

The Chairperson

Executive Council, JNU

(Through the Secretary of the Council)

18.09.2017

Dear Professor Kumar,

At the 269th meeting of the Executive Council held today, I was not provided the opportunity to fully elaborate my concerns and the rationale behind my position on Item 5.3 which eventually led to my dissent at the decision of the Council on the matter. As the issue is one of great significance, I put down below my position and this may also be treated as my note of dissent.

The Report of the Committee (hereafter the Committee) which formed the basis for Item No. 5.3 as well as the eventual decision on the matter arrived at a conclusion that “the UGC Regulations on (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Education Institutions) 2015 are complete, authoritative and relevant which need to be adopted”. The Committee further concluded that “it is mandatory for the University to adopt UGC regulations” and that adoption of the consequent rules and procedures set out by it “will be in supersession of all existing JNU GSCASH rules and procedures”.

The Committee has contradicted itself by making additional recommendations on rules and procedures that are not part of the original UGC Regulations – in other words, it has accepted that the Regulations **are not complete** and to give effect to them, something more needs to be said or more detailed rules and procedures are required. The pre-existing GSCASH rules and procedures were precisely of such a nature, and are more detailed and comprehensive than even what the Committee has recommended. The Committee has not established or given any reason as to why continuing with those GSCASH rules and procedures would amount to JNU not complying with UGC regulations. Legally, non-compliance with a UGC Regulation on Sexual Harassment would mean that you do not meet the minimum requirements of a policy on the matter - which is not the case if you already have an effective policy aptly suited to your institutional circumstances adopted and modified from time to time through due process by the University's Executive Council and whose conformity with the law of the land has been already ascertained and established.

Without having established the fundamental premise for the decision, namely that JNU was indeed not complying with the UGC regulations, a bogey was unnecessary created in the discussion about the grave consequences the University would suffer if it did not accept the recommendations of the Committee. The penalties for non-compliance laid out in the UGC Regulations were invoked, conveniently ignoring the fact that the University had not received any show cause notice from the UGC which the same regulations specify as a precondition for any such action on its part. That the University would have an option even after such a show cause notice to make its case that the existing GSCASH Rules and Procedures were consistent with relevant laws and regulations was also ignored. In the absence of any show cause notice from the UGC or any subsequent directive after a University reply, the contention that the UGC Regulations have tied our hands is a specious one and the full responsibility for today's decision must be taken by those who made it and not passed on to the UGC.

That the Committee's assertion is without basis is established by facts which it has completely ignored because it has simply taken the UGC Regulations as its starting point and chosen to forget the fact that JNU's GSCASH has a history. The existing revised GSCASH rules were adopted in

September 2015 and placed before the University Court in December 2016 – and their compliance with all laws and regulations had been then ensured. The current JNU Administration subsequently set up yet another three-member committee in April 2016 to examine afresh the same issue of compliance in 2016 but no report of that committee was ever placed before the Executive Council. The same legal counsel who was a member of the current committee had also opined earlier in writing that JNU GSCASH rules were consistent with relevant laws. How then did these rules suddenly out of the blue become inconsistent with existing laws and regulations? That is a question to which no answer has been provided.

The Committee, constituted subsequent to the decision of the Executive Council on 30 June 2017, was also dominated by men and most of its members had no proven track record of dealing with gender and sexual harassment issues. This was certainly bad form. What is, however, even more remarkable is that the one member to whom this did not apply, a former Chairperson of the GSCASH, did not sign the final report which was placed before the Executive Council. That she did not and her reasons for not doing so, or her own position on the matter, were not even revealed in the documents placed before the council. So much then for transparency in the decision-making process.

There can also be no dispute that at least till the Executive Council arrived at its decision on Item 5.3 of the 269th meeting, the existing GSCASH rules approved earlier by the Executive Council were in force. Clause X (4) of those rules also specified the process that had to be followed if any change is necessitated in them by evolving laws, regulations and guidelines. The decision of the Executive Council is in stark violation of that laid down statutory procedure. The almost surreptitious manner in which a decision of such significant proportions has been taken, without any consultation with the GSCASH or with all stakeholders, only serves to raise questions about the motivations behind it. In its haste to dissolve the GSCASH, the Executive Council did not even pause to consider what would happen to all pending cases that were being processed by GSCASH.

The only effects of the decision to do away with the GSCASH evolved through long experience, and the procedure through which the decision to replace it has been arrived at, would be to make the institutional dealing with the problem of sexual harassment subject to greater control by authorities and increase the vagueness and arbitrariness of rules and procedures to be followed. This is a regressive step that far from being an act of compliance with UGC Regulations on sexual harassment can only serve the objective of undermining the objectives of any such regulations. This has only been compounded by the decision on the first set of members and Chairperson of the Internal Complaints committee – where proven credentials on gender issues have certainly not been the principle consideration governing the choice of names. Every potential victim of sexual harassment will only feel more insecure as a result of these decisions and every potential perpetrator more emboldened. Even the checks against misuse of anti-sexual harassment laws stand considerably weakened. In such circumstances, there is no option but to record one's dissent in the strongest terms.



(Surajit Mazumdar)