

IN THE HIGH COURT OF MADHYA PRADESH

AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ASHISH SHROTI

WRIT PETITION No. 1662 of 2026

DR SAJAN KURIEN MATHEW

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Mr. Ankit Chaturvedi - Advocate for the petitioner.

Mr. G.K. Agarwal - GA for the State.

Mr. Sameer Kumar Shrivastava - Advocate for respondent no.2.

ORDER

Reserved on : 29.04.2026

Delivered on : 15.05.2026

ORDER

Invoking Article 226 of the Constitution of India, the petitioner has filed this petition challenging the order dated 31.12.2025, whereby the petitioner has been terminated from service on account of certain misconduct found proved in the departmental inquiry.

2. The learned counsel for the respondents has raised a preliminary objection regarding the maintainability of this writ petition on the ground of availability of an alternate and efficacious remedy of filing an appeal before the Governor within 30 days.

3. The arguments of learned counsel for the parties are, therefore, heard on the issue of alternate remedy.

4. The facts necessary for the decision of the issue are that the petitioner was

appointed as an Assistant Professor in the respondent University on 26.07.2012. On 26.03.2025, a complaint was made by some of the students alleging sexual harassment on the part of the petitioner. The University constituted a Students' Grievance Redressal Committee (SGRC) under the provisions of the University Grants Commission (Redressal of Grievances of Students) Regulations, 2023. This committee consisted of five members and was headed by Dr. Niti Pandey, Coordinator (*Sanyojak*) and Principal of Madhav College, Gwalior.

5. The matter was also reported to Police Station, Jhansi Road, Gwalior. Accordingly, an FIR was registered against the petitioner for offences punishable under Sections 74, 75, 79 & 351(2) of BNS. The SGRC conducted an inquiry and recorded statements of the complainants. However, the petitioner did not participate in the inquiry. The reason thereof need not be discussed here. The SGRC submitted its report on 28.04.2025. The committee opined that though the complainants had given their statements, they had not produced any evidence or documents in support thereof. The committee also noted that the petitioner did not appear before it despite several reminders. Ultimately, the committee opined that since the matter is under investigation by the Police, no further action is required to be taken in the matter by the SGRC.

6. The petitioner was thereafter transferred and posted at Sanskriti Sanchalnalaya (Directorate of Culture), Bhopal, vide order dated 15.04.2025. However, since the petitioner did not comply with the said order, he was placed under suspension on 04.05.2025. Subsequently, a charge-sheet was issued to him on 10.06.2025. Following charges are levelled against him:

"अरोप क्रमांक - एक

डॉ. साजन कुरियन मैथ्यू सहायक प्राध्यापक, के विरुद्ध विश्वविद्यालय में अध्ययनरत बी.एफ.ए. तृतीय वर्ष की छात्रा सुश्री xxx, द्वारा दिनांक 06.12.2018 को अविदन पत्र प्रस्तुत कर डॉ. साजन कुरियन मैथ्यू द्वारा यौन सूचक टिप्पणियों करने तथा यौन प्रकृति के अस्वस्थ शारीरिक और मौखिक रूप से किया गया है जो महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न अधिनियम-2013 के बिन्दु क्र. 02 (परिभाषाएँ) के उप बिन्दु (ब) की

परिधि में होने से कदाचार किया गया जो मध्य प्रदेश सिविल सेवा आचरण नियम-1965 के नियम 3 के उल्लंघन के दोषी है।

आरोप क्रमांक - दो

डॉ. साजन कुरियन मैथ्यू सहायक प्राध्यापक, के द्वारा विश्वविद्यालय के अध्ययनरत् बी.एफ.ए. तृतीय वर्ष की छात्रा xxx पुत्री श्री xxx से दिनांक 15 जनवरी 2024 को समय लगभग दोपहर 02:00 बजे जब ये पेंटिंग कर रही थी, तभी गलत इंटेनशन (गैर इरादतन यौन उत्पीड़न) की दृष्टि से पेंटिंग सीखने के बहाने हाथ पकड़ लिया तथा उनके विरोध करने पर डाँट कर डॉ. मैथ्यू चले गये। उसके बाद मार्च 2024 में जब वे कुर्सी पर बैठी हुई थी गलत इंटेनशन (गैर इरादतन यौन उत्पीड़न) से कंधे पर हाथ रखकर फिर 15 मार्च 2024 को जब मिड टर्म परीक्षा के दौरान वे कुर्सी पर बैठी थी तब कपड़ों में झाकने की कौशिश की व फोटो खींचने का प्रयास किया गया, जो महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न अधिनियम-2013 के बिन्दु क्र. 02 (परिभाषाएँ) के उप बिन्दु (द) की परिधि में होने से कदाचार किया गया जो मध्य प्रदेश सिविल सेवा आचरण नियम-1965 के नियम-3 के उल्लंघन के दोषी है।

आरोप क्रमांक-तीन

डॉ. साजन कुरियन मैथ्यू सहायक प्राध्यापक के द्वारा कार्य किये गये महिला यौन उत्पीड़न के कृत्य कर विभागीय छवि धूमिल किया गया। उक्त कृत्य की जाँच होने पर संस्कृति संचालनालय के आदेश दिनांक 15.04.2025 द्वारा संस्कृति संचालनालय भोपाल स्थानांतरण किया गया एवं विश्वविद्यालय द्वारा दिनांक 15.04.2025 को कार्यमुक्त किया गया, किन्तु डॉ. साजन कुरियन मैथ्यू द्वारा आदेश का पालन न करते हुए अनुपस्थित रहे हैं। इस प्रकार आप मध्य प्रदेश सिविल सेवा (आचरण) नियम 1965 के नियम-37 के का उल्लंघन कर स्वयं को कदाचरण का दोषी बना लिया है।

7. In furtherance of the inquiry, a retired Principal District Judge was appointed as the Inquiry Officer by the Vice-Chancellor of the University vide order dated 25.08.2025. The inquiry was conducted, and the report was submitted on 06.11.2025. The same was placed before the Executive Council of the University on 02.12.2025, which resolved to issue a show-cause notice to the petitioner. The show-cause notice was accordingly issued on 02.12.2025 and was received by the petitioner on 09.12.2025. The petitioner submitted his explanation on 17.12.2025. Ultimately, the impugned order was passed on 31.12.2025, thereby terminating the petitioner from service based upon the inquiry report submitted by the Inquiry Officer.

8. Refuting the objection regarding the availability of an alternate remedy, the

learned counsel for the petitioner submitted that the very institution of the inquiry is illegal & without jurisdiction and, therefore, the alternate remedy is not a bar. It is his submission that as per Rule 14 of the MP Civil Services (Classification, Control and Appeal) Rules, 1966 (in short 'CCA Rules'), the Internal Complaints Committee (ICC) is the inquiry authority for the purposes of the said Rules and, therefore, the inquiry could have been conducted only by the ICC, and no independent Inquiry Officer could have been appointed by the Vice-Chancellor. As per his submission, the inquiry is conducted *de-hors* the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, (in short 'POSH Act') is illegal and unacceptable. The learned counsel thus requested for rejection of the preliminary objection.

9. On the other hand, the learned counsel appearing for the respondents vehemently argued that the inquiry to be conducted by the ICC under the Act of 2013 is independent of the power of the disciplinary authority to appoint an Inquiry Officer under the CCA Rules. As per his submission, even if no inquiry is conducted by the ICC, the disciplinary authority is at liberty to appoint an independent Inquiry Officer for conducting an inquiry in relation to misconduct, including allegations of sexual harassment. He thus submitted that the inquiry conducted by the Inquiry Officer and the punishment imposed based thereon is legal and does not warrant interference. In support of his submission, the learned counsel has relied upon the Division Bench judgment of the Guwahati High Court in the case of *Airports Authority of India & others vs. Shri Prabin V.S.* in W.P. No.149 of 2025. He also fairly informed this Court that that this judgment of Guwahati High Court has been stayed by Apex Court vide order dated 16.01.2026 in Special Leave to Appeal (C) No.675/2026 and the matter is pending adjudication.

10. Considered the arguments and perused the records.

11. About 29 years back, the three Judge Bench of Hon. Supreme Court

in Vishaka & ors. v. State of Rajasthan & ors. reported in (1997)6 SCC 241, in a writ petition under Article 32 of the Constitution of India filed by social activists, NGOs and public-spirited persons, considered the issue of fundamental right of 'gender equality' and 'right to life & liberty' enshrined under Articles 14, 15, 19(1)(g) & 21 of Constitution of India. To ensure enforcement of aforesaid fundamental rights of women at workplace, the Apex Court exercised powers under **Article 141** of Constitution of India and laid down necessary guidelines for prevention and redressal of sexual harassment, until such time appropriate legislation is enacted by Parliament. The Apex Court comprehended the formation of complaint mechanism and constitution of complaint committee for dealing with complaints of sexual harassment by a woman at workplace. For purposes of decision of this case, the following guidelines issued by Apex Court in para 17 are relevant and are thus reproduced hereunder:

"17. The Guidelines and Norms prescribed herein are as under:

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5. Disciplinary action:

Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

6. Complaint mechanism:

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time-bound treatment of complaints.

7. Complaints Committee:

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counsellor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its members should be women. Further, to

prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government Department concerned of the complaints and action taken by them.

The employers and person-in-charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government Department."

12. It is thus evident that the Apex Court intended to provide for a separate mechanism for redressal of complaints of sexual harassment by a woman at workplace and, therefore, provided for constitution of specialized committee in the (every) employer's organization itself. The Court also provided for constitution of such committee as per direction no.7 quoted above. The committee so constituted is to be consisted of a woman head with not less than half of its members to be women. To avoid any undue pressure or influence from senior level, the Court also inducted a member from either NGO or other body who is familiar with the issue of sexual harassment.

13. The Parliament then enacted Protection of Women Against Sexual Harassment at Workplace Bill, 2010, but was not brought into force. The Parliament then enacted "*Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*", commonly known as 'POSH Act'. Certain provisions of POSH Act need to be taken note of at this stage:

"2. Definitions.- * ****

(h) "Internal Committee" means an Internal Complaints Committee constituted under Section 4;

(i) "Local Committee" means the Local Complaints Committee constituted under Section 6;"

9. Complaint of sexual harassment.

(1) Any aggrieved woman may make, in writing, a complaint of

sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident”

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 Penal Code, 1860 (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”

16. Prohibition of publication or making known contents of complaint and inquiry proceedings. *Notwithstanding anything contained in the Right to Information Act, 2005 (22 of 2005), the contents of the complaint made under Section 9, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner: Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without*

disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.”

17. Penalty for publication or making known contents of complaint and inquiry proceedings. *Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of Section 16, he shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed.”*

14. Further, Section 4 of the POSH Act mandates that every employer of a workplace shall, by an order in writing, constitute a Committee which is termed as Internal Complaints Committee (in short 'ICC'). Sub-section 2 thereof provides for constitution of ICC which is in tune with the directions issued by Apex Court in ***Vishaka***. There may be cases where ICC is not available for any reason. Section 5 of the POSH Act takes care of such eventuality which provides for constitution of Local Complaints Committee (in short 'LCC') which is authorized to deal with complaints of sexual harassment by a woman at workplace.

15. The scheme of the POSH Act, and the aforementioned pronouncements of the Supreme Court, would reveal that the legislature through the said enactment has designed a carefully crafted mechanism to deal with complaints relating to sexual harassment. Considering the sensitive nature of such cases, not only from point of view of complainant but also for an officer accused of allegation of sexual harassment, the Act makes provisions of confidentiality and the constitution of two different committees—an **ICC** and a **LCC** for inquiring into the said complaints. The language of Section 4 & 5 gives a mandate when it uses the word “shall” for enquiry into the complaint.

16. Therefore, if an employer is allowed to constitute a parallel enquiry authority, other than ICC or LCC, to enquire into the allegations of sexual harassment by a woman at workplace, the same would frustrate the object of the

POSH Act inasmuch as the confidentiality which is to be maintained in such cases would be breached and there are chances of undue influence and pressure on the enquiring authority. Further, the enquiry authority constituted by employer may not be consisting of members specialized in handling such complaints of sensitive nature. Further, when the enquiry is conducted outside the scope of POSH Act, there is no timeline provided and it would be left to the wisdom of enquiring authority. Whereas, the POSH provides for a timeline within which the enquiry needs to be concluded by ICC/LCC.

17. The employers were required to suitably modify the service rules. When the same was not done, the Apex Court once again exercised its powers under Article 141 Constitution of India in the case of *Medha Kotwal Lele vs. Union of India*, reported in *(2013)1 SCC 311*, wherein the Court issued following directions:

"2. Notice had been issued to several parties including the Governments concerned and on getting appropriate responses from them and now after hearing the learned Attorney General for UOI and the learned counsel, we direct as follows:

"Complaints Committee as envisaged by the Supreme Court in its judgment in Vishaka case [(1997) 6 SCC 241 : 1997 SCC (Cri) 932] , SCC at p. 253, will be deemed to be an inquiry authority for the purposes of the Central Civil Services (Conduct) Rules, 1964 (hereinafter called the CCS Rules) and the report of the Complaints Committee shall be deemed to be an inquiry report under the CCS Rules. Thereafter the disciplinary authority will act on the report in accordance with the Rules."

3. Similar amendments shall also be carried out in the Industrial Employment (Standing Orders) Rules."

18. Complying with the directions issued by Apex Court in the aforementioned cases, the State Legislature amended M.P. Civil Services (Classification, Control & Appeal) Rules, 1966. Sub-rule 2 and the proviso added thereto vide notification dated 17.03.2005, is as under:

"(2) Whenever the disciplinary authority is of the opinion that

there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government servant, it may itself inquire into or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to Inquire into the truth thereof :

Provided that where there is a complaint of sexual harassment within the meaning of sub-rule (3) of Rule 22 of the Madhya Pradesh Civil Services (conduct) Rules, 1965, the complaints committee established in each Department or Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the Disciplinary authority for the purpose of these rules and the complaints committee shall hold, if separate procedure has not been prescribed for the complaints committee for holding the inquiry into the complaints of sexual harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules."

19. The un-ambiguous language of Rule 14(2), quoted above, makes it evident that the disciplinary authority is competent to appoint an authority to inquire into the allegations of misconduct. However, when such allegations constitute sexual harassment within the meaning of Rule 22(3) of M.P. Civil Services (Conduct) Rules, 1965, the ICC/LCC constituted under the POSH Act is deemed to be the inquiring authority appointed by disciplinary authority for purposes of CCA Rules. Thus, the disciplinary authority is, in fact, denuded of its power to appoint enquiry officer in cases of sexual harassment. The proviso further states, the ICC/LCC **shall** hold the enquiry as per the procedure prescribed in service rules and if no such rules exist then the procedure as may be prescribed.

20. From reading the provisions of POSH Act and CCA Rules, it is evident that whenever any complaint alleging sexual harassment is made by a woman at workplace, the disciplinary/competent authority is required to refer the matter to the ICC/LCC for necessary enquiry. The ICC/LCC is then under obligation to enquire into the matter and submit report strictly following the timeline given in this regard in the POSH Act.

21. The procedure to be adopted while dealing with a complaint of sexual harassment needs to be examined at this stage. Section 9 of POSH Act provides for making of a complaint of sexual harassment and it reads as under:

“9. Complaint of sexual harassment – (1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident:

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.”

22. Section 10 of the POSH Act then provides that before initiating enquiry into the allegations, the ICC/LCC may, at the request of aggrieved woman, shall take steps to settle the matter through conciliation. If the matter is settled, no further enquiry is required by ICC/LCC. Thus, Section 10 is an important step in the matter of dealing with the complaint, to settle the matter amicably, but not in the shape of any monetary compensation.

23. If the matter is not settled under Section 10, Section 11 provides for an enquiry into the complaint. This section not only provides for a mechanism to conduct enquiry, but also provides for a timeline to conclude the enquiry. Sub-

section 2 is not relevant for decision of this case and, therefore, Section 11(1), (3) & (4) are reproduced hereunder for ready reference:

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.

(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 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.

24. From reading sub-section (1), whenever a complaint under the POSH Act is received, and the matter is not settled under Section 10, the ICC/LCC shall proceed to make an enquiry into the allegations made. It further provides that where the respondent is an employee, the enquiry shall be made in accordance with the procedure prescribed under relevant service Rules. For purposes of this case, the enquiry as envisaged under CCA Rules need to be adopted by ICC/LCC. Pertinently, the ICC/LCC is empowered to exercise powers vested in a civil court under CPC in respect of matters provides in the section itself. Thus, ICC/LCC is equipped with sufficient powers to logically conclude the enquiry.

25. Section 12 then provides for action that may be taken during pendency of enquiry. The same is not relevant for purposes of decision of this case. The next comes Section 13 which provides for submission of report after enquiry. Section 13 reads as under:

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 the Local Committee, as the case may be, 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.

26. The sub-section (3) thus prescribes the scope of recommendation that can be made by ICC/LCC. We have come across the cases where, while submitting its report, the ICC/LCC also recommend imposing a particular punishment on the delinquent. This type of recommendation is actually *de-hors* the provisions of the POSH Act. Section 13(3) of POSH Act defines the scope of recommendation which could be made by ICC/LCC. Since, ICC/LCC is acting only as an enquiry authority, the ultimate decision- whether to impose punishment or not? what punishment is to be imposed?- lies with the disciplinary/competent authority only.

27. Before concluding the matter, yet another aspect which needs consideration of this Court is about the constitution of SGRC by University under the provisions of the University Grants Commission (Redressal of Grievances of Students) Regulations, 2023. The scope of enquiry by SGRC is confined to the issues enumerated under Regulation 3(h) which defined 'grievance' and is confined to

students only. These Regulations do not specifically deal with complaints of sexual harassment.

28. In fact, University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015, (in short 'UGC Regulations') framed by University Grants Commission (in short 'UGC') in exercise of powers vested in it under Section 26 read with sub-section (1) of Section 20 of the UGC Act, 1956, deals with complaints of sexual harassment. These Regulations apply to all Higher Educational Institutions (HEI) in India which is defined under Regulation 2(h) of Regulations as under:

2(h) 'Higher Educational Institution' (HEI) means a university within the meaning of clause (j) of section 2, a college within the meaning of clause (b) of sub-section (1) of section 12A and an institution deemed to be a University under section 3 of the University Grants Commission Act, 1956 (3 of 1956);

The respondent being a University within the meaning of UGC Act, these Regulations would apply.

29. Regulation 4 provides for Grievance redressal mechanism. This regulation also envisages constitution of Internal Complaints Committee (ICC). The composition of ICC under Regulations is substantially same as in POSH Act. The composition of ICC under POSH Act and under the Regulations is as under:

Section 4(2) POSH Act	Regulation 4(1) to (5)
<p><i>The Internal Committee shall consist of the following members to be nominated by the employer, namely:</i></p> <p><i>(a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:</i></p> <p><i>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</i></p>	<p><i>4(1) Every Executive Authority shall constitute an Internal Complaints Committee (ICC) with an inbuilt mechanism for gender sensitization against sexual harassment. The ICC shall have the following composition:</i></p> <p><i>(a) A Presiding Officer who shall be a woman faculty member employed at a senior level (not below a Professor in case of a university, and not below an Associate Professor or Reader in case of a college) at the educational</i></p>

<p><i>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;</i></p>	<p><i>institution, nominated by the Executive Authority; 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 2(o); 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 organization;” (b) two faculty members and two non-teaching employees, preferably committed to the cause of women or who have had experience in social work or have legal knowledge, nominated by the Executive Authority; (c) Three students, if the matter involves students, who shall be enrolled at the undergraduate, master’s, and research scholar levels respectively, elected through transparent democratic procedure; (d) one member from amongst non-government organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, nominated by the Executive Authority.</i></p>
<p><i>(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;</i></p>	<p><i>(2) At least one-half of the total members of the ICC shall be women.</i></p>
<p><i>(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:</i></p> <p><i>Provided that at least one-half of the total Members so nominated shall be women.</i></p>	<p><i>(3) Persons in senior administrative positions in the HEI, such as Vice- Chancellor, Pro Vice-Chancellors, Rectors, Registrar, Deans, Heads of Departments, etc., shall not be members of ICCs in order to ensure autonomy of their functioning.</i></p>
	<p><i>(4) The term of office of the members of the ICC shall be for a period of three years. HEIs may also employ a system whereby one –third of the members of the ICC may change every year.</i></p>
	<p><i>(5) The Member appointed form amongst the</i></p>

	<i>non-governmental organizations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the Executive Authority as may be prescribed.</i>
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30. It is thus seen that ICC constituted under Regulations not only satisfies the requirement of POSH Act but also caters the need as per the establishment of HEI. Thus, when the complaint is made by any woman or student of HEI, the ICC should be constituted as per Regulation 4(1) of Regulations.

31. Regulation 6 provides for making complaint and conducting enquiry therein. This Regulation incorporates the same process prescribed under POSH Act. The other provisions *viz.* Regulation 7, 8, 9 & 10 are also substantially same as the provisions of POSH Act.

32. Thus, scheme of the POSH Act, UGC Regulations and the consequential amendment made in Rule 14(2) CCA Rules, is like this:

- i. Whenever a complaint is made regarding sexual harassment by a woman at workplace directly to ICC/LCC, the same shall be dealt with in the manner provided in the POSH Act and which is detailed hereunder. When such complaint is made to the employer, the same is required to be forthwith forwarded to the ICC/LCC for necessary action.
- ii. The complaint, only regarding sexual harassment is to be treated as a charge sheet issued to delinquent under CCA Rules. The ICC/LCC shall enquire into the allegations by adopting the same procedure as envisaged under Rule 14 of CCA Rules and submit the report to the authority who is competent to take action on such report under CCA Rules.
- iii. The competent authority shall treat the report submitted by ICC/LCC to be the enquiry report and proceed to deal with the same as per Rule 15 of CCA Rules.

33. In view of the discussion made above, since the entire action of respondent University is found to be in violation of provisions of POSH Act and UGC Regulations, the petition cannot be dismissed on the ground of availability of alternate remedy. Further, since the impugned order dated 31.12.2025, is completely without jurisdiction and therefore cannot be given stamp of approval, there is no use keeping this petition pending further before this Court. The order is unsustainable in law and is accordingly quashed. The respondent University is directed to forthwith forward the complaint made against the petitioner to the ICC/LCC who shall deal with the same in accordance with the provisions of POSH Act as discussed hereinbefore. In the meantime, the petitioner be reinstated in service and may be permitted to join at his transferred place at Bhopal.

(ASHISH SHROTI)

JUDGE

bj/-