



2025:DHC:3977



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 14.05.2025

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W.P.(C) 5269/2025 and CM APPL.24015/2025

PROF SWARAN SINGH

.....Petitioner

Through: Mr. D.N. Goburdhan (Sr. Adv) along
with Mr. Zorawar Singh, Mr. Peechu
Singh and Mr. Rohan, Advs.

versus

JAWAHARLAL NEHRU UNIVERSITY & ORS.Respondents

Through: Mr. Om Prakash, Mr. Nitish Pandt,
Ms. Swati Mishra, Mr. Sarthak
Udaipuria, Mr. Amish Kumar, Advs.
for R3Mrs. Monika Arora (CGSC) along
with Mr. Subhrodeep Saha, Mr.
Prabhat Kumar, Ms. Anamika
Thakur, Advs. for R4
Ms. Priya Singh, GP.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The present petition *inter-alia* impugns the proceedings initiated against the petitioner under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ('the POSH Act') by the respondent no.1/Jawaharlal Nehru University ('JNU').
2. The petitioner, is an academician with over 32 years of experience, including 24 years at the JNU.
3. *Vide* order dated 28.04.2025 passed by this Court, it was, *inter alia*, recorded as under:-



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“5. Learned senior counsel for the petitioner submits that an inquiry under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“POSH Act”) has been purportedly conducted against the petitioner without complying with any provisions of the said Act; the Rules and Procedures of the Internal Complaints Committee (“ICC”) and the Rules 14 and 15 of the Central Civil Service (Classification, Control and Appeal) Rules, 1965 (“CCS Rules”), so much so, that even article/s of charge as contemplated under Rule 14(3) of the CCS Rules has not been furnished to the petitioner.

6. It is also submitted that the petitioner was not permitted to meaningfully participate in the inquiry at all. Further, the proceedings were conducted in a farcical manner; the petitioner was not granted an opportunity to produce its witnesses or to cross-examine the complainant. Even a copy of the complaint was not provided to the petitioner.

7. Learned counsel for the respondent refutes the said allegations, however, he seeks an adjournment to produce relevant record and to file counter-affidavit. Let the same be filed within a period of 1 week from today. Let the relevant record of the inquiry be also produced for perusal of the court on the next date of hearing.

8. As requested by the learned counsel for the respondent, let another complete copy of the entire writ petition be provided to him during the course of the day.

9. Considering the aforesaid submissions made by learned senior counsel for the petitioner, it is directed that till the next date of hearing, no further action shall be taken pursuant to any inquiry report that may have been submitted by the ICC of the respondent no.1.

10. At this stage, learned senior counsel for the petitioner submits that after the present petition has been filed, with a view to pre-empt the present petition, certain adverse order/s have been passed against the petitioner, including an order purporting to terminate the services of the petitioner. Let the said orders be placed on record on the next date of hearing. Learned senior counsel prays for an interim stay of the said order/s till the next date of hearing. This same shall be considered on the next date of hearing, after perusing the record of the inquiry.”

4. A counter-affidavit has been filed on behalf of the respondent nos.1 and 2. From the perusal of the same, it transpires that on 17.04.2025, the Executive Council of JNU considered the report of the Internal Complaints



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Committee ('ICC') dated 01.04.2025 and took a decision to impose a penalty of "termination of services" on the petitioner.

5. Accordingly, a termination letter/order dated 17.04.2025 was issued, for the purpose of removing the petitioner from the post of Professor at JNU with immediate effect.

6. Learned senior counsel for the petitioner, besides alleging large scale procedural irregularities in the conduct of inquiry, draws attention to two fundamental aspects.

7. Firstly, it is pointed out that the applicable statutorily prescribed Rules and Procedures of the ICC contemplate as follows, as regards the composition of the ICC:-

"4. Grievance redressal mechanism -

(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:-

(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 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.

(2) At least one-half of the total members of the ICC shall be women.

(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.

(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.

(5) The Member appointed amongst the 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.

(6) Where the Presiding Officer or any member of the Internal Committee:

(a) contravenes the provisions of section 16 of the Act; or

(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest, such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.”



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8. Learned senior counsel for the petitioner submits that in consonance with above prescription, in the present case, the ICC ought to have comprised of at least the following members (i) a Presiding Officer who shall be a woman faculty member; (ii) two faculty members; (iii) two non-teaching employees; and (iv) one member from amongst non-government organizations or associations. Thus, the ICC should have been comprised of at least six members.

9. In contravention of the aforesaid provisions, the ICC, in the present case, comprised of only three members.

10. It is submitted that it is not even known as to whether the said members were qualified or not in terms of the relevant Rules. He, thus, submits that there is gross irregularity in the composition of the ICC and this vitiates the inquiry in totality.

11. It is further submitted that the irregularity/illegality in the composition of the ICC renders the entire inquiry proceedings to be *non-est* in the eyes of law.

12. Secondly, learned senior counsel of the petitioner submits that under Section 30(4) of the Jawaharlal Nehru University Act, 1966 (53 of 1966)¹ (hereinafter referred as “*JNU Act*”), it was incumbent to give a show cause notice to the petitioner prior to inflicting any major penalty in the form of termination of services.

13. During the course of hearing, learned counsel for the respondent no.1 concedes that no such notice as contemplated under Section 30(4) of the JNU Act was given to the petitioner.

¹ (4) No teacher shall be removed under Clause (2) or under Clause (3) until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.



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14. Considering the aforesaid circumstances, it is directed that till the next date of hearing, there shall be a stay of the decision taken on 17.04.2025 by the Executive Council of JNU, whereby, the services of the petitioner have been sought to be terminated.

15. List for further hearing on 29.05.2025.

CM APPL.27650/2025 [under Order 1 Rule 10 of CPC, 1908 r/w Section 151 of CPC, on behalf of Ms. X (complainant before the Internal Committee seeking impleadment)]

16. Issue notice.

17. Learned counsel, as aforesaid, accepts notice on behalf of the non-applicant/s.

18. Let reply, if any, be filed before the next date of hearing.

19. List on 29.05.2025.

SACHIN DATTA, J

MAY 14, 2025/r