

क्रमांक / 680 / जिविसेप्रा / 2023

उज्जैन, दिनांक - 31-7-23

प्रति,

माननीय प्रधान जिला एवं सत्र न्यायाधीश महोदय,  
उज्जैन (म.प्र.)

**विषय :-** जिला न्यायालय की गठित आंतरिक शिकायत समिति के सदस्यों की जानकारी आधिकारिक रूप से पोर्टल पर प्रदर्शित करने का अनुरोध बाबत।

**संदर्भ :-** म0प्र0 राविसेप्रा जबलपुर का पत्र क्रमांक 22-बी / WC / 1833 दिनांक 10.07.2023 के संदर्भ में।

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उपरोक्त विषयांतर्गत एवं संदर्भ में सादर निवेदन है कि Civil Appeal No.2482 of 2014 titled Aureliano Fernandes Vs. State of Goa and Ors. In the Supreme Court of India में पारित आदेश दिनांक 12.05.2023 में कामकाजी महिलाओं के संबंध में PoSH ACT के अनुसार दिशा-निर्देशों का पालन करने हेतु निर्देशित हुआ है। उक्तानुसार जिला स्थापना पर गठित आंतरिक समिति के सदस्यों की जानकारी उनके संपर्क नंबर, ई-मेल आईडी, ऑनलाईन शिकायत करने के संबंध में विहित प्रक्रिया, सुसंगत नियम एवं आंतरिक नीतियों को संस्था/स्थापना की आधिकारिक वेबसाइट/पोर्टल पर प्रदर्शित करने हेतु निर्देश हुआ है।

अतः उपरोक्त संबंध में जिला न्यायालय उज्जैन का विविध आदेश क्रमांक 48/एक-11-2/11 उज्जैन, दिनांक 26 अप्रैल, 2022 के अनुसार गठित समिति के सदस्यों की जानकारी जिला न्यायालय उज्जैन की आधिकारिक वेबसाइट पोर्टल पर प्रदत्त दिशा-निर्देशों के अनुरूप प्रदर्शित करने हेतु सादर अनुरोध प्रेषित है।

**संलग्न:-** उपरोक्तानुसार

(कपिल भारद्वाज)

सचिव,

जिला विधिक सेवा प्राधिकरण,  
उज्जैन (म.प्र.)

# मध्यप्रदेश राज्य विधिक सेवा प्राधिकरण, जबलपुर



(574, साउथ सिविल लाइन्स, पचपेड़ी)

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फा0नं. 22-बी/W.C./ 1833/23

जबलपुर, दिनांक: 10/07/2023

प्रति,

सचिव,  
जिला विधिक सेवा प्राधिकरण,  
जिला-समस्त म.प्र.


**विषय:-** Civil Appeal No. 2482 of 2014 titled Aureliano Fernandes Vs. State of Goa and Ors. In the Supreme Court of Indian के संबंध में।  
**संदर्भ:-** नालसा, नई दिल्ली का ईमेल दिनांक 30.05.2023

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उपरोक्त विषयांतर्गत संदर्भित पत्र के माध्यम से माननीय उच्चतम न्यायालय, नई दिल्ली द्वारा पारित आदेश दिनांक 12.05.2023 की प्रति प्राप्त हुई है। जिसमें प्रदेश में कामकाजी महिलाओं के संबंध में PoSH ACT के पालन हेतु निर्देश प्रसारित किये गए हैं।

अतः उक्त पत्र संलग्न प्रेषित कर लेख है कि संदर्भित पत्र के निर्देशानुसार जिले में आंतरिक शिकायत समिति का गठन करते हुये माननीय उच्चतम न्यायालय, नई दिल्ली द्वारा पारित आदेश दिनांक 12.05.2023 में प्रदत्त दिशा-निर्देशों का पालन सुनिश्चित कर पालन प्रतिवेदन इस प्राधिकरण को अविलंब प्रेषित करने का कष्ट करें।

संलग्न:-संदर्भित पत्र।

  
(राजीव कर्महे)  
सदस्य सचिव


फा0नं. 22-बी/W.C./ 1833 /23

जबलपुर, दिनांक: 10/07/2023

प्रतिलिपि:

1. अध्यक्ष महोदय, जिला विधिक सेवा प्राधिकरण, समस्त की ओर सादर सूचनार्थ प्रेषित।
2. अवर सचिव, नालसा, नई दिल्ली के ईमेल दिनांक 30.05.2023 के संबंध में सूचनार्थ प्रेषित।

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(राजीव-कर्महे)  
सदस्य सचिव

—:: कार्यालय : प्रधान जिला एवं सत्र न्यायाधीश, उज्जैन (म.प्र.) ::—

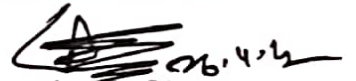
—:: विविध आदेश ::—

क्रमांक 48/एक-11-2/11

उज्जैन, दिनांक 26 अप्रैल 2022

माननीय उच्च न्यायालय मध्यप्रदेश, जबलपुर के ज्ञापन क्रमांक डी/4097 दिनांक 21.06.2018 के आलोक में जिला स्थापना उज्जैन में THE GENDER SENSITISATION AND SEXUAL HARASSMENT OF WOMEN AT THE HIGH COURT OF MADHYA PRADESH AND SUBORDINATES COURTS (PREVENTION, PROHIBITION AND REDRESSAL) REGULATIONS, 2015 अन्तर्गत निम्नानुसार संशोधित समिति का गठन किया जाता है :-

क्रं.	नाम	पदनाम	समिति में पदीय हैसियत
1	श्रीमती कीर्ति कश्यप	षष्ठम् जिला एवं अतिरिक्त सत्र न्यायाधीश एवं विशेष न्यायाधीश पॉक्सो एक्ट 2012 उज्जैन	अध्यक्ष
2	श्रीमती पल्लवी	पंचम् व्यवहार न्यायाधीश वरिष्ठ खंड उज्जैन	सदस्य
3	सुश्री पूजा वर्मा	पंचम् व्यवहार न्यायाधीश कनिष्ठ खंड उज्जैन	सदस्य
4	श्रीमती अंजना कवठेकर	सहायक लेखापाल	सदस्य
5	कु० किरण जुनेजा	अभिभाषक उज्जैन	सदस्य
6	श्रीमती प्रेरणा धवाड़े	सामाजिक कार्यकर्ता	सदस्य


  
(आर.के. वाणी)

प्रधान जिला एवं सत्र न्यायाधीश,  
उज्जैन (म.प्र.)

4164  
पृ.क्रमांक...../एक-11-2/11  
प्रतिलिपि :-

उज्जैन, दिनांक अप्रैल 2022  
27 APR 2022

1. श्रीमती कीर्ति कश्यप षष्ठम् जिला एवं अतिरिक्त सत्र न्यायाधीश एवं विशेष न्यायाधीश पॉक्सो एक्ट 2012 उज्जैन
2. श्रीमती पल्लवी पंचम् व्यवहार न्यायाधीश वरिष्ठ खंड उज्जैन
3. सुश्री पूजा वर्मा पंचम् व्यवहार न्यायाधीश कनिष्ठ खंड उज्जैन
4. श्रीमती अंजना कवठेकर सहायक लेखापाल जिला न्यायालय उज्जैन
5. सुश्री किरण जुनेजा, अभिभाषक उज्जैन
6. श्रीमती प्रेरणा धवाड़े, एच.आई.जी.-3 मुनिनगर उज्जैन की ओर सूचनार्थ एवं पालनार्थ प्रेषित।

  
प्रधान जिला एवं सत्र न्यायाधीश,  
उज्जैन (म.प्र.)

**Subject: Civil Appeal No. 2482 of 2014 titled Aureliano Fernandes Vs. State of Goa and Ors. in the Supreme Court of India.**

Sir/Madam,

I am directed to forward the judgement dated 12.05.2023 passed by the Hon'ble Supreme Court of India in the above mentioned matter. In order to fulfil the promise that the PoSH Act holds out to working women all over the country, the Apex Court has issued the following directions :

(i) *The Union of India, all State Governments and Union Territories are directed to undertake a timebound exercise to verify as to whether all the concerned Ministries, Departments, Government organizations, authorities, Public Sector Undertakings, institutions, bodies, etc. have constituted ICCs/LCs/ICs, as the case may be and that the composition of the said Committees are strictly in terms of the provisions of the PoSH Act.*

(ii) *It shall be ensured that necessary information regarding the constitution and composition of the ICCs/LCs/ICs, details of the e-mail IDs and contact numbers of the designated person(s), the procedure prescribed for submitting an online complaint, as also the relevant rules, regulations and internal policies are made readily available on the website of the concerned Authority/Functionary/ Organisation/Institution/Body, as the case may be. The information furnished shall also be updated from time to time.*

(iii) *A similar exercise shall be undertaken by all the Statutory bodies of professionals at the Apex level and the State level (including those regulating doctors, lawyers, architects, chartered accountants, cost accountants, engineers, bankers and other professionals), by Universities, colleges, Training Centres and educational institutions and by government and private hospitals/nursing homes.*

(iv) *Immediate and effective steps shall be taken by the authorities/managements/employers to familiarize members of the ICCs/LCs/ICs with their duties and the manner in which an inquiry ought to be conducted on receiving a complaint of sexual harassment at the workplace, from the point when the complaint is received, till the inquiry is finally concluded and the Report submitted.*

(v) *The authorities/management/employers shall regularly conduct orientation programmes, workshops, seminars and awareness programmes to upskill members of the ICCs/LCs/ICs and to educate women employees and women's groups about the provisions of the Act, the Rules and relevant regulations.*

(vi) *The National Legal Services Authority(NALSA) and the State Legal Services Authorities(SLSAs) shall develop modules to conduct workshops and organize awareness programmes to sensitize authorities/managements/employers, employees and adolescent groups with the provisions of the Act, which shall be included in their annual calendar.*

(vii) *The National Judicial Academy and the State Judicial Academies shall include in their annual calendars, orientation programmes, seminars and workshops for capacity building of members of the ICCs/LCs/ICs established in the High Courts and District Courts and*



G.	<b><u>Article 14 : Bedrock of the Principles of Natural Justice</u></b>		20-21
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## JUDGEMENT

HIMA KOHLI, J.

### **A. SCOPE OF THE APPEAL**

1. A challenge has been laid by the appellant to the judgment dated 15<sup>th</sup> March, 2012, passed by the High Court of Judicature at Bombay Bench, at Goa, dismissing a writ petition<sup>1</sup> preferred by him against an order<sup>2</sup> passed by the Executive Council<sup>3</sup> of Goa University (Disciplinary Authority) accepting the Report<sup>4</sup> of the Standing Committee for Prevention of Sexual Harassment at Work Place<sup>5</sup> and imposing upon him, a major penalty of dismissal from services and disqualification from the future employment under Rule 11(IX) of the Central Civil Services (Classification, Control and Appeal) Rules, 1965<sup>6</sup> which was duly upheld by the Governor and the Chancellor of Goa University, being the Appellate Authority<sup>7</sup>.

### **B. SEQUENCE OF EVENTS**

#### **(a) PROCEEDINGS BEFORE THE FIRST COMMITTEE:**

2. The factual matrix of the case needs to be placed in a chronological sequence. The appellant commenced his career in the respondent no. 2 – Goa University as a Temporary Lecturer in the Department of Political Science, in the year 1996. He was

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<sup>1</sup> W.P. No. 602 of 2011

<sup>2</sup> Dated 10<sup>th</sup> May, 2010

<sup>3</sup> For short 'EC'

<sup>4</sup> Dated 05<sup>th</sup> June, 2009

<sup>5</sup> For short 'The Committee'

<sup>6</sup> For short the CCS (CCA) Rules

<sup>7</sup> Vide Order dated 19<sup>th</sup> April, 2011

appointed as the Head of the said Department, in the year 2003. It is the appellant's version, which is strongly refuted by the other side, that aggrieved by the passing of a resolution by the Departmental Council of the Department of Political Science against them, two girl students along with their friends submitted a complaint to the respondent no.2 – University, alleging physical harassment at his hands. The said complaints<sup>8</sup> were the starting point of an inquiry initiated by the Committee on receiving complaints by the Registrar of the respondent no. 2 – University<sup>9</sup>. The Committee served a notice<sup>10</sup> on the appellant calling upon him to explain the charges levelled against him in nine complaints and to appear before it for a personal hearing on 24<sup>th</sup> April, 2009, a date that was subsequently changed to 27<sup>nd</sup> April, 2009. Contemporaneously, the Registrar of the respondent no. 2 – University directed the appellant to hand over charge and proceed on leave till the conclusion of the inquiry.

3. The appellant furnished a detailed reply to the Committee, running into fifty-three pages wherein he raised some preliminary objections to the inquiry being conducted by the Committee, alleged a well-organized conspiracy against him by some wayward students in connivance with the members of the faculty and refuted the contents of fourteen depositions of girl students forwarded to him by the Committee. He concluded by stating that the charges of sexual harassment levelled against him were completely false and baseless. The appellant also addressed a letter to the Registrar seeking

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<sup>8</sup> Complaint dated 11.03.2009 & 17.03.2009

<sup>9</sup> Under cover of letter dated 08.04.2009

<sup>10</sup> Dated 17<sup>th</sup> April, 2009



removal of two Members of the Committee on the ground of bias and on a plea that being his subordinates, they were prone to bias.

4. The Committee called the appellant for a hearing on 27<sup>th</sup> April, 2009. It was alleged by the appellant that the deposition of all the complainants including the witness named by him were recorded while he was made to wait outside the Committee room. He was called later on and the Committee recorded his statement. Even on the next hearing, on 28<sup>th</sup> April, 2009, a similar procedure was adopted by the Committee. On 30<sup>th</sup> April, 2009, the appellant received a notice from the Committee enclosing therewith another complaint of sexual harassment received against him to which he was directed to respond and present himself on 6<sup>th</sup> May, 2009. *Vide* letter 2<sup>nd</sup> May 2009, the appellant sought more time to submit a reply to the additional complaint and permission to engage an Advocate to appear for him before the Committee.

5. The appellant submitted his reply to the notice on 8<sup>th</sup> May, 2009. On 6<sup>th</sup> May, 2009, the request of the appellant to engage a lawyer was declined by the Committee. On the same day, a corrigendum was issued by the Committee to the earlier letter<sup>11</sup> informing him that the next date fixed for filing his reply should be read as "12<sup>th</sup> May, 2009" instead of "12<sup>th</sup> June, 2009" and the date for further deposition should be read as "14<sup>th</sup> May, 2009" instead of "12<sup>th</sup> June, 2009".

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<sup>11</sup> Dated 5<sup>th</sup> May, 2009

6. Vide letter dated 8<sup>th</sup> May, 2009, the appellant objected to the inquiry being conducted by the Committee on a complaint<sup>12</sup> received from an ex-student of the respondent no. 2 – University on the ground that she was neither a student nor an employee of the University. Additionally, he asked for a copy of the said complaint, besides the statement of deposition that had already been furnished to him.

7. On 12<sup>th</sup> May, 2009, the appellant forwarded an affidavit of a witness to refute some of the allegations levelled against him by the complainants. Vide letter of even date, the Committee forwarded an additional deposition of a member of the Faculty, Dr. Rahul Tripathi, who had stepped down from the Committee constituted to look into the complaints against the appellant and deposed as a witness.

8. The appellant wrote a letter dated 13<sup>th</sup> May, 2009 to the Committee seeking some time to appear before it on a plea that he was admitted in the hospital with a severe back-ache. Vide notice dated 14<sup>th</sup> May, 2009, the Committee directed the appellant to appear before it on 19<sup>th</sup> May, 2009 for recording his deposition and for submitting his written reply to the fresh deposition of the other complainant. Further extension of time, as requested, was however declined by the Committee.

9. In the meantime, vide letter dated 13<sup>th</sup> May, 2009, the appellant applied to the respondent no.2 – University seeking voluntary retirement on health grounds. However, the said application was withdrawn by him on 18<sup>th</sup> May, 2009. On the same date, an advocate engaged by the appellant's brother issued a notice to the respondents no.2 and

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<sup>12</sup> Signed on 27<sup>th</sup> April, 2009

## **N. EPILOGUE**

74. Just as we celebrate a decade of the PoSH Act being legislated, it is time to look back and take stock of the manner in which the mandate of the Act has been given effect to. The working of the Act is centred on the constitution of the Internal Complaints Committees (ICCs) by every employer at the workplace and constitution of Local Committees (LCs) and the Internal Committees (ICs) by the appropriate Government, as contemplated in Chapters II and III, respectively of the PoSH Act. An improperly constituted ICC/LC/IC, would be an impediment in conducting an inquiry into a complaint of sexual harassment at the workplace, as envisaged under the Statute and the Rules. It will be equally counterproductive to have an ill prepared Committee conduct a half-baked inquiry that can lead to serious consequences, namely, imposition of major penalties on the delinquent employee, to the point of termination of service.

75. It is disquieting to note that there are serious lapses in the enforcement of the Act even after such a long passage of time. This glaring lacuna has been recently brought to the fore by a National daily newspaper that has conducted and published a survey of 30 national sports federations in the country and reported that 16 out of them have not constituted an ICC till date. Where the ICC have been found to be in place, they do not have the stipulated number of members or lack

the mandatory external member. This is indeed a sorry state of affairs and reflects poorly on all the State functionaries, public authorities, private undertakings, organizations and institutions that are duty bound to implement the PoSH Act in letter and spirit. Being a victim of such a deplorable act not only dents the self-esteem of a woman, it also takes a toll on her emotional, mental and physical health. It is often seen that when women face sexual harassment at the workplace, they are reluctant to report such misconduct. Many of them even drop out from their job. One of the reasons for this reluctance to report is that there is an uncertainty about who to approach under the Act for redressal of their grievance. Another is the lack of confidence in the process and its outcome. This social malady needs urgent amelioration through robust and efficient implementation of the Act. To achieve this, it is imperative to educate the complainant victim about the import and working of the Act. They must be made aware of how a complaint can be registered, the procedure that would be adopted to process the complaint, the objective manner in which the ICC/LC/IC is expected to function under the Statute, the nature of consequences that the delinquent employee can be visited with if the complaint is found to be true, the result of lodging a false or a malicious complaint and the remedies that may be available to a complainant if dissatisfied with the Report of the ICC/LC/IC etc.

76. However salutary this enactment may be, it will never succeed in providing dignity and respect that women deserve at the workplace unless and until there is strict adherence to the enforcement regime and a proactive approach by all the State and non-State actors. If the working environment continues to remain hostile, insensitive and unresponsive to the needs of women employees, then the Act will remain an empty formality. If the authorities/managements/employers cannot assure them a safe and secure work place, they will fear stepping out of their homes to make a dignified living and exploit their talent and skills to the hilt. It is, therefore, time for the Union Government and the State Governments to take affirmative action and make sure that the altruistic object behind enacting the PoSH Act is achieved in real terms.

#### **O. DIRECTIONS**

77. To fulfil the promise that the PoSH Act holds out to working women all over the country, it is deemed appropriate to issue the following directions :

(i) The Union of India, all State Governments and Union Territories are directed to undertake a timebound exercise to verify as to whether all the concerned Ministries, Departments, Government organizations, authorities, Public Sector Undertakings, institutions, bodies, etc. have constituted ICCs/LCs/ICs, as the case

may be and that the composition of the said Committees are strictly in terms of the provisions of the PoSH Act.

(ii) It shall be ensured that necessary information regarding the constitution and composition of the ICCs/LCs/ICs, details of the e-mail IDs and contact numbers of the designated person(s), the procedure prescribed for submitting an online complaint, as also the relevant rules, regulations and internal policies are made readily available on the website of the concerned Authority/Functionary/Organisation/Institution/Body, as the case may be. The information furnished shall also be updated from time to time.

(iii) A similar exercise shall be undertaken by all the Statutory bodies of professionals at the Apex level and the State level (including those regulating doctors, lawyers, architects, chartered accountants, cost accountants, engineers, bankers and other professionals), by Universities, colleges, Training Centres and educational institutions and by government and private hospitals/nursing homes.

(iv) Immediate and effective steps shall be taken by the authorities/managements/employers to familiarize members of the ICCs/LCs/ICs with their duties and the manner in which an inquiry ought to be conducted on receiving a complaint of sexual harassment at the workplace, from the point when the complaint is received, till the inquiry is finally concluded and the Report submitted.

- (v) The authorities/management/employers shall regularly conduct orientation programmes, workshops, seminars and awareness programmes to upskill members of the ICCs/LCs/ICs and to educate women employees and women's groups about the provisions of the Act, the Rules and relevant regulations.
- (vi) The National Legal Services Authority(NALSA) and the State Legal Services Authorities(SLSAs) shall develop modules to conduct workshops and organize awareness programmes to sensitize authorities/managements/employers, employees and adolescent groups with the provisions of the Act, which shall be included in their annual calendar.
- (vii) The National Judicial Academy and the State Judicial Academies shall include in their annual calendars, orientation programmes, seminars and workshops for capacity building of members of the ICCs/LCs/ICs established in the High Courts and District Courts and for drafting Standard Operating Procedures (SOPs) to conduct an inquiry under the Act and Rules.
- (viii) A copy of this judgment shall be transmitted to the Secretaries of all the Ministries, Government of India who shall ensure implementation of the directions by all the concerned Departments, Statutory Authorities, Institutions, Organisations etc. under the control of the respective Ministries. A copy of the judgment shall also be transmitted to the Chief Secretaries of all the States and Union Territories

who shall ensure strict compliance of these directions by all the concerned Departments. It shall be the responsibility of the Secretaries of the Ministries, Government of India and the Chief Secretaries of every State/Union Territory to ensure implementation of the directions issued.

(ix) The Registry of the Supreme Court of India shall transmit a copy of this judgment to the Director, National Judicial Academy, Member Secretary, NALSA, Chairperson, Bar Council of India and the Registrar Generals of all the High Courts. The Registry shall also transmit a copy of this judgment to the Medical Council of India, Council of Architecture, Institute of Chartered Accountants, Institute of Company Secretaries and the Engineering Council of India for implementing the directions issued.

(x) Member-Secretary, NALSA is requested to transmit a copy of this judgment to the Member Secretaries of all the State Legal Services Authorities. Similarly, the Registrar Generals of the State High Courts shall transmit a copy of this judgment to the Directors of the State Judicial Academies and the Principal District Judges/District Judges of their respective States.

(xi) The Chairperson, Bar Council of India and the Apex Bodies mentioned in sub-para (ix) above, shall in turn, transmit a copy of this judgment to all the State Bar Councils and the State Level Councils, as the case may be.



78. The Union of India and all States/UTs are directed to file their affidavits within eight weeks for reporting compliances. List after eight weeks.

79. The appeal is allowed on the above terms while leaving the parties to bear their own costs. Pending applications, if any, shall stand disposed of.

.....J.  
[ A.S. BOPANNA ]

.....J.  
[ HIMA KOHLI ]

**NEW DELHI**  
**MAY 12, 2023**