

Sexual Harassment in Educational Institutions: An Empirical-Doctrinal Assessment of the Effectiveness of the POSH Framework.

Dr. M. Madhuri Irene¹, Mr. Yogesh Chandra Gupta²

¹ Associate Professor, ICFAI Law School, ICFAI University Dehradun.

² Assistant Professor Teerthanker Mahaveer College of Law & Legal Studies, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India.

Email ID : cognitoryogesh@gmail.com

ABSTRACT

Indian higher educational institutions (HEIs) have been a battleground for the implementation of the “Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” (“POSH Act”) for more than a decade now, 15 years after Vishaka v. State of Rajasthan. This paper aims for an empirical-doctrinal appraisal of the POSH system working in universities and colleges, starting from the Vishaka guidelines to the “UGC (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations 2015” and further going up to the Supreme Court's intervention in “Aureliano Fernandes v. State of Goa 2023. It presents a stark increase in reported incidents and dispenses, and also in “the reported and the structural” gaps, such as not having a trauma-informed inquiry protocol, ICCs were not always well-composed, and underreporting took place after analysing the Gender Sensitization returns submitted by the University Grants Commission (UGC) from 2015-16 to 2022-23. It will find that even as the judiciary has begun demanding due process protections for the respondents, follow-up action by the education authorities on compliance of the POSH framework is inadequate and its formal architecture is sturdy but its substantive efficacy on campuses is stilted by the continued invocation of the adjudicatory culture of institutional reputation....

Keywords: POSH Act 2013; UGC Regulations 2015; Internal Complaints Committee; campus sexual harassment; Vishaka guidelines; Aureliano Fernandes v. State of Goa..

INTRODUCTION

Schools enjoy a unique status in the workplace sexual harassment law: they are employers of teachers and staff, and holders of the evaluative and other power inherently present in a school's relationships, and they are custodians over student-nonworkers (or at least not in the sense of the Industrial Disputes Act), who are, despite this, undoubtedly vulnerable to precisely the same power imbalances - academic, evaluative, residential and often highly personal - that forms the basis of the whole jurisprudence of the workplace. Control we exercise over others through institutions, such as a doctoral supervisor over her researchers' theses, a professor over grading and recommendation letters, and a hostel warden over the fate of her students are examples of coercive institutional powers. It is therefore because of this that the University Grants Commission (UGC), under the statutory delegation, decided to make it applicable to all the institutions of higher learning across the country, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“POSH Act”).

Yet more than a decade after the POSH Act and nearly a decade after the UGC Regulations of 2015, a persistent gap is visible between formal compliance and substantive protection. This paper asks a narrow but important question: how effective has the POSH framework actually

been within Indian higher educational institutions? It approaches the question doctrinally, by tracing the framework's evolution from Vishaka v. State of Rajasthan to the Supreme Court's 2023 decision in “Aureliano Fernandes v. State of Goa”, and empirically, by examining the UGC's own annual Gender Sensitization data and recent secondary literature evaluating that data. Part II traces the statutory genealogy; Part III maps the institutional architecture mandated for HEIs; Part IV analyses a decade of UGC compliance data; Part V examines the doctrinal course-correction effected by the judiciary; Part VI identifies the structural gaps that persist; and Part VII offers targeted recommendations.

FROM VISHAKA TO POSH: EVOLUTION OF THE LEGAL FRAMEWORK

The POSH Act's roots lie in the Supreme Court's 1997 intervention in Vishaka, where a three-judge bench, confronting a legislative vacuum following the gang-rape of a social worker in rural Rajasthan, invoked Articles 14, 15, 19(1) (g) and 21 of the Constitution, read with India's 1993 ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), to lay down binding guidelines for workplace complaints mechanisms. Compliance, however, was uneven. In Medha Kotwal Lele v. Union of India, the Court exercised continuing mandamus over roughly sixteen years, repeatedly noting that Complaints Committees mandated

by Vishaka simply had not been constituted across large swathes of government and institutional India, and directing that such committees be deemed inquiry authorities for service-rule purposes. It was only with the enactment of the POSH Act on 22 April 2013, notified on 9 December 2013, that Vishaka's guidelines acquired a comprehensive statutory home covering the constitution of Internal Committees (Section 4), conciliation and inquiry procedure (Sections 10–11), interim reliefs (Section 12), and penalties for institutional non-compliance (Section 26).

The Act's application to educational institutions was operationalised through the UGC (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015, notified in the Gazette of India on 2 May 2016. Being statutory regulations, they bind every university and affiliated college. Notably, the 2015 Regulations go further than the parent Act in three respects material to a campus setting: they mandate three student members on the ICC where a complaint involves a student; they extend coverage to harassment by third parties (for instance, visiting faculty, contractors, or guests); and, under clause 3(1)(k), they recognise intimate-partner and dating violence as falling within the regulatory net a category the parent Act does not explicitly address. A parallel regime, the AICTE (Gender Sensitization, Prevention and Prohibition of Sexual Harassment...) Regulations, 2016, governs technical institutions in substantially similar terms. Individual institutions have, in places, gone further still: the National Law School of India University's 2019 Code to Combat Sexual Harassment extends jurisdiction to conduct connected with any university activity irrespective of where it occurs, illustrating the kind of institution-specific elaboration the statutory floor permits.

INSTITUTIONAL ARCHITECTURE FOR EDUCATIONAL INSTITUTIONS

Every HEI is statutorily required to constitute an ICC headed by a woman, with not fewer than half its member's women, one external member from an NGO or association committed to the cause of women, and, in matters involving students, student representation as noted above. A complaint must ordinarily be filed within three months of the incident (extendable for recorded reasons), conciliation may be attempted at the complainant's request but without monetary settlement and where conciliation fails or is not sought, and the ICC must complete its inquiry in accordance with principles of natural justice and submit a report, typically within ninety days. Institutions are further required to publicly commit to a zero-tolerance policy, display the ICC's composition and contact details, and submit an Annual Return on cases of sexual harassment through the UGC's SAKSHAM portal the principal instrument by which the regulator monitors compliance nationally.

That the UGC has found it necessary to reissue compliance advisories in nearly every academic year since 2015 most recently through the National Commission for Women's 2024-25 "Campus Calling Programme", run jointly with Yuvamanthan across

roughly 800 institutions to audit ICC functioning, training, and gender sensitization is itself telling. A decade into the regulatory regime, the apex regulator is still engaged in first-order verification of whether ICCs exist and function, rather than in second-order evaluation of the quality of their outcomes. This is the institutional backdrop against which effectiveness must be assessed.

EMPIRICAL ASSESSMENT: A DECADE OF UGC COMPLIANCE DATA

The UGC's own Gender Sensitization returns, filed annually by universities under the Annual Return mandate, provide the most direct empirical window into the framework's operation. A recent decadal analysis of this UGC data reports that the number of sexual harassment cases reported by universities rose from 121 in 2015-16 to 378 in 2022-23 an increase of roughly 212 percent while the case disposal rate improved from 72.7 percent to 99.7 percent over the same period, and preventive workshops conducted by universities rose from 175 to 900. Reported cases dipped sharply during the pandemic years (51 in 2020-21 and 38 in 2021-22), consistent with reduced physical campus interaction during remote learning, before rebounding once campuses reopened.

Read uncritically, this trend line more reporting, faster disposal, more prevention would suggest a maturing and increasingly effective framework. Two caveats temper that reading. First, a rise in reported cases is at least as plausibly a proxy for improved awareness and reporting infrastructure as for any change in underlying incidence; the same decadal study cautions that data quality itself is inconsistent, noting missing figures for 2016-17 and delayed publication of 2023-24 returns as of mid-2025. Second, and more troublingly, a near-100 percent disposal rate is not self-evidently a marker of quality adjudication. A systematic review of UGC's anti-harassment policy architecture, applying the Sadler effectiveness triangle to assess procedural, transcriptive, and substantive value, found the opposite face of the same coin: gaps in the qualification and training of ICC members, the absence of consent education within gender-sensitisation curricula, a lack of survivor-centred and trauma-informed inquiry procedure, and no meaningful representation of sexuality and gender minorities either in sensitisation programming or on ICCs themselves. A complaint disposed of quickly is not necessarily a complaint disposed of fairly or well; speed and substantive justice are analytically distinct, and the UGC's own metrics measure only the former.

A further empirical asymmetry is visible between universities and their affiliated colleges: college-level reporting has historically been far more volatile and inconsistent than university-level reporting a pattern the literature attributes to uneven institutional capacity and weaker enforcement of the SAKSHAM return mandate down the affiliation chain. Given that the vast majority of India's enrolled students attend affiliated colleges rather than universities proper, this compliance gap is not a marginal footnote but arguably the more consequential failure of the framework.

JUDICIAL COURSE-CORRECTION: AURELIANO FERNANDES V. STATE OF GOA

The Supreme Court's 2023 ruling in Aureliano Fernandes v. State of Goa provides doctrinal affirmation if questions are raised about the quality of ICC adjudication, owing to the empirical facts. The appellant, a Goa University faculty member, had been proceeded against by the university's Standing Committee for Prevention of Sexual Harassment following complaints by several students; the inquiry was conducted almost entirely ex parte after the appellant's request for an extension on health grounds was denied, and the entire process including twelve hearings, many back-to-back was completed in thirty-nine days, well short of the ordinarily prescribed period, culminating in a recommendation of dismissal that the university's Executive Council accepted. The Supreme Court held that, notwithstanding the Committee's deemed status as an inquiry authority under Medha Kotwal Lele, the "tearing hurry" in which the inquiry was concluded could not be reconciled with the principles of natural justice audi alteram partem and nemo iudex in causa sua which the Court described as forming "the very bedrock" of Article 14, such that their violation vitiated the proceedings regardless of the ultimate finding of guilt.

Beyond the individual appeal, the Court issued eight structural directions of direct and explicit relevance to educational institutions: it required all universities, colleges, training centres and other statutory professional bodies to conduct a time-bound verification of whether ICCs/Local Committees/Internal Committees had in fact been constituted, and whether their composition matched statutory requirements; mandated that ICC composition, contact details, and complaint procedures be published and periodically updated on institutional websites; directed regular orientation and capacity-building for ICC members; and called upon NALSA, the State Legal Services Authorities, and the National and State Judicial Academies to institutionalise sensitisation on the Act within their annual calendars. That the apex court, in 2023, still found it necessary to direct a basic audit of whether ICCs exist and are properly composed the very first-order question the UGC's own advisories had been asking since 2015 is the clearest judicial acknowledgment that formal statutory coverage has not translated into functional compliance. Equally significant is the decision's insistence that the framework's legitimacy depends on procedural fairness running in both directions: protecting complainants from institutional inertia, and protecting respondents from institutional haste dressed up as decisiveness.

RECOMMENDATIONS

Firstly, ICC training should be shifted from one-off orientation programs to a uniform, accredited program of training in legal procedure, interviewing in a trauma-informed manner, and confidentiality ideally by an external third party and not just in the SAKSHAM portal and should be completed as standard, mandatory, and regular training. Secondly, the weightage for UGC and NAAC accreditation should be linked to the actual working of the ICC, rather than the speed of disposal per annum as being measured in the Annual Return, to ensure

that institutions do not get incentivised to optimise the Annual Return measure of "speed" for disposals. Third, as a gap in the empirical literature identified above, gender-sensitisation programmes should have their own curricular sections instead of being subsumed into general awareness programmes. Fourth, the institutions should be encouraged, as at NLSIU, to introduce gender neutral institutional codes, which would apply to all students and employees and extend the procedural protection equivalent to that provided by the POSH Act, pending any central level reform of the scope of the Act. Fifth, UGC monitoring should be done disaggregately with reference to compliance of affiliated colleges, so that the weakest link in the chain becomes visible, rather than being statistically absorbed and covered in data on compliance with the university. Lastly, given Aureliano Fernandes, Standard Operating Procedures in institutions should provide for an irreducible minimum timeline of inquiry and should document an opportunity to respond, thus ensuring that the speed of disposal should not come at the cost of either party's natural justice.

CONCLUSION

The UGC Regulations 2015, which have made this concept applicable to Indian higher educational institutions, has a comprehensive structure to make it legally binding a mandatory statute, a separate grievance body, definite timelines for procedures and a compliance-reporting mechanism to be submitted annually. The empirical record, however, after the past 15 years of Vishaka, and 10 years of UGC Regulations, indicates that real institutional learning has taken place more reports, faster disposal, more proactive engagement for prevention. However, the same record, combined with the recent ruling by the Supreme Court in the case of Aureliano Fernandes, shows that there has been a record of formal compliance being a greater step than substantive fairness, both for complainants in failing to succeed in setting up skilled committees and failing to report underreporting, and for respondents in rushing to conclude proceedings. This will largely be judged by the quality of a fair, trauma-informed and legally valid investigation care that the current architecture aspires to, but cannot always achieve rather than the number of cases ended in 90 days...

REFERENCES

1. Vishaka v. State of Rajasthan, (1997) 6 SCC 241.
2. Aureliano Fernandes v. State of Goa, 2023 INSC 527 : 2023 SCC OnLine SC 621, decided 12 May 2023 (A.S. Bopanna and Hima Kohli, JJ.), Civil Appeal No. 2482 of 2014.
3. Medha Kotwal Lele v. Union of India, (2013) 1 SCC 297.
4. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Act No. 14 of 2013), enacted 22 April 2013, notified 9 December 2013, ss. 4, 9–12, 26; Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.
5. University Grants Commission (Prevention, Prohibition and Redressal of Sexual Harassment of Women

Employees and Students in Higher Educational Institutions) Regulations, 2015, notified in the Gazette of India, 2 May 2016.

6. Id., cl. 3(1)(k); see also Women and Justice, “When do workplace sexual harassment laws apply to universities?” (28 April 2022), womenandjustice.in.

7. All India Council for Technical Education (Gender Sensitization, Prevention and Prohibition of Sexual Harassment of Women Employees and Students and Redressal of Grievances in Technical Institutions) Regulations, 2016.

8. National Law School of India University, Code to Combat Sexual Harassment (2019); discussed in Women and Justice, *supra* note 6.

9. University Grants Commission, Annual Return of Cases of Sexual Harassment — Advisory (5 June 2023); UGC SAKSHAM Portal, saksham.ugc.ac.in.

10. University Grants Commission, Implementation of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 — NCW “Campus Calling Programme” in collaboration with Yuvamanthan (2024–25 advisory), ugc.gov.in.

11. Giriraj Singh Chauhan & Bhumika Sharma, “Decadal Analysis of Sexual Harassment Cases in Indian Higher Educational Institutions,” (2025), <https://doi.org/10.55248/gengpi.6.0825.2927>, analysing UGC Gender Sensitization Data, 2015-16 to 2022-23, available at ugc.gov.in/studentcorner/Gender_Sensitization_Data.

12. “Evaluating the Effectiveness of UGC’s Policy to Prevent Sexual Harassment: A Systematic Review,” *Artha Journal of Social Sciences*, journals.christuniversity.in...