

JNUTA 2017-2018

13 SEP 2017

GSCASH's Autonomy in Danger! JNUTA statement

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The JNUTA expresses the strongest of opposition and condemnation of the Registrar's letter dated 12 September 2017, reproduced below:

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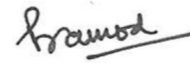
September 12, 2017

Dear Sir/Madam,

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the University Grants Commission (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015, as notified by MHRD on 2nd May, 2016, provide for constitution of an Internal Complaints Committee (ICC) replacing the existing mechanism of GSCASH. The UGC Regulations, 2015 are mandatory for all Higher Educational Institutions (HEIs).

In this connection, the University has decided to constitute the Internal Complaints Committee after discussion on this issue in the last Executive Council Meeting. The matter for adoption of the Govt. of India Act, 2013, UGC Regulations 2015 notified by Ministry of Human Resource Development in May 2016 will be taken up in the Executive Council meeting to be held on 18.09.2017.

In view of the above, all components of the University, the teachers, students and staff, are hereby informed that any election to GSCASH hereinafter called as ICC, should be kept on hold till further notice.



REGISTRAR

To:

President, JNU Teachers' Association
President, JNU Students' Union
President, JNU Officers Association
President, JNU Staff Association

This letter derives from an agenda item that is to be placed in the JNU Executive Council on the 18th of September, through which the JNU administration is seeking to entirely reconstitute the GSCASH and whole-scale replace its Rules and Regulations by text copied verbatim from the *Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions* (Gazette of India, dated 2 May 2016), henceforth UGC-SHW.

From the information the JNUTA has been able to garner about the EC Agenda item, the aim is to reconstitute GSCASH into a body of **three nominated faculty, two nominated non-teaching staff, and three elected student representatives** (one undergraduate, one postgraduate, one research scholar. Elections for the student representatives are proposed to be conducted by the JNU administration. All the detailed provisions for manner and mode of inquiry, checks and balances, penalties, sensitisation programmes, duties and responsibilities, made in the legal GSCASH Rules have been eliminated. The proposal to the Executive Council is for it approve

these Rules in supersession of the existing legal GSCASH Rules.

There are a host of legal objections to the whole process by which this undemocratic result is being imposed on the JNU community, but the fact that must be noted is at the current point of time, there are no rules operative in the university pertaining to the GSCASH other than the GSCASH Rules (approved by the Executive Council, vide Resolution 5.1, 18.09.2015). **By these rules, the JNU Registrar has no locus standi vis-à-vis GSCASH elections (or any other matter pertaining to GSCASH), and his letter countermanding students elections is a shameful case of institutional overreach. The GSCASH is the sole authority on this matter and the JNUTA stands by the GSCASH in the full exercise of all its powers.**

The JNUTA requests the JNU Executive Council to deliberate on the Agenda Item being presented to it, and to consider carefully not only the institutional implications that will arise from an acceptance of this Committee report, but also the consequences that it will have for gender equality, justice and redressal in the workplace.

The Garkoti Committee

The first issue is the composition of the committee headed by Prof. Garkoti, that has made these recommendations. Not only is this committee completely unrepresentative, it is not autonomous, as the majority of members holding administrative posts. It has only two women as its members, and it has a disproportionate representation from the sciences. None of the members, other than the legal counsel, have any demonstrable experience of work on sexual harassment, none of them have

written/researched/advocated the cause of survivors of sexual harassment. The committee's proceedings have also been completely non-transparent: no representations were sought from GSCASH and the various stakeholders or their representative bodies – students, teachers, non-teaching staff, among others, and no justification for its decisions has been provided.

The letter and the spirit of the *Vishaka* judgment and *The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*, henceforth SHW Act 2013, seek to bring into force a workplace culture in which women have equal representation and considerations of furthering gender equality inform its administrative and organisational decisions, and that such decisions be exempt from pressure from senior levels, to cite the *Vishaka* judgement. ***How then can the recommendations of a committee that is so singularly ill-equipped to address the issue of sexual harassment have any force?***

The JNUTA rejects this committee in its entirety and its recommendations on this reason and also because there is no doubt that that the terms of reference (TOR) of the Committee have been exceeded. The TOR was to review whether or not GSCASH mechanisms (rather than rules and regulations) on the formation of ICC complied with the SH Act of 2013, and the MHRD notification dated 12th May 2016. If the committee had any amendments to suggest, it was obligatory for it to follow Clause X (4) (v) of the GSCASH Rules & Regulations and recommend these amendments to the GSCASH, which could after due deliberation, initiate the procedure for adoption of such amendments.

The Red Herring: ICC vs. GSCASH

The pretext for the whole-scale elimination of the GSCASH rules is a clause in the UGC-SHW Regulations, s. 2(1), which states that “*any existing body already functioning with the same objective (like Gender Sensitization Committee Against Sexual Harassment – GSCASH) should be re-constituted as the ICC*”, provided that in the “*latter case the HEI shall ensure that the Constitution of such a Body is required for ICC under these regulations. Provided that such a body shall be bound by the provisions of these Regulations*”. In other words, the UGC Regulation of 2015 needs to be synchronized and adopted into the existing Rules and Regulations of the University.

The UGC Regulation therefore does not state that the ICC must necessarily supersede GSCASH – rather the Regulation seeks a synchronisation with existing GSCASH Rules and Regulations by re-constituting it as the ICC. GSCASH therefore need not be superseded as long as it follows the Regulations and it harmonises and reconstitutes the definition of the ICC in the UGC-SHW Regulations, derived from the SHW Act 2013. However, the GSCASH Rules have already been certified as compliant with the SHW Act 2013 by the Executive Council vide this letter.


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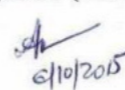
No. Acad.II/U/6 (56)/

October 06, 2015

NOTIFICATION

The Executive Council at its meeting held on 18.09.2015 vide Resolution 5.1 approved the revised Rules and Procedures of the Gender Sensitization Committee against Sexual Harassment (GSCASH) prepared by the Committee set up by the Vice-Chancellor incorporating the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The revised GSCASH Rules & Procedures as annexed, will be effective from the date of approval of Executive Council i.e. 18.09.2015.


(Sanjay Kumar)
Assistant Registrar (Academic)


6/10/2015

Cc:

1. All Deans of Schools of Studies
2. All Chairpersons of Centres/Special Centres
3. Dean of Students/Associate Dean of Students
4. All Provosts/Wardens of Hostels
5. Chief Proctor/Proctors
6. Chairperson, GSCASH
7. President/Secretary, JNUTA/JNUSU/JNUOA/JNUSA
8. OSD/PS to VC/Rector-I/Rector-II/Registrar/FO/CoE/Librarian
9. All JRs/JR(Finance)/DRs/DFOs/Incharge Engineering
10. All ARs/AOs/AFOs/PRO
11. Directors, HRDC/JNIAS/AIRF/USIC/EOO/International Collaboration
12. Chief Coordinator, LEC
13. CMO/Chief Security Officer
14. Director, CIS (for uploading on JNU Website)
15. Hindi Officer – with a request to kindly provide Hindi version of the Revised GSCASH Rules & Procedures
16. All SOs/E-governance Cell
17. Notification File

Therefore, compliance with the UGC SHW Regulations cannot be the reason for replacement of the GSCASH rules. (Please consult the attached [table](#) comparing the GSCASH Rules and the SHW Act 2017 to appreciate this fact.) **The only amendment that should have been recommended is a rechristening of GSCASH as the GSCASH-ICC, if this pedantic obsession with reproducing the nomenclature used in the UGC-SHW Regulations has to be humoured.**

What is lost in this substitution of UGC SHW Regulations for GSCASH Rules?

It is important to understand that all UGC Regulations specify a minimum standard, and that there is no bar in doing more than what they specify. That is exactly what the JNU GSCASH composition does, in keeping with the size of the university and the primary concern of ensuring the autonomy of GSCASH. Like in all other decisions in recent times, the Garkoti committee has made the error of reading the UGC SHW Regulations as specifying the maximum, and of reading into statements, implied proscriptions. **In JNUTA's understanding, which is based both on 18 years of experience in being a member of GSCASH and thorough acquaintance with the law, there is no legal reason for the size or composition of the GSCASH to be changed.**

Nowhere also do the UGC-SHW Regulations or the SHW Act 2013 proscribe the constitution of a pool of committee members for an ICC by election, and subsequent nomination by the Vice-Chancellor.

This is the procedure outlined by the GSCASH Rules, 2015, which is approved by the Executive Council after certification by the legal counsel. Yet in the Garkoti Committee's recommendations, ***elections are restricted to just the students***, and not to the faculty and non-teaching staff. **JNUTA strongly opposes this attempt to stack the complaints committee with VC's nominees, and thereby to influence the course and findings of inquiry committees.** The JNUTA has been informed of the attempts by the JNU Executive Council to direct the GSCASH on ongoing cases, and sees the withdrawal of elections for faculty and non-teaching staff as the most direct attack on the autonomy of GSCASH, and therefore on the possibility of justice and redressal in sexual harassment cases

The GSCASH Rules above all are a manual through which teachers, students, staff, and even residents are sensitised and educated about the issue of sexual harassment, due process, and their rights in the workplace. These Rules reflect an institutional history and understanding of how women employees and students rights can be accessed and upheld in the university through the construction of an institutional mechanism that is insulated from all pressure from senior levels, yet responsible and sensitive to the complainant's identity and confidentiality, in a manner that is tailored to the exigencies of Jawaharlal Nehru University as a workplace. ***Substituting these rules with an institution-blind set of abstract regulations, which do not contain any concrete instructions for inquiry, penalty, sensitisation, is an attempt at***

erasure of the history of the JNU community's two decade long effort at furthering gender justice on this campus. The JNUTA will not allow this to happen.

Ayesha Kidwai

Pradeep Shinde

President

Secretary

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Garkoti Committee Report on GSCASH Rules is tampered: Prof. K.B. Usha's membership and opinions not recorded!

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