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

**BEFORE**

**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

**W.P.(C) 14760/2025, CM APPL. 60742/2025, CM APPL. 6409/2026, CM APPL. 80060/2025**

**IN THE MATTER OF:**

**PROF. RASAL SINGH**
S/O SHRI MAHARAJ SINGH
AGED ABOUT 45 YEARS
R/O 17, FIRST FLOOR, BD ESTATE,
MALL ROAD, DELHI – 110054
.....Petitioner
(*Through: Ms. Geeta Luthra, Senior Advocate with Ms Shalini Singh, Ms Prashansika Thakur, Mr Lakshay Saini, Advocates.*)

versus

**1. UNIVERSITY OF DELHI**
THROUGH ITS VICE CHANCELLOR
UNIVERSITY CAMPUS, DELHI – 110007.

**2. GOVERNING BODY, RAMANUJAN COLLEGE**
THROUGH ITS CHAIRMAN
UNIVERSITY OF DELHI
NEW DELHI – 110019.

**3. Ms. X**
ASSISTANT PROFESSOR (DEPT. OF COMMERCE)
RAMANUJAN COLLEGE, UNIVERSITY OF DELHI
NEW DELHI – 110019.

**4. MS. Y (DEPT. OF COMMERCE)**
ASSISTANT PROFESSOR
RAMANUJAN COLLEGE, UNIVERSITY OF DELHI

NEW DELHI – 110019.

**5. MS. Z (DEPT. OF PSYCHOLOGY)**
ASSISTANT PROFESSOR
RAMANUJAN COLLEGE, UNIVERSITY OF DELHI
NEW DELHI – 110019. .....Respondents

(*Through: Mr. Mohinder JS Rupal, Mr. Hardik Rupal, Ms. Aishwarya Malhotra and Ms. Tripta Sharma Advocates for R-1. Mr. Jayant Mehta, Sr. Adv. with Ms. Jyoti Taneja, Mr. Shivam Malhotra and Mr. Pallav Arora, Advocates for R-2.*)

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Reserved on: 27.03.2026
Pronounced on: 24.04.2026

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**JUDGEMENT**

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In a nutshell, the controversy relates to the manner in which the petitioner has been placed under suspension as well as the jurisdiction of the respondent no. 2-Ramanujan College, University of Delhi (hereinafter "**College**") to pass an order of suspension *de hors* the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter "**PoSH Act**").

2. The petitioner, a principal of the College has filed the instant petition challenging the constitution of an *ad hoc* committee by the Deputy Registar (Colleges) of respondent no. 1-University of Delhi (hereinafter "**DU**"), as well as its report dated 23.06.2025 (hereinafter "**Report**"); furthermore, a suspension order dated 18.09.2025 (hereinafter "**said Suspension Order**") passed by the College, on the basis of the aforenoted Report, has also been assailed.

## I. PROCEDURAL HISTORY

3. This Court *vide* order dated 26.09.2025 granted an interim stay on the operation of the said Suspension Order, and left it for the concerned Internal Complaints Committee (hereinafter "**ICC**") to consider as to whether any interim measure/s against the petitioner are warranted, including suspension and/or imposition of any other restrictions. The inquiry against the petitioner was also directed to be expedited.

4. Aggreived by the interim order dated 26.09.2025, a Letters Patent Appeals[1] were preferred by the respondents. The Division Bench heard the parties in detail and had posted the case for pronouncement of judgement on

[1] LPA Nos. 622-624/2025.

15.10.2025. However, prior to the pronouncement of judgement, learned senior counsel for the petitioner herein, on instructions, stated that the petitioner would continue to be on leave from the College till the disposal of the instant writ petition. Bearing in mind the object of the PoSH Act and the submissions made by the petitioner and his counsel, the Division Bench disposed of the appeals, while observing the following:

> "*4. The issues involved in this case are regarding the power of a University/College to suspend a Principal in a case under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, (hereinafter referred to as the 'POSH Act') and the power of the University/College to constitute an ad hoc fact finding committee pursuant to receiving a complaint under the POSH Act which are purely questions of law. Accordingly, the learned Single Judge is requested to expeditiously decide the said issues so that a final and authoritative pronouncement is made by the Court on these aspects and the College can function smoothly thereafter. This would also pave the way for the appropriate committee under the POSH Act to proceed further with the enquiry into the complaints.*
>
> *5. Without expressing anything on merits and considering that the observations made by the learned Single Judge are only prima facie in nature which will be finally adjudicated after hearing all the parties in detail, the present appeals are disposed of, with a request to the learned Single Judge to dispose of the writ petition as expeditiously as possible, preferably within a period of three months from today.*
>
> *6. Needless to state that this concession given by the learned Senior Counsel for the Respondent No.1/Principal is without prejudice to the rights and contentions of Respondent No.1 on the merits of the case.*
>
> *7. It is also made clear that none of the parties, i.e., the University, the College and the Complainants, will take any step which will have the effect of prejudicing the enquiry. They are directed not to circulate any message, hold press conference or any meeting in this regard.*
>
> *8. With these observations, the appeals are disposed of along with pending application(s), if any.*"

5. Pursuant to the directions and observations made by the Division Bench, submissions on behalf of the parties were heard on 12.01.2026, 13.01.2026, 14.01.2026, 16.01.2026, 17.01.2026, 27.02.2026, 19.03.2026 and finally on 20.03.2026.

6. In addition to the two issues framed by the Division Bench in its order dated 15.10.2025, Ms. Geeta Luthra, learned senior counsel, during the course of arguments, has flagged another important issue pertaining to the purportedly stigmatic nature of the said Suspension Order. She submits that even if the College is assumed to have the powers to pass a suspension order, the content and nature of the impugned order casts a stigma upon the petitioner, and on that, it deserves to be set aside.

7. Considering the order dated 15.10.2025 passed by the Division Bench, and the submissions made by the parties during the course of hearing, the following issues fall for the consideration of the Court:

7.1. Whether the College had powers to suspend the petitioner for a case pertaining to the PoSH Act.

7.2. Whether the Deputy Registrar (Colleges), DU had powers to constitute an *ad hoc* fact finding committee pursuant to a complaint received under the PoSH Act.

7.3. Whether the said Suspension Order is stigmatic.

## II. FACTUAL MATRIX

8. Before delving into aforenoted issues, the facts material to adjudicate, upon the instant *lis*, may be briefly adverted to. It appears that between 13.03.2025 to 24.04.2025, respondent nos. 3-5, who are Assistant Professors

at the College, submitted to the DU, and the College, complaints against the petitioner reporting certain allegations of misconduct, including sexual harassment. On 05.05.2025, the Deputy Registrar (Colleges), DU constituted a fact-finding committee (hereinafter "**Committee**") to examine the allegations made by the respondent nos. 3-5 and to submit a report on the same.

9. The Committee seems to have conducted various meetings and heard the concerned parties, including the petitioner. On 23.06.2025, a report was submitted by the committee, in which it opined that — (1) the charges leveled against the petitioner are of the nature of sexual harassment; (2) there is fear among all complainants, and since the petitioner is in a position of authority, the complainants feel threatened and unsafe; (3) an environment has been created which generates fear and anxiety among the complainants owing to intimidation, shouting, and use of inappropriate language; and (4) there is a possibility that there may be many instances which may not have been reported.

10. Ultimately the Committee concluded that the charges levelled against the petitioner are of a serious nature. A finding was also arrived at that the instances brought before it potentially constitute sexual harassment as defined under the PoSH Act. It, further, recommended that the complaints be referred to the ICC of the DU. Thereafter, on the basis of the report submitted by the Committee and after taking approval from the Vice Chancellor of DU, the Chairperson of the College on 18.09.2025 passed the said Suspension Order.

## III. SUBMISSIONS OF PARTIES

11. Learned senior counsel for the petitioner Ms. Luthra has vociferously submitted that the power to decide whether an allegation of sexual harassment is made or not is solely within the domain of the internal complaint committee. It is also her contention that if a statute prescribes that something must be done in a particular manner, it must be done in that manner only or not at all.

12. She additionally submits that disciplinary action taken against the petitioner on the basis of findings recorded in an enquiry which was conducted on gross violation of principle of natural justice, must not be sustained. According to her, a genuine hearing, reasonably granting sufficient opportunity to the petitioner, should have been granted, and a violation thereto invalidiate the entire exercise. According to her, even a slightest likelihood of bias vitiates an administrative decision and in the instant case, the respondents have acted in a *mala fide* manner.

13. Ms. Luthra during the course of her arguments, relied upon the following authorities, ***Prof. Bidyug Chakraborty v. Delhi University and Ors.***,[2] ***Dr. Sohail Malik v. Union of India and Anr.***,[3] ***Hareesh M.S. v. Kerala State Financial Enterprises Ltd.***,[4] ***Nazir Ahmad v King Emperor Privy Council***,[5] ***Municipal Corporation of Greater Mumbai v Abhilash Lal & Ors.***,[6] ***Cherukuri Mani w/o Narendra Chowdary v. Chief Secretary***,[7] ***Mount Columbus School and Ors. v. Central Board of Secondary***

[2] 2009 (112) DRJ 391 (DB)
[3] Civil Appeal No. 404 of 2024
[4] WP(C) NO. 24867 OF 2024
[5] 1936 SCC OnLine PC 41
[6] (2020) 13 SCC 234
[7] (2015) 13 SCC 722

***Education***,[8] ***Surender Singh v. Union of India and Ors.***,[9] ***Aureliano Fernandes v. State of Goa and Ors.***,[10] ***Krishnandatt Awasthy v. State of Madhya Pradesh***.[11]

14. Mr. Jayant K. Mehta, Mr. Nikhil Goel learned senior counsel and Mr. Mohinder JS Rupal learned counsel, appearing for the respondents have submitted that the an employer, including the head of the College/University has an inherent vested right to suspend any officer under its employement. It is, further contended, that there exists no bar in the creation of a fact finding committee to assist an employer, in discharging its functions/duties. The creation of such a committee, is also contended by Mr. Mehta to be a right of the employer.

15. He further contends that the concept of stigma can never be made applicable to suspension orders and it lies only in the domain of punitive measures such as termination/dismissal. The respondents have placed reliance on the following decisions ***State of Orissa v. Bimal Kumar Mohanty***,[12] ***Shailendra Kumar Rai v. State of Uttar Pradesh***,[13] ***Union of India v. H.C. Goel***,[14] ***Union of India v. Dilip Paul***,[15] ***State of Orissa v. Bidyabhushan Mohapatra***,[16] ***Union of India & Anr. v. Ashok Kumar***

[8] 2024 SCC OnLine Del 2778
[9] 2023 SCC OnLine Del 4495
[10] (2024) 1 SCC 632.
[11] (2025) 7 SCC 545.
[12] (1994) 4 SCC 126
[13] Writ-A No. 6131 of 2025, Allahabad High Court.
[14] AIR 1964 SC 364.
[15] 2023 SCC OnLine SC 1423.
[16] 1962 SCC OnLine SC 106.

***Aggarwal***,[17] ***Union of India v. Baij Nath***, [18] ***R.P. Kapur v. Union of India & Anr.***,[19] ***Nirmala J. Jhala v. State of Gujarat***,[20] ***Champaklal Chimanlal Shah v. Union of India***,[21] ***Linda Eastwood v. Union of India & Anr.***,[22] ***M. Paul Anthony v. Bharat Gold Mines Ltd.***,[23] ***Bhim Sen Singh v. University of Delhi***,[24] ***A.K. Kraipak v. Union of India***.[25]

## IV. POWERS TO SUSPEND FOR A CASE PERTAINING TO THE POSH ACT

16. In ***R.P. Kapur v. Union of India and Anr.***,[26] a Five-Judge Bench of the Supreme Court held the general principle to be that an employer can suspend an employee pending an inquiry into his misconduct and the only question that can arise in such suspension relates to the payment during the period of suspension. Para. 11 of the said decision reads as under:

> "***11. The general principle therefore is that an employer can suspend an employee pending an enquiry into his conduct and the only question that can arise on such suspension will relate to the payment during the period of such suspension***. *If there is no express term in the contract relating to suspension and payment during such suspension or if there is no statutory provision in any law or rule, the employee is entitled to his full remuneration for the period of his interim suspension; on the other hand if there is a term in this respect in the contract or there is a provision in the statute or the rules framed thereunder providing for the scale of payment during suspension, the payment would be in accordance therewith. These general principles in our opinion apply with equal force in a case where the*

[17] (2013) 16 SCC 147.
[18] 1972 SCC OnLine Del 1.
[19] 1963 SCC OnLine SC 47.
[20] (2013) 4 SCC 301.
[21] 1963 SCC OnLine SC 42.
[22] 2015 SCC OnLine Del 14396.
[23] (1999) 3 SCC 679.
[24] 2013 SCC OnLine Del 589.
[25] (1969) 2 SCC 262.
[26] 1963 SCC OnLine SC 47.

*government is the employer and a public servant is the employee with this modification that in view of the peculiar structural hierarchy of Government, the employer in the case of government, must be held to be the authority which has the power to appoint a public servant. On general principles therefore the authority entitled to appoint a public servant would be entitled to suspend him pending a departmental enquiry into his conduct or pending a criminal proceeding, which may eventually result in a departmental enquiry against him. This general principle is illustrated by the provision in Section 16 of the General Clauses Act, 10 of 1897, which lays down that where any Central Act or Regulation gives power of appointment that includes the power to suspend or dismiss unless a different intention appears. Though this provision does not directly apply in the present case, it is in consonance with the general law of master and servant. But what amount should be paid to the public servant during such suspension will depend upon the provisions of the statute or rule in that connection. If there is such a provision the payment during suspension will be in accordance therewith. But if there is no such provision, the public servant will be entitled to his full emoluments during the period of suspension. This suspension must be distinguished from suspension as punishment which is a different matter altogether depending upon the rules in that behalf.* ***On general principles therefore the government, like any other employer, would have a right to suspend a public servant in one of two ways. It may suspend any public servant pending departmental enquiry or pending criminal proceedings; this may be called interim suspension. Or the government may proceed to hold a departmental enquiry and after his being found guilty order suspension as a punishment if the rules so permit. This will be suspension as a penalty.*** *These general principles will apply to all public servants but they will naturally be subject to the provisions of Article 314 and this brings us to an investigation of what was the right of a member of the former Secretary of State's Services in the matter of suspension, whether as a penalty or otherwise.*"

17. Similarly, in ***Balvantrai Ratilal Patel v. State of Maharashtra***,[27] a Three-Judge Bench of the Supreme Court also took note of the inherent power of an employer to suspend an employee pending an inquiry into his misconduct. Para. 4 of the said decision reads as under:

"***4. The general principle therefore is that an employer can suspend an employee pending an inquiry into his misconduct and the only question***

[27] 1967 SCC OnLine SC 11.

> ***that can arise in such suspension will relate to payment during the period of such suspension.*** *If there is no express term relating to payment during such suspension or if there is no statutory provision in any enactment or rule the employee is entitled to his full remuneration for the period of his interim suspension. On the other hand, if there is a term in this respect in the contract of employment or if there is a provision in the statute or the rules framed thereunder providing for the scale of payment during suspension, the payment will be made in accordance therewith. This principle applies with equal force in a case where the Government is an employer and a public servant is an employee with this qualification that in view of the peculiar structural hierarchy of Government administration, the employer in the case of employment by Government must be held to be the authority which has the power to appoint the public servant concerned. It follows therefore that the authority entitled to appoint the public servant is entitled to suspend him pending a departmental enquiry into his conduct or pending a criminal proceeding, which may eventually result in a departmental enquiry against him. But what amount should be paid to the public servant during such suspension will depend upon the provisions of the statute or statutory rule in that connection. If there is such a provision the payment during suspension will be in accordance therewith. But if there is no such provision, the public servant will be entitled to his full emoluments during the period of suspension.* ***On general principles therefore the government like any other employer, would have a right to suspend a public servant in one of two ways. It may suspend any public servant pending departmental enquiry or pending criminal proceedings; this may be called interim suspension. The Government may also proceed to hold a departmental enquiry and after his being found guilty order suspension as a punishment if the rules so permit. This will be suspension as a penalty****. As we have already pointed out, the question as to what amount should be paid to the public servant during the period of interim suspension or suspension as a punishment will depend upon the provisions of the statute or statutory rules made in that connection.*"

18. The power of suspension lies with the College/University or the institution concerned, with respect to the services of a teacher, principal, or any other employee. This power, which is inherent to the office itself, may be exercised without there being a contractual or statutory stipulation to this effect. The employer or head of the institution, in furtherance of the responsibility vested with it, to administer the institution/organisation, may,

if it is found appropriate, suspend an employee, in the larger interest of the organisation/institution.

19. In this connection reliance may be placed on the following passage from K.D.Srivastava on '***Disciplinary Action Against Government Servants and its Remedies***':[28]

> "***120. Suspension: Inherent power.***
> *The Government have an implied power to place a Government servant under suspension pending the completion of departmental enquiry.*[29]
>
> *Assuming that there is no statutory rule which empowers the Government to suspend an officer pending an enquiry, yet even in the absence of a statutory rule Government have power to suspend an officer from performing the duties of his officer pending an enquiry into the charges levelled against him. In this connection a distinction must be drawn between suspending the contract of service of an officer and suspending an officer from performing the duties of his office on the basis that the contract is subsisting. The suspension in the latter sense is always an implied term in every contract of service. When an officer is suspended in this sense it means that the Government merely issues a direction to the officer that so long as the contract is subsisting and till the officer is legally dismissed he must not do anything in the discharge of the duties of his office. In other words the employer is regarded as issuing an order to the employee which, because the contract is subsisting, the employee must obey.*[30]
>
> ***140. Suspension: Departmental enquiry.***
> ***"****Suspension pending enquiry" is, in the very nature of things, something temporary. This power is intended only to enable an enquiry or investigation to be made under fair and impartial conditions. be confused with it. It does not involve any punishment and is not to The power of suspension pending enquiry is different from the power of dismissal or punishment and consequently the Chairman has the power to suspend the Secretary pending an enquiry.*[31]"

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[28] 6th Ed., Eastern Book Company, Pg. 747-756.
[29] ***Narayan Prasa, Rewary v. State of Orissa***, AIR 1957 Ori 51.
[30] (1888) 39 Ch D 339, ***Gurudeva Naryan Srivastava v. State of Bihar***, AIR 1955 Pat 131.
[31] Badri Prasad v. President, District Board, Mirzapur, AIR 1952 All 681

20. Further, Suranjan Chakraverti in her celebrated commentary titled 'Law of Wrongful Dismissals',[32] while relying on ***Nrishingha Murari Chakravarti v. District Magistrate***[33] has opined as under:

> *"In Nrishingha Murari Chakravarty v. District Magistrate and Collector, this distinction was recognised. The High Court said, -*
> *"In my opinion, we are not dealing with 'penalty' of suspension. It is true that an employee can be suspended by way of punishment, but in that case, it is the suspension which is the substantive punishment and there is no other punishment. Suspension pending a departmental enquiry or a criminal charge is a different matter altogether. There, the petitioner is asked not to associate himself directly with the activities of his employment, because as a result. of the pending enquiry or criminal charge, it would be embarrassing for all parties concerned for him to be directly associated with the work of the office. 1Jn such a case, some interim arrangement is made for a subsistence allowance, and it is implied that if the proceedings enure in his favour. then he would get his full wages. In this case the· petitioner bas been suspended because there was a criminal case pending and not as a substantive punishment."*

21. The High Court of Punjab and Haryana, in the case of ***R. P. Kapur v. Union of India***,[34] in a similar vein noted as:

> "*It is true that suspension as a punishment could only be the result of an enquiry and an act of judgment on the part of the competent authority, but that would be wholly different from suspension during the pendency of an enquiry at which stage no act of judgment would be involved except, of course, judgment on the question whether the nature of the charge needed suspension from office as a desirable step.*"

22. It also be noted that while an employer has the inherent right to suspend its employee, the said action ought to be conducted with an application of mind. A general proposition that *simpiciter* declares suspension to be possible, without any, judicial review or a mechanism for

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[32] 6th Ed., Law Book Company, Pg. 507.
[33] AIR 1961 Cal. 225
[34] AIR 1963 Punj. 87

checks and balances, would be *de hors* the principles of service law jurisprudence.

23. In the instant case, there is no dispute with regard to the said Suspension Order having been passed, in accordance with, and after obtaining the requisite permission from the Vice Chancellor, DU. Thus, with the procedure for suspension *qua* adherence to the DU Ordinances not being an issue, and the power of suspension having been found to be vested with the Chairperson of the College, on this ground, the said Suspension Order is found to be unassailable.

24. The power of suspension, as has been established through the discussion in the preceding paragraphs, is an inherent power of the employer, traceable to the master-servant relationship itself, and where service rules and office regulations exist, it must be exercised in consonance with, and circumscribed by, those rules and regulations. The PoSH Act neither confers this power afresh, nor does it take it away. The answer to this question lies, in the first instance, in the plain text of the statute itself. Section 28 of the PoSH Act, which is the legislature's own declaration of the relationship between this Act and other laws, categorically provides that the provisions of the Act shall be *"in addition to"* and *"not in derogation"* of the provisions of any other law for the time being in force.

25. The significance of this provision cannot be overstated. It is a non-obstante clause in reverse, rather than the PoSH Act overriding other laws, it is expressly declared to supplement and coexist with the existing legal framework, including the service rules and disciplinary regulations that govern the employment relationship. The employer's power to suspend,

flowing as it does from those very service rules and regulations, survives wholly intact alongside the PoSH Act and is in no way eroded or supplanted by it. This interpretation is further fortified by the scheme and structure of the PoSH Act itself. Section 11 of the Act, as interpreted by the Supreme Court in ***Sohail Malik (Dr.) v. Union of India,***[35] makes explicit that where the respondent is an employee, the inquiry by the ICC shall be conducted "in accordance with the provisions of the service rules applicable to the respondent."

> ***"47****.That being said, the requirement of Section 11(1) as we have concluded above, is that in case the 'respondent' is an 'employee',* ***the inquiry by the ICC must be in accordance with the service rules applicable to him, if service rules do not exist, it shall be conducted as may be prescribed, or if he is a domestic worker, the Local Committee must forward the complaint to the police****. The definitions of the word 'employee' and 'workplace' as quoted above in this judgement at their respective places are completely neutral, in the sense that they do not suggest that the 'respondent' must necessarily be an employee of the workplace where the aggrieved woman works."*

26. The PoSH Act nowhere prescribes the power of suspension, nor does it seek to regulate or restrict its exercise. That domain is left entirely to the service rules and the applicable regulations of the institution. The inevitable conclusion, therefore, is this "the power of suspension vests with the employer and is governed by, and circumscribed by, the service rules and office regulations of the institution or organisation concerned." It draws its life from the contract of employment, service rules, and the inherent authority of the employer, not from the PoSH Act. It exists independently of the PoSH Act. It is exercisable in the context of a PoSH inquiry, but it is the service rules, not the PoSH Act, that define its scope, limits, and the

[35] 2025 SCC OnLine SC 2751.

competent authority to exercise it. To hold otherwise would be to read into the PoSH Act a restriction that the legislature has, by the express terms of Section 28, deliberately declined to impose.

## V. THE POWER OF DEPUTY REGISTRAR (COLLEGES), DU TO CONSTITUTE AN *AD HOC* FACT FINDING COMMITTEE PURSUANT TO A COMPLAINT RECEIVED UNDER THE POSH ACT

27. In ***Sohail Malik (Dr.) v. Union of India,***[36] the Supreme Court after taking note of the preamble of the PoSH Act, declared the object and purpose of the Act to be as follows:

> "***52.*** *The long title of the POSH Act and its 'Preamble' are relevant internal aid for the purpose of interpretation and are therefore quoted herein:*
> *"An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.*
> *WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;*
> *AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;*
> *AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace."*
>
> *53.* ***The POSH Act was enacted by the legislature, recognizing the legislative void which was highlighted by this Court in its seminal judgment in Vishaka (supra). Its intent is to uphold women's right to***

[36] 2025 SCC OnLine SC 2751.

> ***equality under Articles 14 and 15 and right to a dignified life under Article 21 of the Constitution of India. The POSH Act does not merely punish acts of sexual harassment, but actively imposes a legal duty on employers to prohibit and prevent harassment, it ensures that the women in each workplace have open access to a mechanism for redressal of complaints of sexual harassment in the form of ICC. It aims to bring about safety and accountability in the workplace in order to enable women to pursue their career without the fear of a hostile environment. It is thus seen that the POSH Act is a social welfare legislation and it must be interpreted as thus***."

28. In ***Aureliano Fernandes v. State of Goa***,[37] the Supreme Court noted the legislative vaccum which existed prior to the enactment of the PoSH Act, and the landmark shift which the said statute has brought, in the manner in which office-spaces and work environments are to function in this Country. Para. 57 of the said decision reads as under:

> "***57.*** *After the passage of fifteen years from the date of the verdict delivered in Vishaka's case (supra), the PoSH Act, was legislated on 22nd April, 2013 and finally notified on 9th December, 2013. The Act lays down a comprehensive mechanism for constitution of Internal Complaints Committee, Local Committee and Internal Committees, the manner of conducting an inquiry into a complaint received, duties of an employer, duties and powers of the District Officer and others, penalties for noncompliance of the provisions of the Act, etc. Accompanying the Act are the Rules, 2013[68] that have been framed in exercise of powers conferred under Section 29 of the PoSH Act and amongst others, lays down the manner in which an inquiry into a complaint of sexual harassment ought to be conducted (Rule 7), the interim reliefs that can be extended to the aggrieved women during the pendency of the inquiry (Rule 8), the manner of taking action for sexual harassment (Rule 9) etc. It is noteworthy that sub-rule (3) of Rule 7 provides that the respondent shall file his reply to the complaint within a stipulated time along with the relevant documents and give details of the witnesses and sub-rule (4) stipulates that the Complaints Committee shall make an inquiry into the complaints "in accordance with the principles of natural justice*."

[37] (2024) 1 SCC 632.

29. Similar are the observations made by this Court in ***Surender Singh v. Union of India***.[38] Para. 14 of the said decision reads as under:

> "*14. After the passage of about 15 years from the date of verdict in Vishaka's case, POSH Act, 2013 was legislated on 22.04.2013 which was notified on 09.12.2013. The Act laid down a comprehensive mechanism for constitution of Internal Complaint Committee (ICC), Local Committee and Internal Committees; the manner of conducting the enquiry into the complaint received, the duties and powers of the employer and District Officer and penalties for non-compliance of the provisions of the Act.*"

30. Sections 9(1), 11, 16 and 17 of the PoSH Act then read 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*"
>
> "***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*"
>
> "***16. Prohibition of publication or making known contents of complaint and inquiry proceedings.***

[38] 2023 SCC OnLine Del 3395.

> *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 vicitim 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.*"

31. The scheme of the PoSH Act, and the aforenoted pronouncements of the Supreme Court as also this 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, the Act makes provisions of confidentiality and the constitution of two different committees—an Internal Complaints Committee ("**ICC**") and a Local Committee for inquiring into the said complaints. The words used in the Act are that the Committees "*shall*" inquire into the said complaint.

32. If, however, there is another committee such as the fact finding formed in the instant case, which is given the mandate of inquiring into the complaint of sexual-harassment, the same would be *de hors* the PoSH Act,

and in complete violation of it. If such a committee is allowed to be formulated before the complaint is sent to the ICC, the same would violate the express words of the statute, which state that the ICC/Local Committee "*shall*" inquire into the said complaint.

33. The consequence of allowing such a pre-ICC fact-finding may also have serious consequences on the sanctity of the inquiry. For instance, the victim may be forced to enter into an environment/atmosphere not catered and specialized for handling complaints of such sensitive nature. Moreover, such an *ad hoc* committee could also serve as a means to delay the substantive inquiry under the PoSH Act. The complaint of a genuine victim would then hangfire till the *ad hoc* committee concludes its inquiry.

34. There is, importantly, no rule/law/regulation governing the constitution of such a committee, and naturally, there is no law providing timelines in relation to its proceedings. The ICC and the Local Committee as envisaged under the PoSH Act are specialized bodies containing members having the requisite expertise to deal with matters of such sensitivity. The scheme of the PoSH Act also requires a deadline driven, time-limit constrained adjudication. Under the said Act, complaints are required to be sent to the Local Committee by the concerned Nodal Officer within 7 days.[39] Further, the entire fact-finding exercise by the ICC/Local Committee is further required to be completed within a period of 90 days.[40] Moreover, the

[39] Section 6 of the Posh Act.
[40] Section 11 of the PoSH Act.

inquiry report is required to be submitted within 10 days from the completion of inquiry to the employer/district officer. [41]

35. The Supreme Court in ***Aureliano Fernandes v. State of Goa***[42] has succiently and authoritatively laid down the twin foundational principles of natural justice. Para 36 of the said decision reads as under:

> "***36.*** *The twin anchors on which the principles of natural justice rest in the judicial process, whether quasi-judicial or administrative in nature, are Nemo Judex In Causa Sua, i.e., no person shall be a judge in his own cause as justice should not only be done,but should manifestly be seen to be done and Audi Alteram Partem, i.e. a person affected by a judicial, quasi-judicial or administrative action must be afforded an opportunity of hearing before any decision is taken."*

36. The ad hoc Fact Finding Committee was tasked with inquiring into a complaint of sexual harassment, a matter which, by its very nature, is judicial or at the very least quasi judicial exercise, inasmuch as it involves determination of facts, appreciation of evidence, and conclusions that have direct and serious consequences for the Petitioner. Such an exercise to be valid in the eyes of law, must necessarily satisfy both the anchors of natural justice. The said committee, constituted without any governing rules or statutory mandate, operated without any assurance of impartiality expected by the rule of *nemo judex in causa sua* and offered no structured, rule-governed opportunity of hearing as mandated by the rule of *audi alterem partem.* The constitution of a parallel, extra-statutory committee in substitution of or prior to the ICC, therefore, offends not merely the express provisions of PoSH Act but also the foundational principles of natural justice.

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[41] Section 13 of the PoSH Act.
[42] (2024) 1 SCC 632.

37. The Supreme Court in ***Nisha Priya Bhatia v. Union of India*** (supra), while declaring the law to require strict compliance with the provisions of the PoSH Act, noted as under:

> "*97. Be that as it may, in our opinion, the petitioner seems to have confused two separate inquiries conducted under two separate dispensations as one cohesive process. The legal machinery to deal with the complaints of sexual harassment at workplace is well delineated by the enactment of the Sexual Harassment of Women at Workplace Act, 2013 (hereinafter "the 2013 Act") and the Rules framed thereunder. There can be no departure whatsoever from the procedure prescribed under the 2013 Act and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (for short "the 2013 Rules"), either in matters of complaint or of inquiry thereunder. The sanctity of such procedure stands undisputed. The inquiry under the 2013 Act is a separate inquiry of a fact-finding nature. Post the conduct of a fact-finding inquiry under the 2013 Act, the matter goes before the department for a departmental enquiry under the relevant departmental rules [the CCS (CCA) Rules in the present case] and accordingly, action follows. The said departmental enquiry is in the nature of an in-house mechanism wherein the participants are restricted and concerns of locus are strict and precise. The ambit of such inquiry is strictly confined between the delinquent employee and the department concerned having due regard to confidentiality of the procedure. The two inquiries cannot be mixed up with each other and similar procedural standards cannot be prescribed for both. In matters of departmental enquiries, prosecution, penalties, proceedings, action on inquiry report, appeals, etc. in connection with the conduct of the government servants, the CCS (CCA) Rules operate as a self-contained code for any departmental action and unless an existing rule is challenged before this Court on permissible grounds, we think, it is unnecessary for this Court to dilate any further.*"

38. Accepting the constitution of such a extra-statutory Fact Finding Committees, has the potential of rendering otiose and nugatory the PoSH Act.

39. The creation of an *ad hoc* fact finding committee, such as that formed in the instant case by the Registrar (Colleges), DU is unbeknownst to the law, and is in violation of the PoSH Act.

40. Before delving into the third issue which has arisen for consideration in the instant case. A brief reference may be made to the argument of Ms. Luthra who contends that neither the *ad hoc* fact finding committee, nor the said Suspension Order could ever have been passed/formed since the subject matter is covered by the PoSH Act.

41. Section 28 of the PoSH Act reads as under:

> "***28. Act not in derogation of any other law.***
> *The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.*"

42. Section 12 of the PoSH Act then deals with interim measures which could be made during the pendency of the ICC proceedings. They read as under:

> "***12. Action during pendency of inquiry.***
> *(1) During the pendency of an inquiry on a written request made by the aggrieved woman, the Internal Committee or the local Committee, as the case may be, may recommend to the employer to*
> *(a) transfer the aggrieved woman or the respondent to any other workplace; or*
> *(b) grant leave to the aggrieved woman up to a period of three months; or*
> *(c) grant such other relief to the aggrieved woman a may be prescribed.*
> *(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled. (3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.*"

43. A bare perusal of the aforenoted provision would reveal that there is no provision of suspension under Section 12 of the Act. It is, therefore, the case that an order suspending a person under inquiry, cannot be made by the ICC. It, would, however, be unfathomable to declare that a person who is the

subject matter of inquiries, on the basis of sexual harassment complaints, cannot be suspended, pending the conclusion of the ICC proceedings. It is, here, that the inherent powers of the employer/head of an institution, can be resorted to suspend a person, accused of such complaints. The said suspension powers, would be in furtherance of, and supplement, the ICC proceedings. They cannot in any manner be construed as being in derogation of the ICC.

44. Per contra, the very constitution of an *ad hoc* committee to inquire into the factum of sexual harassment, whether the same has occurred, or whether the underlying facts amount to sexual harassment, are questions which are to be answered by the ICC/Local Committee. The said committees owe their very existence to answering such questions. The constitution of such an *ad hoc* committee would in fact be in express derogation of the object and purpose of the PoSH Act, and also frustrate the intention of the legislature.

45. The reliance placed by Mr. Mehta on the decisions in ***Nirmala J. Jhala v. State of Gujarat*** (supra) and ***Champaklal Chimanlal Shah v. Union of India*** (supra) arose in the context of general service jurisprudence, where a preliminary fact verification before initiation of disciplinary proceedings may be permissible. However, complaints of sexual harassment stand on a distinct footing. The PoSH Act specifically creates a self-contained mechanism for redressal of such complaints through the Internal Complaints Committee/Local Committee. Once the legislature has expressly designated the ICC/Local Committee as the authority which shall inquire

into such complaints, the constitution of any parallel or pre-ICC fact-finding body would be outside the statutory scheme.

46. Accordingly, in light of the above, the second issue is decided in favour of the petitioner. The third issue framed by the Court may now be considered.

## VI. WHETHER THE SAID SUSPENSION ORDER IS STIGMATIC

47. The law does not require order of suspension to be elaborate or should contain stigma against an officer.

48. In ***KD Srivastava*** (supra), the meaning of Stigma has been explained as under:

> *"**14. 'Stigma': Meaning of.**—A 'stigma' is something that detracts from the character or reputation of a person. It is a blemish, a disgrace, imputation, a mark or label indicating a deviation from a norm.*[43]*"*

49. The reason for suspension *per se*, however, may not be treated to be a stigma. In some cases, pending departmental inquiry or on account of inevitable circumstances, the employer may immediately require an employee to be placed under suspension.

50. For example, if the employer receives an input from the discrete sources regarding indulging an employee into unlawful activity, he may not be required to assign reasons, or where discrete information is received, but the gravity of the allegations are serious, the employer can straightforwardly place the employee under suspension without even assigning the slightest of

[43] ***Kamal Kishore Lakshman v. Pan American World Airways***, (1987) 1 SCC 146.

the reason in contemplation of the departmental enquiry as per the applicable Service Rules. The reason can be withheld to be made part of the departmental inquiry when full fledged inquiry shall be conducted. It be also noted that it is for these reasons that the Courts normally adopt hands off approach in interfering into the order of suspension.

51. However, in some cases, if circumstances so require, an employer can always narrate a brief reason for suspension. Say for example, the suspension order may recite "*pending departmental inquiry, the employee stands suspended*", however, if the employee seeks reasons they may be supplied, to him alone.

52. While passing an order of suspension, no opinion should be formed, and no stigma should be imposed. These are the bare minimum yardstick which must be followed in the cases of suspension. The said Suspension Order which is the subject matter of the instant case reads as under:

> "*Dear Prof. Rasal Singh, On account of written complaints submitted by three faculty members against you* ***alleging serious misconduct*** *and* ***harassment****, and* ***considering the gravity of the matter****, you are hereby placed under suspension with immediate effect pending the outcome of the ongoing inquiry into the matter from Internal Complaints Committee. During the period of suspension:*
>
> *a) You shall render full cooperation to the Internal Complaints Committee.*
> *b) You shall refrain from contacting, influencing, or intimidating, directly or indirectly, any complainant, faculty, staff, or student in connection with the said complaints.*
> *c) You shall not enter the premises of Ramanujan College or discharge any administrative, financial, or academic function unless expressly authorized in writing by the Governing Body or the Chairperson.*
> *d) You shall not leave the station without prior approval in writing by the Governing Body or the Chairperson.*

*e) You shall be entitled to receive subsistence allowance in accordance with the provisions of the applicable service rules/statutes during the suspension period.*"

[Emphasis Supplied]

53. A bare perusal of the aforenoted would reveal that any individual who reads the said order would form a negative opinion of the petitioner. A colleague, or prospective employer, before whose eyes passes the words "*serious misconduct and harassment*", shall cause only an unfavourable and prejudicial impression to be made of the petitioner. No person deserves to be met with such treatment, while an inquiry is pending in relation to its conduct/actions. But for this, if the bare words of the suspension order itself become a punishment for a given accused/answering respondent, the constitutional guarantee of presumption of innocence shall get compromised.

54. The reproduction of the nature of allegations, with emphasis on their seriousness and gravity, is not a neutral recitation of background facts. It is an editorial judgment, a characterization, which the employer is not entitled to make at the stage of suspension. The employer's role at this stage is limited to determining whether the continuance of the employee in service would prejudice the inquiry or is otherwise undesirable in the public interest. It does not extend to adjudicating upon or publicly affirming the character of the allegations.

55. At this stage, the Court also takes note of the submission, rightly made my Mr. Mehta, wherein he contended, that if the said Suspension Order, is found to be non-compliant with the applicable law, the respondents be granted liberty to modify the suspension order.

## VII. CONCLUSIONS

56. Thus, in light of the discussion above, the following conclusions can be reached:

56.1. Despite the PoSH Act, not providing for the interim measure of suspension, an employer in exercise of its inherent rights, can suspend a person who is the subject-matter of an inquiry under the PoSH Act;

56.2. The creation of a fact finding committee in order to determine whether a given complaint is to be sent to the ICC/Local Committee is *de hors* the provisions of the PoSH Act, and impermissible in law; and

56.3. The said Suspension Order, in the facts of the instant case, is stigmatic in nature, deserves to be set aside.

## VIII. ORDER

57. The said Suspension Order is set aside.

58. Liberty is, however, granted in favour of the respondent no. 2 to pass a fresh order.

59. Accordingly, the petition along with all pending applications stand disposed of.

**(PURUSHAINDRA KUMAR KAURAV)**
**JUDGE**

**APRIL 24, 2026**
P/*Rao*