in protecting judicial officers of the district judiciary from being subjected to departmental action for alleged wrong or incorrect exercise of discretion in passing orders of bail without anything more. Brother Viswanathan has put it very pithily, saying that if the complaint of misconduct against the judicial officer is prima facie found to be true then. in such circumstances, disciplinary proceedings must be taken. and no leniency should be shown if the charges are established in an appropriate case, even criminal prosecution may be instituted against a Judicial officer Such action is necessary to weed out tainted judges from the judiciary It goes without saying that corruption in the Judiciary at any level is intolerable, as corruption severely undermines the core of the administration of justice and erodes public trust in the rule of law However, the High Court, which is vested with the supervisory control must keep in mind that a judicial officer of the district judiciary works mostly in a charged atmosphere. A mere wrong order or wrong exercise of discretion in grant of bail by itself without anything more, cannot be a ground to initiate departmental proceedings.*

*2 Initiation of departmental proceedings on mere suspicion is*

*one of the primary causes why trial court judges are reluctant when it comes to exercising discretion for the purpose of grant of bail. It should not happen that because of the lurking fear in the mind of a trial court judge of some administrative action being taken that even in a deserving case, well within the principles of law, bail is declined. This is one reason why the High Courts are flooded with bail applications. The same is the scenario even so far as the Supreme Court is concerned. Over a period of time, the trial court judges have exhibited tendency to shirk from their solemn judicial function and responsibility when it comes to exercising discretion in matters relating to bail. Courts of the district judiciary wield powers necessary for the functioning of the justice delivery system in India and when their autonomy is compromised by higher courts and fear takes precedence over judicial duties, democracy and the rule of law suffer.*

*3. For functioning of democracy, an independent judiciary to dispense justice without fear and favour is paramount. As held by this Court in M.S. Bindra v. Union. (1998) 7 SCC 310 while evaluating the materials the authority should not altogether ignore the reputation in which the officer was held till recently. The maxim "Nemo Firut Repente Turpissimus (no one becomes dishonest all of a sudden) is not unexceptional but still is a salutary guideline to judge human conduct, particularly in the field of Administrative Law. The authorities should not keep the eyes totally closed towards the overall estimation in which the deliriquent officer was held in the recent past by those who were supervising him earlier. To dunk an officer into the puddle of doubtful integrity it is not enough that the doubt fringes on a mere hunch. That doubt should be of such a nature as would reasonably and consciously be entertainable by a reasonable man on the given material. Mere possibility is hardly sufficient to assume that it would have happened. There must be preponderance of probability for the reasonable man to entertain doubt regarding that possibility. Only then there is*

*Justification to ram an officer with the label 'doubtful integrity.'*

54. Upon examination of aforesaid judgments, evidently, the law encapsulated is that judicial authorities have freedom to record and pass judgments as per material available before them in a free and impartial manner for which they cannot be proceeded against unless there is a prime facie material to show recklessness or misconduct in the discharge of such duty which is unbecoming of the post which is being held. The same would be applicable in case if such person has acted in order to unduly favour a party or is actuated by corrupt motive. The correctness or legality of the decision cannot be a ground to proceed departmentally against a person exercising quasi judicial power and it is only the conduct in discharge of duties which can form the basis.

55. Although majority of judgments cited herein above pertain to exercise of judicial powers but in the considered opinion of this court, since the Internal Complaints or Local Committee exercises quasi judicial powers and is expected to make its recommendations in a free, fair and impartial manner placing reliance on evidence available before them, the aforesaid judgments would be squarely applicable.

56. The aforesaid judgments also clearly enunciate the law that in such circumstances where a prima facie finding of misconduct is recorded, departmental proceedings can ensue.

57. In view of the aforesaid judgments, it is thus evident that although departmental proceedings can be initiated against an authority exercising judicial or quasi-judicial powers but there should be at least a prima facie satisfaction by the disciplinary authority before proceeding departmentally that the allegations levelled are not with regard to views taken by such an authority but is in fact based on any extraneous motive as indicated in the judgments herein above.

58. In the considered opinion of this Court, therefore, before proceeding departmentally against any such quasi-judicial power, it is incumbent and

imperative upon the disciplinary authority to record a prima facie satisfaction with regard to such misconduct in discharge of such quasi-judicial duty which is required to be separated from the correctness or legality of the decision or recommendation as in the present case.

59. Such a prima facie satisfaction is imperative for the free, fair and impartial decision by the quasi-judicial authority particularly to ensure that such a quasi-judicial authority does not have the Sword of Damocles hanging over them to be proceeded against departmentally in case their recommendations do not find favour with the authorities.

60. In case such quasi-judicial authorities conduct proceedings under such fear, it would obviate the very purpose of the act itself and therefore it is essential that such quasi-judicial authorities as the internal complaints or the local committees act without such a fear

61. While this court lauds stand of State Government and there can be no gainsaying that aspect of sexual harassment in the workplace is required to be nipped in the bud by preventive and corrective steps being taken, at the same time it is also essential that the proceedings of the Internal Complaints or the Local Committee should be fair, transparent and without any aspect of fear or favour in the minds of the members of a committee.

62. It is pertinent to remember that the present proceedings pertained only to suspension of service of petitioners and not the initiation of disciplinary proceedings by issuance of charge-sheet and therefore, the impugned orders are required to be decided in terms of provisions of Rule 4 of Rules of 1999. Proviso to sub-section (1) thereof clearly indicates the conditions under which a government servant can be placed under suspension. The said proviso stipulates that suspension should not be resorted to unless allegations so serious that in the event of being established may ordinarily warrant major penalty.

63. A perusal of impugned orders will make it evident that there is absolutely no decision with regard to any such aspect or any subjective satisfaction of the authority as required to be contemplated and reason to

be indicated in the impugned order.

64. This Court is also of the considered opinion that in cases, such as the present one, where suspension has been resorted to of the members of Internal Complaints Committee, the factors enumerated here-in-above pertaining to distinction in exercise of quasi-judicial powers and the conduct during such proceedings under the Act of 2013 are also required to be adverted to by the authority to record its subjective satisfaction.

65. Upon applicability of the aforesaid judgments and factors in the present facts and circumstances and perusal of the impugned suspension orders, it is evident that impugned orders have been passed in a very cursory manner without forming any prima facie satisfaction that suspension is being resorted to not with regard to the decision but with regard to the conduct of the members of the committee.

66. Here it is also relevant to keep in mind that under Rule 7 of the Rules of 2013, the manner of inquiry into complaint has been delineated with a time frame also being indicated, which appears to have been completely ignored by the opposite parties while constituting the committee vide order dated 28th July 2025 in which the direction of state government has been indicated to the committee that it should submit its report on the same day itself.

67. In view of discussion made herein above, this Court reaches a conclusion that the impugned orders of suspension have not made any differentiation between the correctness or legality of the decision vis-a-vis conduct of the petitioners in discharge of their duty as members of the committee. The order impugned is clearly cursory in nature and does not indicate any application of mind. The impugned orders dated dated 5th August 2025 and 6th August 2025 are therefore quashed by issuance of writ in the nature of Certiorari granting liberty to authority to pass orders afresh, if required, but only in accordance with observations and directions made here-in-above.

68. The question No. B therefore stands answered in favour of petitioners.

69. Writ petitions consequently stand allowed. Parties to bear their own costs.

**(Manish Mathur,J.)**

**April 20, 2026**  
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