## Chapter 50

## IASE (DEEMED TO BE UNIVERSITY, SARDARSHAHR BYE LAWS FOR PREVENTION, PROHIBITION, REDRESSAL OF SEXUAL HARRASSMENT OF WOMEN EMPLOYEES AND STUDENTS IN THE UNIVERSITY

**Note: The University hereby adopts the University Grants Commission (Prevention, Prohibition, Redressal of Sexual Harassment of Women Employees and Students in the Higher Educational Institutions) Regulations, 2015 and enacts of bye laws and develops mechanism for this purpose as per the structure mentioned hereunder:**

INTERNAL COMPLAINTS COMMITTEE

***BL 330***

**Introduction**

The Constitution of India provides for equality of status and opportunity as well as the right to live with personal liberty and human dignity. These mandates make the right to have a safe workplace and educational institution campus a legal right, and sexual harassment at the workplace is a gross violation of it. **The Sexual Harassment of Women at Work - place (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act)** finds its genesis in these constitutional man - dates. This interpretation of the constitutional framework was done by the Supreme Court in the case of Vishaka vs. State of Rajasthan, through which the historical Vishaka Guidelines came into being. These guidelines later formed the roots and basis for the POSH Act, and the **University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015** (UGC Regulations). It is important for both the higher education institution, and its employees and students to be completely aware of their rights, duties and the redressal mechanisms under the POSH Act, and the UGC Regulations.

**Objectives**

- To make the students and employees of the Higher Educational Institutions aware of their legal rights and protections available to them in an accessible language.
- To empower them with the knowledge they need to reach out to the authorities whenever needed.
- To enable students and employees to question if their campuses are safe and whether their educational institution is ICC compliant or not.
- Higher Educational Institutions and its Executive Authorities to be aware of their duties and obligations under the legal frameworks provided to protect students and employees from sexual harassment at the workplace.
- To spread awareness among its community of the information on the mechanism put in place for redressal of complaints pertaining to sexual harassment and everything around it.



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**Terminologies**

- **Aggrieved woman**

Any woman who reports to have been subjected to any act of sexual harassment by any person employed by an organisation, or the employer themselves. The woman doesnt necessarily have to be employed in that particular organisation to seek redressal.

- **Campus**

Anything and everything that is on the land of the Higher Educational Institution is covered under the term "campus" . This includes, but is not limited to - libraries, laboratories, lecture halls, hostels, dining halls, bank counters, parking areas, playground etc. Any places visited by a person as a student of the HEI, including the transportation provided for the purpose of their commute to and from the institution is also covered under the scope of "campus" even though the location may be outside the institution. Hence, student visits like field trips, internships, study tours, placements, cultural festivals, sports meet and other such activities where the person is participating in the capacity of an employee or a student of the HEI, is covered under the ambit of "campus" , giving the term a comprehensive meaning

- **Employee**

The POSH Act and the UGC Regulations have kept the definition of "Employee" quite broad. Heres who are covered under it - A person doing any kind of work for a company/organisation. Interns/ volunteers/whether paid/ unpaid. Trainee, apprentice, teaching assistants, research assistants, whether employed or not, including those involved in field studies, projects.

- **Employer**

"Employer" is basically the biggest "boss" in any organisation or institution - anyone who is responsible for the management, supervision and control of the workplace. Hence, for universities, it would be VC/Registrar, and for a college, it would be the Dean/Principal.

- **Executive Authority**

The chief executive authority of the HEI, by whatever name called, in which the general administration of the HEI is vested. For example - Vice Chancellor, Registrar, Principal, Dean. For public funded institutions the Executive Authority means the Disciplinary Authority.

- **Higher Educational Institution (HEI)**

Any University, College or Institution deemed to be a university recognised under the University Grants Commission Act, 1956 is a Higher Educational Institution. While it may sound technical, what needs to be remembered is the fact that it is mandatory for ALL educational institutions to set up an Internal Complaints Committee (CC) to look into the complaints of sexual harassment.

- **Complaints Committee (CC)**

An educational institution might already have a body functioning with the same objective as that of an CC. For example, many universities, colleges, and institutions have a functioning Gender Sensitisation Committee Against Sexual Harassment (GSCASH) body. Instead of creating a new body for ICC, these existing bodies can also be reconstituted as the CC in consonance with the UGC Regulations, which once reconstituted, will fall under the ambit of UGC Regulations.

- **Local Committee (LCC/LC)**

Local Committee is the Local Complaints Committee which every district officer is bound to constitute in district concerned to receive complaints of sexual harassment



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from establishments where the Internal Complaints Committee has not been constituted.

- **Victimization**

Any unfavourable treatment meted out to a person with an implicit or explicit intention to obtain sexual favour.

- **Respondent**

Respondent" is a legal term generally used for a person against whom the complaint has been made by the aggrieved woman.

**Protected Activity**

Reasonable opposition to a practice believed to violate sexual harassment laws on behalf of oneself or others, such as participation in sexual harassment proceedings, cooperating with an internal investigation or alleged sexual harassment practices or acting as a witness in an investigation by an outside agency or in litigation.

- **Student**

The term "student" covers - Current student - pursuing any course in the HEI through either regular or distance mode, including both short- and long-term training programs. Future student - in the process of taking admission in the HEI, but not yet enrolled. Deemed student - any student who is a participant in any activities in an HEI other than HEI where the student is enrolled. For example - a student from x university participating in the cultural festival in y university, may be deemed to be a student of y university for the period of such participation.

- **Third Party Harassment**

A situation where sexual harassment occurs as a result of an act or omission by any third party or outsider who is not an employee or student of HEI but a visitor in some other capacity or for some other purpose.

- **Workplace**

Workplace means the campus of Higher Educational Institution including any department, establishment, office etc funded by and the HEI, or any sports institute, stadium etc used for activities related to the HEI. It also includes any place visited by an employee or student during the course of their employment or study including transportation provided by the Executive Authority. The definition of "workplace" just like the definition of "Employee" is quite broad. Whoever the complaint is filed against, it needs to be ensured that the institution is their workplace (in case of students, their respective universities, colleges or institutions can be considered as their workplace, unless its a third-party harassment.

**What Constitutes Sexual Harassment**

Sexual harassment, in general, can be understood as an unwanted conduct with sexual undertones if it occurs or which is persistent and

- which demeans, humiliates or creates a hostile and intimidating environment
- is calculated to induce submission by actual or threatened adverse consequences

**Acts that can be considered as sexual harassment**

Sexual harassment includes one or all of the following unwelcome acts or behaviour, whether directly or by implication -

- Physical contact or advances
- A demand or request for sexual favours
- Making sexually coloured remarks
- Showing pornography or asking if you want to see pornography
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

**"Sexual Harassment at the Workplace"**



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Sexual Harassment at Workplace includes one or more of the following circumstances with explicit or implicit sexual undertones -

- Implied or explicit promise of preferential treatment in her employment.
- Implied or explicit threat of detrimental treatment in her employment.
- Implied or explicit threat about her present or future employment status.
- Interference with her work or creating an intimidating/ offensive/hostile work environment for her. Humiliating treatment likely to affect her health, safety or integrity.

**What exactly is an CC?**

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, and the University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations 2015, makes it mandatory for all employers and HEI respectively to constitute an Complaints Committee to look into the matter of sexual harassment at workplace.

**Functions of CC**

- Receive complaints on sexual harassment at the workplace from an aggrieved woman.
- Inquire into the complaint received.
- Make recommendations to the employer on the action required pursuant to its inquiry of such complaint made.

**Responsibilities of CC**

Apart from enabling and ensuring fair trial, CC has various other responsibilities.

- It needs to provide assistance if an employee or a student chooses to file a complaint with the police. Provide mechanisms of dispute redressal and dialogue without undermining complainants rights. Protect the identities of all parties involved.
- Provide interim relief during the pendency of the complaint.
- Provide mandatory relief by way of sanctioned leave or relaxation of attendance requirement.
- Ensure that victims or witnesses are not victimised or discriminated against while dealing with complaints
- Ensure prohibition of retaliation or adverse action against covered individual

**Composition of CC**

**Presiding Officer**: 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 institution.

**Employee Members**: 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.

**External Member**: 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.

Apart from these, ICC ought to have **3 students** in the committee if the matter involves students. These students shall be enrolled at the undergraduate, masters, and research scholar levels respectively, and should be elected through transparent democratic procedure.

**Recommendations made by CC**

- Interim relief - granted during the pendency of inquiry/complaint.
- Against the respondent - if the charges are proved.
- Against the complainant - if the allegations are proved to be malicious.



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- Compensatory recommendation.
- Dismissal - if charges are not proved.

**What other options does one have?**

- The CC may, at the request of aggrieved party and before initiating an inquiry, take steps to settle the matter between her and the respondent through conciliation.
- Apart from reaching out to the ICC, the complainant is also free to approach the nearest police station to file an FIR. The complainant, if she chooses to do so, may both file FIR with the police and a complaint with Complaints Committee simultaneously.

**Filing a complaint**

- An aggrieved person is required to submit a written complaint to the CC within three months from the date of the incident. In case a series of incidents have happened, a person may file the complaint before the CC within a period of three months from the date of the last incident.
- A written complaint addressed to the CC needs to be submitted with the committee. In case the complainant is unable to submit a written complaint for any reason, it is the responsibility of the CC to provide her all the assistance that is needed for her to submit the complaint in written form.
- As per the UGC Regulations, it is the responsibility of the HEI to make all sections of the institutional community aware of the contact details of members of Complaints Committee, as well as the complaints procedure.

**Procedure**

- The complainant shall submit 6 copies of the complaint along with supporting documents to the Chairperson of CC. They also need to submit names and addresses of witnesses.
- The CC shall send one copy of the complaint to the respondent within a period of seven working days of receiving the complaint. Upon receipt of the copy of the complaint, the respondent shall file their reply to the complaint along with the list of documents, and names and addresses of witnesses within a period of ten working days.

**How does CC inquire into a complaint?**

- The Complaints Committee will conduct an inquiry by calling all the concerned parties i.e. complainant, respondent, witnesses etc.
- Minimum of 3 CC members including Presiding Officer/Chairperson must be present while conducting inquiry.
- For the process of inquiry, the CC will have same powers as vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters -
- Summoning/enforcing the attendance of any person and examining them on oath.
- Requiring the discovery and production of documents.
- Any other matter which may be prescribed

**Annual Report**

The CC is responsible for creating an annual report and submitting it to the HEI. This annual report needs to be prepared every calendar year and should incorporate the following -

- Number of complaints of sexual harassment received in the year.
- Number of complaints disposed off in the year.
- Number of cases pending for more than 90 days.



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- Number of workshops/awareness programmes against sexual harassment carried out in the year. Nature of action taken by the employer.

**Constitution of the Internal Complaints Committee**

The members of the Internal Complaints Committee are as follows (with the under mentioned categories): -

| S.No. | Name/ Post | Mobile Number | Email |
|---|---|---|---|
| 1 | One Female (Must be Professor) | | |
| 2 | Two faculty Member | | |
| 3 | Two Non-Teaching Staff | | |
| 4 | Three Student, if matter related to student | | |
| 5 | One External member from any NGO or related organisation | | |

**Note:** 50% member must be Female.

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