

Minutes of meeting on 9th November 2017 between the JNU Administration and JNU teachers

Members present:

From the JNU administration

Prof. S.C. Garkoti (Rector II)

Mr. Yashwant Singh (OSD to VC)

Prof. Vibha Tandon (Presiding Officer, ICC)

Dr. Manuradha Chaudhary (Faculty Representative, ICC)

Prof. Pradipta K. Choudhury (Dean, SSS)

Prof. U.C. Kulshreshta

For the Petitioners

Prof. Madhu Sahni (petitioner)

Prof. Rajat Datta (petitioner)

Prof. Ayesha Kidwai (President, JNUTA)

1. It was mutually agreed that the three teachers would prepare the written minutes of the meeting and that the JNU administration would provide them a copy of the video recording that is being made.
2. The three teachers initiated the discussion by asking whether the JNU administration had examined the possibility of retaining the GSCASH and its Rules and Procedures by redesignating the existing Committee as the GSCASH-ICC. They suggested that the Executive Council should have sent the Garkoti Committee Report to the GSCASH with a mandate to harmonise its Rules with the UGC Regulations.
3. In response, the JNU administration team, led by Prof. S.C. Garkoti, stated:
 - a. Since the UGC *University Grants Commission (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015*, published in the Gazette of India on 2 May 2016 (henceforth, UGC-ICC Regulations 2015/16) are binding and mandatory for all Higher Education Institutions, the university had no other option but to implement these Regulations.
 - b. As the UGC-ICC Regulations 2015/16 include a penalty for non-compliance, and the letters received from UGC repeatedly drew the attention of HEIs to this in several letters issued between 2016 and 2017, the JNU administration had no option but to implement these Regulations with immediate effect, even though there were no problems whatsoever with the functioning of GSCASH.
 - c. Superseding the GSCASH was the only option as the UGC-ICC Regulations 2015/16 state that HEIs with an existing committee like the GSCASH must **reconstitute** it. As adoption of the said Regulations must be as per its letter, the differences in composition, size, and method of composition of the two committees, preclude a retention of the GSCASH. Further, the UGC-ICC Regulations 2015/16 do not provide for renaming of the existing Committee.
 - d. There was no contravention of JNU statutes and regulations committed in the supersession of GSCASH by the Executive Council, as for the 2015 revision of the GSCASH Rules too, a broad-based Committee headed by the then Rector-I was constituted to effect the changes to the GSCASH Rules of 2008. Since these were

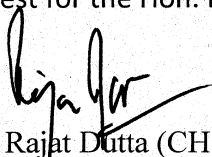

23/11/17

not amendments being moved by the GSCASH, Rule X.4 of the GSCASH Rules & Procedures does not apply.

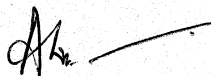
- e. Full gender-neutrality/plurality is assured to all complainants and the right to appeal are guaranteed to both parties.
 - f. The nominating authority for teacher and staff representatives is the Executive Council rather than the Vice-Chancellor. The list of names that will be placed before Executive Council for nomination will be decided upon by the Vice-Chancellor, who shall use his discretion, as this is what is specified in the Regulations.
 - g. The teachers must not consider the ICC to be in competition with the GSCASH, as the JNU administration had great respect for the GSCASH. The ICC is new and once given an opportunity, will make a contribution — it has already received 12 complaints. It has been established in a situation of law that is still evolving. Further, the teachers must realise that the UGC is making regulations for the whole country.
4. The petitioners stated the following:
- a. The UGC-ICC Regulations 2015/16 have to be adopted and therefore modified and calibrated to the HEI's requirements, as is expressly allowed for in Clause (3a) of the said regulations. They also noted that the GSCASH has been proposed as a model by the Saksham Committee Report that forms the basis for these Regulations. They also drew attention to a recent statement by members of the Saksham Committee that the dissolution of the GSCASH was never the intention behind the guidelines were issued.
 - b. In the teachers' assessment, the existing GSCASH committee together with its Rules is compliant with the UGC-ICC Regulations 2015/16, and the residual issues if any could have been addressed by the GSCASH once the Garkoti report was referred to it. The basic premise of the JNU administration appears to have been that JNU was non-compliant, which was regrettable.
 - c. If renaming and harmonisation are not mentioned in the UGC-ICC Regulations, neither is supersession. The teachers pointed out that the term 'reconstitution' is different from 'constitution', and that the university should have sought competent legal advice on this count. In the teachers' view, informed by the guidelines of the Saksham Committee, the Regulations specify a minimum, rather than a maximum, that the GSCASH already fulfils. A committee that is larger in size and gives representation to constituencies other than specified as the minimum does not entail a violation of the said Regulations, as no other clauses are violated in the process.
 - d. The procedure for amendment specified in the Regulations does not pertain only to amendments moved by the GSCASH. At the EC meeting of 18 September 2017, the JNUTA had supplied a legal opinion from Ms. Jaising to this effect (besides other issues), but the Executive Council did not take cognisance of it.
 - e. It is incorrect of the JNU administration to state that the UGC-ICC Regulation have been implemented without modification by the Executive Council. The addition of explanations and a few clauses from the GSCASH Rules, the inclusion of categories like service providers, the special appeals process, the elaboration

to the election procedure for students are all departures that must be admitted as such.

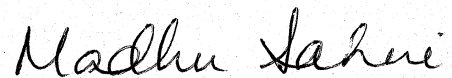
- f. The UGC-ICC Regulations 2015/16 do not specify the method by which the pool from which nominations by the Executive Authority can be made is to be arrived at. Since the ICC is a committee for the employees and not the Executive Authority, they must be allowed to express their evaluation of the potential nominees through election. A system of direct nomination by effectively the Vice-Chancellor, which is an exercise in arbitrary discretion, does not inspire faith or credibility. This was already evident in the 169th Executive Council meeting of 18 September, in which all the three women members of the Executive Council (besides three others) expressed immediate dissent at the supersession of GSCASH.
 - g. The teachers are concerned that JNU as an institution is voluntarily erasing nearly twenty years of a university-wide initiative in trying to address sexual harassment. The issue is not merely the level of acceptance that the ICC has in the university community and the transparent and participative evolution of its framework, but rather why there would be an administrative impulse to give the GSCASH that the university community has evolved with such commitment.
5. The teachers stated that in order to try and resolve the issue, the JNU administration should agree to take as the starting assumption the premise that GSCASH can be shown to be compliant with the UGC-ICC Regulations as the basis for further discussion. It should also agree to back the GSCASH and JNU teachers and students at the level of discussions with the UGC. The JNU administration said that it could only undertake to forward the list of issues that the teachers have to the UGC, without any endorsement of GSCASH or the concerns raised. The teachers pointed out that whatever questions they had to the UGC could be addressed in the court on the hearing of 28 November.
 6. Both parties agreed that in the wake of irreconcilable differences in understanding, it is best for the Hon. Delhi High Court to take a final view.



Prof. Rajat Dutta (CHS)
22.11.17



Prof. Ayesha Kidwai (CL)



Prof. Madhu Sahni (CGS)