



भारतसरकार

Government of India

वित्तमंत्रालय/ राजस्वविभाग

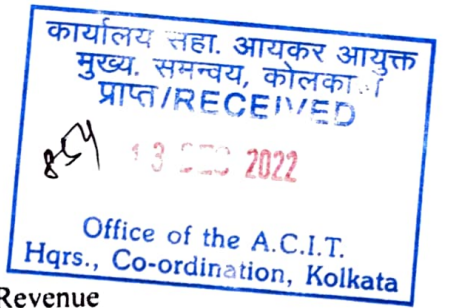
Ministry of Finance/ Department of Revenue

मानवसंसाधनविकासनिदेशालय/ Directorate of Human Resource Development

केंद्रीयप्रत्यक्षकरबोर्ड/ Central Board of Direct Taxes

गेटन०१, द्वितीयतल, जवाहरलालनेहरूस्टेडियम /Gate No.-1, 2<sup>nd</sup> Floor, Jawaharlal Nehru Stadium,

नईदिल्ली-११०००३/ New Delhi-110003



F. No.157 HRD/CMD-III (1)/2022-23/ 6801

Date: 24.11.2022

To,

The Pr.CCIT (CCA) (West Bangal & Sikkim)  
Aayakar Bhawan, P-7, Chowringhee Square,  
Kolkata-700069

Sir/Madam,

**Subject- Information on Gender Issues and Gender Laws**

Kindly refer to the subject mentioned above.

2. I am directed to state that the Directorate of HRD has been mandated with the responsibility of gender-related issues within the CBDT. In order to ensure compliance of laws related to gender issues, this Directorate has been collecting data from Pr. CCIT(CCA) regions related to formation of Internal Complaint Committee(ICC), status of complaints on sexual harassment and workshops conducted to create gender sensitivity awareness. The Directorate had issued letter dated 06/05/2022 to collect the above mentioned data. It had also shared D.O. letter dated 13/10/2022 circulated by the Ministry of Women and Child Development with all the respective regions to observe the 16 day period between 25<sup>th</sup> November and 10<sup>th</sup> December for raising awareness about elimination of all forms of violence and discrimination against women so as to ensure safety, security and holistic empowerment of women and to ensure that the basic human rights of women and girls are respected by all.

3. In order to create gender balance awareness among employees, I am directed to share the following information to assist you to create awareness about gender sensitivity and gender balance in your respective regions:

➤ Handbook related to the Sexual Harassment at work place as prepared by Ministry of Women and Child Development is being enclosed to be shared among all the employees and Internal Complaint Committee (ICC) members.

➤ Compendium on orders and notifications related to Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 as prepared by Ministry of Child and Development is being enclosed for information and compliance.

4. The undersigned is further directed to enumerate the following action items to be followed by respective regions to ensure compliance of legislations related to gender issues:

- Gender related data (number of male and female employees at all levels may be collated and sent to this office annually. The data on formation of ICC may be sent annually and status of complaints may be shared quarterly in compliance of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- National Minimum Guidelines (enclosed herewith) should be followed for establishing crèche facility as per the law and report on compliance of the same may be sent annually.
- Workshops and training programme on gender balance and sensitivity should be organized among officials for awareness. A training module designed by the Ministry of Women and Child Development is also being shared for guidance on conducting these workshops.
- One officer in HQ may be nominated as Single Point of Contact (SPOC) to coordinate with this Directorate on gender issues and inputs of officers/officials posted in your region may also be sought on gender related issues and shared with this Directorate.


5. In view of this, I am directed to request you to ensure compliance of the above mentioned action items by 10.12.2022 and usage of information shared to create awareness among the officers and officials of the Department.

Encl: As above.

Copy to:

1. Data Base Cell, for uploading on official website

Yours faithfully,

  
(Vinay Kumar Saxena)  
Income Tax Officer,  
CMD-III(1), HRD, New Delhi



## Steps for Conduct of Inquiry in Complaints of Sexual Harassment

### Complaints Committees

1. Complaints Committees have been set up in all Ministries/Department and organisations under them in pursuance to the judgement of the Hon'ble Supreme Court in the *Vishakha* case. As per Section 4(1) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013("the Act"), the Internal Complaints Committee (referred to as "Complaints Committee" hereafter) is to be set up at every workplace. As per Section 4(2), this will be headed by a woman and at least half of its members should be women. In case a woman officer of sufficiently senior level is not available in a particular office, an officer from another office may be so appointed. To prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committees should involve a third party, either an NGO or some other body which is familiar with the issue of sexual harassment.

### What is Sexual Harassment?

2. "sexual harassment" includes any one or more of the following acts or behaviour, (whether directly or by implication), namely:—

- (i) physical contact and advances; or
- (ii) demand or request for sexual favours; or
- (iii) sexually coloured remarks; or
- (iv) showing any pornography; or
- (v) any other unwelcome physical, verbal, non-verbal conduct of a sexual nature.

3. The following circumstances, among other circumstances, in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment: -

- (i) implied or explicit promise of preferential treatment in employment; or
- (ii) implied or explicit threat of detrimental treatment in employment ; or
- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

### Workplace defined:

4. As per Section 2(o) of the Act, the following places are included within the ambit of the expression "workplace":

- (i) any department, organisation, undertaking, establishment, enterprise, institution, office, etc. --established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the Central Government;
- (ii) hospitals or nursing homes;
- (iii) any sports institute, stadium, etc., used for training, sports or other activities relating thereto;
- (iv) any place visited by the employee arising out of or during the course of employment --including transportation provided by the employer for undertaking such journey;

### Initial relief

5. The Committee will also have the powers to recommend:-

- (a) to transfer the aggrieved woman or the charged officer to any other workplace; or
  - (b) to grant leave to the aggrieved woman up to a period of three months.
- (The leave will not be deducted from her leave account.)

### Complaints Committee to be Inquiring Authority

6. As per Proviso to Rule 14(2) of CCS (CCA) Rules, 1965, in case of complaints of sexual harassment, the Complaints Committee set up in each Ministry or Department etc. for inquiring into such complaints shall be deemed to be the Inquiring Authority appointed by the Disciplinary Authority for the purpose of these rules. Complaints Committee, unless a separate procedure has been prescribed, shall hold the inquiry as far as practicable in accordance with the procedure laid down in the Rule 14.

### Need for investigation

7. The Complaints Committees may act on complaints of sexual harassment when they receive them directly or through administrative authorities etc, or when they take cognizance of the same suo-moto. As per Section 9(1) of the Act, the aggrieved woman or complainant is required to make a complaint within three months of the incident and in case there has been a series of incidents, three months of the last incident. The Complaints Committee may however extend the time limit for reasons to be recorded in writing, if it is satisfied that the circumstances were such which prevented the complainant from filing a complaint within the stipulated period.

8. As mentioned above, the complaints of sexual harassment are required to be handled by Complaints Committee. On receipt of a complaint, facts of the allegation are required to be verified. This is called preliminary enquiry/fact finding enquiry or investigation. The Complaints Committee conducts the investigation. They may then try to ascertain the truth of the allegations by collecting the documentary evidence as well as recording statements of any possible witnesses including the complainant. If it becomes necessary to issue a Charge Sheet, disciplinary authority relies on the investigation for drafting the imputations, as well as for evidence by which the charges are to be proved. Therefore this is a very important part of the investigation.

### Dual Role

9. In the light of the Proviso to the Rule 14 (2) mentioned above, the Complaints Committee would normally be involved at two stages. The first stage is investigation already discussed in the preceding para. The second stage is when they act as Inquiring Authority. It is necessary that the two roles are clearly understood and the inquiry is conducted as far as practicable as per Rule 14 of CCS (CCA) Rules, 1965. Failure to observe the procedure may result in the inquiry getting vitiated.

10. As the Complaints Committees also act as Inquiring Authority in terms of Rule 14(2) mentioned above, care has to be taken that at the investigation stage that impartiality is maintained. Any failure on this account may invite allegations of bias when conducting the inquiry and may result in the inquiry getting vitiated. As per the instructions, when allegations of bias are received against an Inquiring Authority, such Inquiring Authority is required to stay the inquiry till the Disciplinary Authority takes a decision on the allegations of bias. Further, if allegations of bias are established against one member of the Committee on this basis, that Committee may not be allowed to conduct the inquiry.



11. In view of the above, the Complaints Committee when investigating the allegations should make recommendations on whether there is a prima facie substance in the allegations which calls for conducting a formal inquiry. They should avoid making any judgmental recommendations or expressing views which may be construed to have prejudiced their views while conducting such inquiry.

#### **Decision to issue Charge sheet, and conducting Inquiry**

12. On receipt of the Investigation Report, the Disciplinary Authority should examine the report with a view to see as to whether a formal Charge Sheet needs to be issued to the Charged Officer. As per Rule 14(3), Charge Sheet is to be drawn by or on behalf of the Disciplinary Authority. In case the Disciplinary Authority decides on that course, the Charged Officer should be given an opportunity of replying to the Charge sheet. As per Rule 14(5), a decision on conducting the inquiry has to be taken after consideration of the reply of the charged officer.

13. If the Charged Officer admits the charges clearly and unconditionally, there will be no need for a formal inquiry against him and further action may be taken as per Rule 15 of the CCS (CCA) Rules.

#### **The Inquiry-stages**

14. In case the Charged Officer denies the charges and his reply is not convincing, the Charge sheet along with his reply may be sent to the Complaints Committee for formal inquiry, and documents mentioned in Rule 14 (6) will be forwarded to the Complaints Committee. As per Section 11(3) of the Act, for the purpose of making an inquiry, the Complaints Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 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.

The Section 11(4) of the Act requires that the inquiry shall be completed within a period of ninety days.

15. The Disciplinary Authority shall also in terms of Rule 14(5) (c) appoint a Government servant as a Presenting Officer to present evidence on behalf of prosecution before the Complaints Committee/ Inquiring Authority. The listed documents are to be sent to the Presenting Officer. The Complaints Committee would, thereafter, summon the Presenting Officer and the Charged Officer. As a first step, the charged officer would be formally asked as to whether he admits the charges. As mentioned above, in case of any clear and unconditional admission of any Article of Charge, no inquiry would be held in respect of that Article and the admission of the Charged Officer would be taken on record. The inquiry would be held, thereafter, in respect of those charges which have not been admitted by the Charged Officer. The Charged Officer is also entitled to engage a Defence Assistant. The provisions relating to Defence Assistant are given in Rule 14(8).

16. The Inquiring Authority is, thereafter, required to ask the Presenting Officer to have the prosecution documents, listed in the Charge Sheet inspected by the Charged Officer. Copies of such documents, if not only given to the Charged Officer, would be handed over to him. The Charged Officer would, therefore, be required to submit a list of documents and witnesses which he wants to produce in support of his defense. The Inquiring Authority would consider allowing such documents or witnesses on the basis of their relevance. Normally, any document or witness which reasonably appears to be relevant and helpful in defense may be allowed. Once the documents have been allowed, the Inquiring Authority would send a requisition for these documents to the custodian of such documents.



17. When the regular hearing commences, the Inquiring Authority would ask the Presenting Officer to produce the documentary evidence. Such documents as are disputed by the Charged Officer have to be proved by the witnesses before they are taken on record. The undisputed documents would be taken on record and marked as exhibits.

### **Examination of Witnesses**

18. Summons would, thereafter, be sent to the witnesses listed in the Charge sheet. The Presenting Officer may choose to produce them in any order he finds appropriate. These witnesses would be examined in the inquiry in the following manner. The examination in chief would be done by the Presenting Officer where the Presenting Officer may ask questions of the witness to ascertain the facts. The witness would, thereafter, be cross-examined by the Defense. After the cross-examination, the Presenting Officer would be given an opportunity to re-examine the witness. In the examination in chief, leading questions are not allowed. These are however allowed in the cross examination.

19. The procedure of Inquiry requires opportunity to the Charged Officer to cross-examine all the witnesses that appear on behalf of the Prosecution. Failure to do so may be construed as a denial of reasonable opportunity to the charged officer, resulting in vitiation of the inquiry. If the complainant appears as a witness, she would also be examined and cross-examined. The Inquiry Officer may however disallow any questions which are offensive, indecent or annoying to the witnesses, including the complainant.

20. If Inquiring Authority wishes to ascertain some facts for clarity, he may pose questions to the witnesses. This should however, be done in such a manner as to not show any bias for or against the Charged Officer. This has to be done in the presence of the Presenting Officer and the Charged Officer/Defence Assistant. No inquiry should be conducted behind the back of the charged officer. The witnesses will be examined one by one, and the other witness who are either yet to be examined, or have been examined are not allowed to be present during the examination of a witness.

### **Daily Order Sheet**

21. The Inquiring Authority would also maintain a document called Daily Order Sheet in which all the main events of the inquiry and including requests/representations by the Charged Officer or the Presenting Officer, and decisions thereon would be recorded. For example (i) if the Charged Officer refuses to cross-examine the witnesses, this should be recorded in the Daily Order Sheet (ii) the Daily Order Sheet should record that the Charged Officer had been advised that he has the right to engage a Defense Assistant (iii) it should also be clearly mentioned that the Charged Officer was also informed as to who are eligible to assist him as Defense Assistant. (iv) the Daily Order Sheet should also record in case request of the Charged Officer for engaging a particular person as Defense Assistant is disallowed in the light of the existing instructions. Daily Order Sheet should be signed by the Inquiring Authority, Presenting Officer and the Charged Officer/Defence Assistant.

### **Defence Evidence**

22. After the prosecution evidence is over, the Charged Officer is required to submit his statement of defense. In this statement, the Charged Officer is required to briefly indicate his line of defense. After this, the Defense evidence will be taken. The evidence will be produced in the same order as the prosecution evidence. First, the documents allowed by the Inquiry Authority would be taken on record and then the witnesses called and their examination, cross-examination and re-examination done. The only difference here would be that the Examination in Chief would be done by defense while the cross-examination would be done by the prosecution. The defense would then have the opportunity of re-examining the witness.

### General Examination of the Charged Officer

23. After the Defense evidence is over, the Inquiring Authority shall ask Charged Officer as to whether he wishes to appear as his own witness. In case he does so, he will be examined like any other defense witness. In case however, he declines to do so, the Inquiring Authority is required to generally question him. At this stage due care is required to be exercised that as per Rule 14(18) the purpose of this stage is to apprise Charged Officer of the circumstances which appear to be against him. This is to enable the Charged Officer to explain them to the Inquiring Authority. Presenting Officer and the Defence Assistant do not take any part in the General Examination. Charged Officer may not be compelled to answer questions during examination by the Inquiring Authority.

### Brief

24. After this, the Presenting Officer would be asked to submit his brief. A copy of this brief would be given to the Charged Officer. Both the Presenting Officer and the Charged Officer may be allowed reasonable time for submission of their brief.

25. The Inquiring Authority then writes the Inquiry Report in which the evidence in support of the charges and against them will be examined. The Report should be a speaking one clearly bringing out as to the evidence on the basis of which any particular conclusion has been reached. Based on this analysis, the Inquiring Authority will give its findings on the Articles as proved or not proved. In case any Article of charge is proved only partially, then the Inquiring Authority should record the extent to which that Article has been proved.

### Powers of the Committee to make recommendations

26. Normally, the Inquiry Officer is not allowed to make any recommendations in his report. Here the function of the Complaints Committee acting as the Inquiring Authority differs. The Complaints Committee may however, make recommendations including what has been mentioned in para 2 above:

- (c) to grant such other relief to the aggrieved woman as may be prescribed; or
- (d) to deduct from the salary or wages of the charged officer such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs.
- Any amount outstanding at the time of cessation of the services of the charged officer due to retirement, death or otherwise may be recovered from the terminal benefits payable to the officer or his heirs.
- Such compensation will not amount to penalty under Rule 11 of CCS (CCA) Rules in terms of the Explanation (ix) to Rule 11 inserted vide Notification of even Number dated 19-11-2014.
- Committee may recommend action to be taken against complainant, if the allegation is malicious, or the complainant knows it to be false, or has produced any forged or misleading document.
- The Committee may also recommend action against any witness if such witness has given false evidence or produced any forged or misleading document.



27. The Complaints Committee should also remember that as per the Section 16 of the Act, notwithstanding the RTI Act, 2005, information as regards identity and addresses of the aggrieved woman, respondent and witnesses, Inquiry proceedings, Recommendations of the Committee, shall not be published or communicated or made known to public, press or media in any manner. Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

28. With the above stage, the inquiry would be formally over. The Inquiring Authority should prepare separate folders containing the documents mentioned in Rule 14(23(ii)).

### **Suspension**

29. A Government servant may also be placed under suspension before or after issue of a Charge Sheet where his continuance in office will prejudice the investigation, for example if there is an apprehension that he may tamper with witnesses or documents. Suspension may also be resorted to where continuance of the Government servant in office will be against wider public interest such as there is a public scandal and it is necessary to place the Government servant under suspension to demonstrate the policy of the Government to deal strictly with officers involved in such scandals. It may be desirable to resort to suspension in case of misdemeanor involving acts of moral turpitude.

### **Special provisions to deal with threats or intimidation**

30. Disciplinary Authority may also dispense with inquiry under Rule 19(i), and action may be taken without the inquiry when the Disciplinary Authority concludes that it is not reasonably practicable to hold such an inquiry. The circumstances leading to such a conclusion may exist either before the inquiry is commenced or may develop in the course of the inquiry. Such situation would be deemed to have arisen:

- (i) where the Government servant, through or together with his associates terrorizes, threatens or intimidates witnesses who are likely to give evidence against him with fear of reprisal in order to prevent them from doing so; or
- (ii) where the Government servant himself or with or through others threatens, intimidates and terrorizes the Disciplinary Authority, Members of the Committee, the Presenting Officer or members of their family.

Disciplinary Authority is not expected to dispense with the inquiry lightly, arbitrarily or with ulterior motive or merely because the case against the Government servant is weak

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No.11013/7/2016-Estt.A-III  
Government of India  
Ministry of Personnel, Public Grievances & Pensions  
Department of Personnel & Training  
Establishment A-III Desk

North Block, New Delhi,  
Dated the 22<sup>nd</sup> December, 2016

OFFICE MEMORANDUM

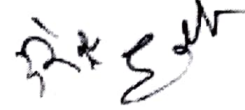
**Subject:-** Central Civil Services (Conduct) Rules 1961 – Guidelines regarding prevention of sexual harassment of women at the workplace- regarding.

The undersigned is directed to refer to the DoPT OM number No.11013/2/2014-Estt.A-III, dated the 16<sup>th</sup> July, 2015 etc., vide which need for effective mechanism to ensure that inquiries in the case of allegations of sexual harassment are conducted as per the prescribed procedure and that they are monitored have been issued. Recently, a meeting was held under the Chairmanship of Minister, Women and Child Development wherein concern was expressed that the inquiries in such cases are taking unduly long time. It has, therefore, been decided that the following further steps may be taken to ensure that the inquiries are conducted expeditiously and the aggrieved women are not subjected to victimization:

- (1) As already conveyed vide OM dated 2<sup>nd</sup> February, 2015 all Ministries/Departments shall include in their Annual Reports information related to the number of such cases and their disposal.
- (2) As far as practicable, the inquiry in such cases should be completed within 1 month and in no case should it take more than 90 days as per the limit prescribed under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- (3) It should be ensured that the aggrieved women are not victimized in connection with the complaints filed by them. For a period of five years after a decision in a proven case of sexual harassment, a watch should be kept to ensure that she is not subjected to vendetta. She should not be posted under the Respondent, or any other person where there may be a reasonable ground to believe that she may be subjected to harassment on this account. In case of any victimization the complainant may submit a representation to the Secretary in the case of Ministries/Departments and Head of the Organization in other cases. These representations should be dealt with sensitivity, in consultation with the Complaints Committee, Ministries/Departments and Head of the Organization in other cases. These representations should be dealt with sensitivity, in consultation with the Complaints Committee, and a decision taken within 15 days of the submission of the same.

Cont.....2/-

- (4) All Ministries/Departments shall furnish a monthly report to the Ministry of Women and Child Development giving details of number of complaints received, disposed of and action taken in the case.



(Mukesh Chaturvedi)  
Director (E)  
Tele: 23093176

To

The Secretaries of All Ministries/Departments (as per the standard list)

Copy to:

1. President's Secretariat, New Delhi.
2. Vice-President's Secretariat, New Delhi.
3. The Prime Minister's Office, New Delhi.
4. Cabinet Secretariat, New Delhi.
5. Rajya Sabha Secretariat/Lok Sabha Secretariat, New Delhi.
6. The Comptroller and Auditor General of India, New Delhi.
7. The Secretary, Union Public Service Commission, New Delhi.
8. The Secretary, Staff Selection Commission, New Delhi.
9. All attached offices under the Ministry of Personnel, Public Grievances and Pensions.
10. Secretary, National Council (JCM), 13, Feroze Shah Road, New Delhi.
11. CVOs of all Ministries/Departments.
12. ADG (M&C), Press Information Bureau, DoP&T
13. ✓ NIC, Department of Personnel & Training, North Block, New Delhi (for uploading the same on the website of this Ministry under the Head OM's & Orders → Establishment → CCS (Conduct) Rules and "what is new")
14. Hindi Section, DoP&T



(Mukesh Chaturvedi)  
Director (E)  
Tele: 2309 3176



Delhi High Court

Ms. C (Name And Address ... vs Indian Institute Of Corporate ... on 23 January, 2018  
\$~25

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 455/2018 and CM Nos. 1984/2018, 1985/2018  
& 1998/2018

MS. C (NAME AND ADDRESS CONFIDENTIAL) ..... Petitioner

Through: Ms Vrinda Grover, Ms Ratna  
Appnender and Mr Soutik Banerjee,  
Advocates.

versus

INDIAN INSTITUTE OF CORPORATE  
AFFAIRS AND ORS.

..... Respondents

Through: Mr Bhagvan Swarup Shukla, CGSC  
with Mr Kamaldeep, Advocate for R-  
2.  
Mr R.C. Meena, Ex-Regional  
Director (ER) & (NER), Ministry of  
Corporate Affairs, Govt. of India.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU  
ORDER

% 23.01.2018

VIBHU BAKHRU, J

1. The petitioner, whose name is concealed to avoid any ignominy, has filed the present petition, inter alia, praying that directions be issued to respondent nos. 5 to 10 - persons constituting the Internal Complaints Committee (hereafter the ICC) - to comply with the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereafter the Act).

2. The petitioner claims that on 10.11.2017 she was sexually assaulted and groped by respondent no.4. This incident happened within the campus of respondent no.1 at Manesar, Gurgaon, Haryana. She further alleges that respondent no.4 had been sending unwelcome whatsapp messages and songs of sexual nature to the petitioner. The petitioner states that the complaint in this regard was lodged with respondent no.3 on 13.11.2017 but the same was not immediately referred to the ICC.

3. According to the petitioner, the ICC was constituted on 28.11.2017. The petitioner claims that she has also applied for interim relief to the ICC, however, the same has not been considered as yet.

4. The petitioner claims that the ICC is not following the principles of natural justice and has not provided any statements, deposition, documents or evidence that has been placed before the ICC and, therefore, she has been effectively precluded from responding to the same. She also claims that some of the witnesses in the case are being intimidated and victimised. The petitioner also alleges

that respondent no.3 has failed to maintain confidentiality with regard to her identity at the campus and has shared the details of her complaint openly with other persons.

5. At the outset, Mr Shukla, the learned counsel appearing for the respondents states that the Ministry of Corporate Affairs, Government of India had constituted the ICC by an Office Order dated 20.04.2017 and the petitioners complaint was forwarded to the ICC on 14.11.2017.

6. He states that ICC is currently conducting a preliminary investigation and is not acting as an "Inquiring Authority". The proceedings are only to assist the Disciplinary Authority to form a prima facie opinion for constituting an inquiry under Rule 14 of the CCS(CCA) Rules, 1965.

7. Ms Grover, the learned counsel appearing for the petitioner contends that even at the stage of such preliminary investigation, it is necessary that all material collected by the ICC ought to be provided to the petitioner and she also be given a further opportunity to rebut the same. She submitted that the petitioner has not been provided any material and also has had no opportunity to cross-examine any of the witnesses that may have deposed in favour of respondent no.4 before the ICC.

8. She relied on the decisions of this Court in Manisha Sharma v. Union of India and Ors.: 196 (2013) DLT 741; Pallavi Pandey v. Kendriya Bhandar: 2013 SCC OnLine Del 3029; and Sonali Badhe, A.L.A. Directorate of Enforcement, Ahmedabad v. Ashish Chandra Singh DLA, New Delhi & Anr.: W.P.(C) 6207/2017, decided on 15.12.2017.

9. This Court is not persuaded to accept the contentions advanced on behalf of the petitioner. In terms of the Office Memorandum bearing F. No. 11013/2/2014-Estt (A-III) dated 16.07.2015 issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training (hereafter DoPT), the role of an ICC has been explained in the context of Rule 14 of the CCS(CCA) Rules, 1965.

10. It is relevant to refer to Rule 14 of the CCS(CCA) Rules, 1965; the relevant extract of which is set out below:-

"14. PROCEDURE  
PENALTIES:

FOR IMPOSING MAJOR

(1) No order imposing any of the penalties specified in clauses (v) to (ix) of Rule 11 shall be made except after an inquiry held, as far as may be, in the manner provided in this rule and rule 15, or in the manner provided by the Public Servants (Inquiries) Act, 1850 (37 of 1850), where such inquiry is held under that Act.

(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 rule 3 C of the Central Civil Services (Conduct) Rules, 1964, the complaints Committee established in each ministry or 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 harassments, the inquiry as far as practicable in accordance with the procedure laid down in these rules."

11. A plain reading of Rule 14 (2) of the CCS(CCA) Rules, 1965 indicates that an inquiry into any misconduct or misbehaviour against a Government servant would commence only where the Disciplinary Authority is of the opinion that there are grounds for inquiring into the truth of any imputation or misconduct or misbehaviour on the part of the Government servant. The proviso to Rule 14 (2) of the said Rules specifies that the ICC would be the Inquiring Authority in cases where the complaint is of sexual harassment within the meaning of Rule 3 (C) of the CCS (Conduct) Rules, 1964.

12. It is not disputed that the ICC would be deemed to be an Inquiring Authority; however, the said inquiry would commence once the Disciplinary Authority forms an opinion as required under Rule 14 of the CCS(CCA) Rules, 1965. At this stage, the ICC is only conducting a preliminary investigation. The ICCs dual role has been explained in the guide on "Steps for conduct of Inquiry in complaints of Sexual Harassment", which was circulated under the cover of the Office Memorandum dated 16.07.2015. The relevant extract of the said OM reads as under:-

"Complaints Committee to be Inquiring Authority

6. As per Proviso to Rule 14(2) of CCS (CCA) Rules 1965, in case of complaints of sexual harassment, the Complaints Committee set up in each Ministry or Department etc. for inquiring into such complaints shall be deemed to be the Inquiring Authority appointed by the Disciplinary Authority for the purpose of these rules. Complaints Committee, unless a separate procedure has been prescribed, shall hold the inquiry as far as practicable in accordance with the procedure laid down in the Rule 14.

Need for investigation

7. The Complaints Committees may act on complaints of sexual harassment when they receive them directly or through administrative authorities etc, or when they take cognizance of the same suo-moto. As per Section 9(1) of the Act, the aggrieved woman or complainant is required to make a complaint within three months of the incident and in case there has been a series of incidents, three months of the last incident. The Complaints Committee may however extend the time limit for reasons to be recorded in writing, if it is satisfied that the circumstances were such which prevented the complainant from filing a complaint within the stipulated period.

8. As mentioned above, the complaints of sexual harassment are required to be handled to be verified. This is called preliminary enquiry/ fact finding enquiry or investigation. The Complaints Committee conducts the investigation. They may then try to ascertain the truth of the allegations by collecting the documentary evidence as well as recording statements of any possible witnesses including the complainant. If it becomes necessary to issue a Charge Sheet, disciplinary authority relies on the investigation for drafting the imputations, as well as for evidence by which the charges are to be proved. Therefore this is a very important part of the investigation.

#### Dual Role

9. In the light of the Proviso to the Rule 14(2) mentioned above, the Complaints Committee would normally be involved at two stages. The first stage is investigation already discussed in the preceding para. The second stage is when they act as Inquiring Authority. It is necessary that the two roles are clearly understood and the inquiry is conducted as far as practicable as per Rule 14 of CCS(CCA) Rules, 1965. Failure to observe the procedure may result in the inquiry getting vitiated."

13. As noted above, at this stage, the Disciplinary Authority has not formed an opinion for inquiring into the truth of the allegations made against respondent no.4 and an inquiry against respondent no.4 has not been instituted as yet. The preliminary investigation conducted by the ICC is only to assist the Disciplinary Authority to form such an opinion. The preliminary investigation would also aid the preparation of the imputation of charges for misconduct and misbehaviour, if any.

14. It is also essential that at this stage detailed findings are not returned by the ICC as the matter is only at a preliminary stage. Returning definite findings at this stage would certainly give a cause to the person accused to claim at the subsequent stage that the ICC had already made up its mind even before a copy of the imputation of charges were served on him. This would frustrate the intention of ensuring that the ICC act as an Inquiring Authority.

15. Since it is stated that the ICC is merely conducting a preliminary investigation regarding the complaint of the petitioner, no further interference by this Court is called for at this stage. However, it is necessary to observe that the ICC would be free to obtain any clarification from the petitioner, if considered expedient.

16. The ICC is requested to complete the proceedings as expeditiously as possible after the petitioner returns from the Bharat Darshan Tour.

17. Needless to state that if the petitioner is aggrieved by the Disciplinary Authority not taking an appropriate action at that stage, the petitioner would be at liberty to apply.

18. It is also necessary to observe that the petitioner also has the right even at this stage to approach the concerned authorities for immediate protection that may be required by her. It is seen that the ICC is also empowered to grant initial relief, if the circumstances so warrant.



19. Respondent no.2 shall also consider whether it is necessary to enquire into the role of respondent no.3.

20. The petition is disposed of with the aforesaid observations. The pending applications are also disposed of.

VIBHU BAKHRU, J JANUARY 23, 2018 RK/pkv



प्रधान मुख्य आयकर आयुक्त कार्यालय, पश्चिम बंगाल और सिक्किम  
**OFFICE OF THE PRINCIPAL CHIEF COMMISSIONER OF INCOME TAX,  
WEST BENGAL & SIKKIM**

Aayakar Bhawan, P-7, Chowringhee Square, Kolkata – 700 069

Section: - General Section, Room No. 13.

Phone: (033) 2213 6150

Email: kolkata.dcit.hq.admin.vig@incometax.gov.in

F. No. Pr. CCIT/WBS/ADMN/DC/GEN/1 (Part-2)/Committee/2024-25/

Date: 10 July 2024

आदेश संख्या ORDER NO.: 12 /2024-25

In accordance with the Office Memorandum no. 11013/3/2009- Estt(A) dated 21<sup>st</sup> July, 2009 and 3<sup>rd</sup> August, 2009 issued by the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Govt. of India on the subject of "CCS (Conduct Rules, 1964 – Guidelines regarding prevention of sexual harassment of working women in workplace" and as per "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013" and in partial modification of Order No. 28/2022-23 dated 30.11.2022, the Internal Complaints Committee (ICC) is hereby **reconstituted** as Ms. Priti Mondal (Member Secretary) has taken VRS w.e.f. 28.06.2024 . The members of the Internal Complaints Committee (ICC) are as follows:

Sl. No.	Members	
1.	Smt. Archana Gupta, Addl. CIT, RU-1(1), Kolkata	Chairperson
2.	Shri Subrahmanyam Tota, Addl. DIT (Inv.), Hqrs. To DGIT (Inv.), WB, Sikkim & NER	Member
3.	Shri Ranabir Bhaumik, DCIT, Hqrs. (Pers. & Estt.), Kolkata	Member
4.	Smt. Bandana Dasgupta, ACIT AU 8(4)(1), Kolkata	Member Secretary
5.	Smt. Paramita Ghosh, ITO, VU-2(3)(6), Kolkata	Member
6.	Smt. Reba Gupta, OS	Member
7.	Shri Dilip Bose, Child in Need Institute, Kolkata Unit	Member

2. The Committee shall enquire into all complaints of sexual harassment of working women at workplace at the Income Tax Offices located in Kolkata.



3. Complaints may be submitted to the Chairperson of the Committee directly. In case of complaints which are submitted to any Head of Office (HOO)/ Head of Department (HOD), the concerned HOO/HOD shall transfer the complaint to the Chairperson, Internal Complaints Committee within 07 (seven) working days from the receipt of the complaint for further necessary action.

4. The Chairperson of the Committee is authorized to co-opt any officer/official, she deems fit, as Member of the Committee under intimation to this office.

5. This order shall come into force with immediate effect.

Sd/-

(आनंद कुमार सिंह, भा. रा. से / Anand Kumar Singh, I.R.S)

आयकर आयुक्त (प्रशासन एवं टीपीएस), कोलकाता

C.I.T. (Admin & TPS), Kolkata

For Pr. CCIT, West Bengal & Sikkim

1693-1698

M. No. Pr. CCIT/WBS/ADMN/DC/GEN/1 (Part-2)/Committee/2024-25/ Date: 10 July 2024

Copy forwarded for kind information and necessary action to:

1. All the CCsIT/DGsIT in West Bengal Charge (through their Sr. P.S.).
2. Officers Concerned.
3. The DCIT, Hqrs. (Pers. & Estt.), Kolkata is directed to depute one Stenographer and one Notice Server to the Internal Complaints Committee (ICC).
4. All Officers in the Head Quarters of Pr. CCIT, WB & Sikkim.
5. DDIT(OL), Kolkata with a request for Hindi version of this order.
6. Guard File.



(राजेंद्र जयपाल, भा. रा. से. / Rajendra Jaipal, I.R.S.)  
आयकर उपायुक्त, मुख्यालय (प्रशासन एवं सतर्कता)  
D.C.I.T., Hqrs. (Admn. & Vig.), Kolkata  
O/o the Pr. CCIT, WB& Sikkim

इ. दीवर पान्देय, आई ए एस  
सचिव

INDEVAR PANDEY, I.A.S.  
Secretary

Tel: 011-23303556, 23366731

Fax: 011-23381495

E-mail: secy.wcd@nic.in



सत्यमेव जयते

भारत सरकार  
आजुत मन्दीरालय

भारत सरकार  
महिला एवं बाल विकास मन्दीरालय  
भारती भवन, नई दिल्ली-110 001

Government of India  
Ministry of Women & Child Development



D.O No. 16/3/2023-WW

14<sup>th</sup> August, 2023

Dear Secretary,

I would like to draw your attention to the judgment dated 12<sup>th</sup> May, 2023 (copy enclosed) passed by the Hon'ble Supreme Court of India in Civil Appeal No. 2482 of 2014 filed by Shri Aureliano Fernandes Vs State of Goa and Ors., wherein 53 Ministries of the Government have been listed as Respondents. The appeal challenges a judgment of the High Court of Bombay dismissing the writ petition against order passed by the Appellant's University, based on Report of Internal Complaints Committee, on a complaint of sexual harassment levelled against the Appellant.

2. The Hon'ble Court while passing the directions in the said appeal (copy enclosed) noted that there are lapses in the enforcement of 'the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (SH Act), 2013' and passed certain directions to UOI, all States/ UTs and others which are self-explanatory. The Hon'ble Court has directed the Union of India to file the affidavit within eight weeks for reporting compliance. In view of D.O. Letter No. 1/50/3/2016-Cab dated 16<sup>th</sup> June, 2016 of Cabinet Secretary and being the nodal Ministry of the SH Act, 2013, this Ministry will file the affidavit on behalf of Union of India.

3. In the past also, we had written several times to all the Ministries/ Departments of the Central Government to ensure effective implementation of the SH Act. I am sure that action must have been taken in all the offices under your charge for effective implementation of the Act.

4. I shall be grateful if you could direct the concerned officers in your Ministry/ Department as well as the Statutory Authorities/Institutions/Organisations under your Ministry/ Department to go through the directions for immediate compliance and provide a consolidated information in the attached format, in respect of all organizations under your respective Ministries/Departments, to this Ministry within a fortnight for filing a common affidavit on behalf of UOI.

With regards,

Yours sincerely,

(Indavar Pandey)

Encl. As above

Secretaries of all Ministries/ Departments, Government of India.



# Annexure

Sl. No.	Name of the Ministry	Whether IC exists strictly as per the provisions of SH Act, 2013 (if yes, copy of orders may be provided)	Whether information regarding constitution of IC, details of e-mail ids & contact numbers, procedure for filing online complaint and other relevant rules/regulations are available on the official website (if not, the same may be done immediately and updated time to time)	Details of immediate and effective steps taken by the authorities to familiarize the members of the IC with their duties and the manner in which an inquiry is to be conducted from the date complaint is received till report is submitted	Whether orientation programmes, workshops, seminars and awareness programme conducted to upskill the members of IC and to educate women employee and women's groups about the provisions of the Act, relevant rules/regulations. The details of exercises undertaken for the last 3 years may be provided	Other relevant information, if any
1	Department					
2	Attached Offices					
3	Statutory Bodies					
4	Autonomous Bodies					
5	Public Sector Undertaking					

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आदेश संख्या ORDER NO.: 12 /2024-25

फाइल सं. PrCCIT/WBS/ADMN/DC/GEN/1(Part-2)/Committee/S.H. /2024-25/

दिनांक: 10.07.2024

The details of the members of Internal Complaints Committee (ICC) are as follows :

Sl. No.	Name of the Members	Contact No.	E-mail ID	Remarks
1.	Smt. Archana Gupta, Addl.CIT, RU-1(1), Kolkata	8879510222	<a href="mailto:kolkata.addleil.L.ru.reac@incometax.gov.in">kolkata.addleil.L.ru.reac@incometax.gov.in</a>	Chairperson
2.	Shri Subrahmanyam Tota, Addl. DIT(Inv.), Hqrs. to DGIT(Inv.), WB, Sikkim & NER	7981364331	<a href="mailto:kolkata.addldit.inv.hq@incometax.gov.in">kolkata.addldit.inv.hq@incometax.gov.in</a>	Member
3.	Shri Ranabir Bhaumik, DCIT, Hqrs. (Pers. & Estt.), Kolkata	8902351115	<a href="mailto:kolkata.dcit.pers.est@incometax.gov.in">kolkata.dcit.pers.est@incometax.gov.in</a>	Member
4.	Smt. Bandana Dasgupta, ACIT AU 8(4)(1), Kolkata	8902198584	<a href="mailto:kolkata.dcit8.4.1.au.reac@incometax.gov.in">kolkata.dcit8.4.1.au.reac@incometax.gov.in</a>	Member-Secretary
5.	Smt. Paramita Ghosh, ITO, VU-2(3)(6), Kolkata	8920196442	<a href="mailto:kolkata.ito2.3.5.ru.reac@incometax.gov.in">kolkata.ito2.3.5.ru.reac@incometax.gov.in</a>	Member
6.	Smt. Reba Gupta, Office Superintendent	-	<a href="mailto:reba.gupta@incometax.gov.in">reba.gupta@incometax.gov.in</a>	Member
7.	Shri Dilip Bose,  Child in Need Institute, Kolkata Unit	-	--	Member