IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

WRIT PETITION No. 10864 of 2023

RAKESH SINGH (PROFESSOR)

Versus

INDIRA GANDHI NATIONAL TRIBAL UNIVERSITY AND OTHERS

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Appearance:

Shri Dinesh Upadhyay - Advocate for the petitioner.

Shri Ajay Pawar, learned Sr. Advocate along with Shri Rahul Kumar Pathak, learned counsel for the respondents 1 and 2.

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O R D E R

(Reserved on 04.08.2025)
(Pronounced on 15.10.2025)

The present petition has been filed challenging the order Annexure P-15 whereby the Registrar of respondent No.1-University i.e. Indira Gandhi National Tribal University, Amarkantak ('IGNTU' for short) has communicated the decision of the Executive Council imposing a penalty of dismissal from service as a result of the findings of the Enquiry Officer as accepted by the Executive Council after discarding the objections of the petitioner on the enquiry report.

2. It is contended by the learned counsel for the petitioner that the action of the respondent No.1-University in terminating the services of the petitioner is totally unsustainable in law. It is contended that initially a female student of the University made a complaint to the Respondent No.3, who is Chairman of Internal Complaint Committee ('ICC' for short) of the respondent No.1- University under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ('POSH Act' for short) that the petitioner has sexually exploited the said female student while working as Professor and Head of Department of History in the University. It is contended that the said complaint which was handwritten in Hindi was addressed to the Vice-Chancellor and submitted to the Respondent No.3 being Head of ICC. It was alleged in the said complaint that the petitioner had committed rape on the said female student in the year 2019 and then he has been repeatedly sexually exploiting the said female student and she has got pregnant many times. Even on the date of complaint she stated herself to be pregnant and demanded justice for such act of the petitioner and to recognize the unborn child of the complainant. It was alleged in the complaint that the complainant is being sexually exploited since the year 2019 onwards.

3. On the basis of the said complaint the ICC took up the matter and ultimately the ICC submitted a report dated 04.03.2022 wherein the ICC held the complaint to be substantiated.

4. On the basis of recommendations of ICC a charge sheet was issued to the petitioner containing as many as 6 charges and an Enquiry Officer was appointed who held the charges to be proved.

5. The learned counsel for the petitioner has vehemently argued that the ICC was not properly constituted and that the constitution of ICC was contrary to the regulations of the University Grants Commission ('UGC' for short) framed in this regard. It was vehemently argued that the ICC recommendations were highly biased and skewed and many of the members of ICC, as constituted by the University, did not participate in ICC and therefore, the ICC itself was rendered invalid without replacement of necessary members.

6. It is further contended that the enquiry officer has believed the recommendations of ICC and on the basis of recommendations of ICC, has held that the charges of sexual exploitation are proved against the petitioner. By taking this Court through the enquiry report, it has been argued that before the enquiry officer in the departmental enquiry, only the complainant of sexual exploitation appeared before the enquiry officer as witness apart from the respondent No. 3 who was Chairman of ICC. Apart from these two witnesses, no other witness was produced before the enquiry officer by the University and there was no valid evidence before the enquiry officer to uphold guilt of the petitioner.

7. It is further contended that none of the charges against the petitioner are made out and the allegation of sexual exploitation do not even attract the provisions of POSH Act at all because the complainant did not fall within the definition of a "aggrieved woman" in terms of Section 2(a) of POSH Act because at the time when the alleged sexual exploitation took place, she was not the student of the University and even if the residential house of the petitioner is treated to be extension of the workplace, even then at the time when the alleged sexual exploitation took place, she was not the student of the University because she admits that sexual

exploitation was going on since the year 2019 whereas she took admission in the University on 23.02.2021 as research scholar in Ph.D. programme in History subject. Therefore, there is no connectivity of the alleged relationship between the complainant and the petitioner with the complainant being a student of the University which happened later than the date from which the complainant alleges herself to be sexually exploited and even if the entire complaint of the complainant is taken to be gospel truth even then it can be a case of extra-marital affair of the petitioner who was a married person with grown up children and the complainant who was also a 30 year old married woman having husband and it could at best be a case of extramarital relationship between two consenting married adults and out of such relationship only the respective spouses could have been the aggrieved persons. The case of two consenting adult persons in a sexual relationship with each other, even if the entire complainant is taken to be as gospel truth, has been wrongly taken to be a case under POSH Act and has been connected to activities and employment of the petitioner in the University which had no relation at all with the alleged relationship between the petitioner and the complainant because the complainant became student in the year 2021 while as per her own assertion and admission this relationship was going on since the year 2019.

8. The learned counsel for the petitioner further argued that the complainant also lodged an FIR against the petitioner under various sections of IPC including section 376. However, the petitioner has been acquitted on merits after complete trial by the Sessions Court vide judgment dated 8-02-2025. Therefore, the substratum of charges against the petitioner goes away and even the criminal Court has not found the

petitioner guilty of any offence of sexual exploitation having been committed by the petitioner.

9. It is further contended that the entire allegation against the petitioner was at the fag end of his service just as a result of internal office politics in the respondent- University as the petitioner was holding the post of HOD in History Department and was at verge of retirement and the allegation was levelled on him when he was 60 years of age having grown up children and the entire allegation has not only destroyed the petitioner's career but has also destroyed him in his social reputation and prestige among the society as well as his family. Therefore, it is contended that justice be meted out to the petitioner by quashing the penalty order.

10. *Per contra*, it is contended by the learned counsel for the respondents No.1 and 2 that the case is a glaring case of violation of noble bond between teacher and taught. The petitioner was in sexual relationship with his student which cannot be accepted by the University. Judging on touchstone of any norm as prevalent in the society, sexual relationship between teacher and taught has to be deprecated and once the University found out that the teacher was having sexual relationship with the taught and was either pressurizing the student or was giving illegal allurement to the student, then the University was well within its right to take disciplinary action against the petitioner which it did. On these lines, all the contentions of the petitioner were vehemently denied and countered by the learned counsel for the respondents No.1 and 2.

11. Heard.

12. In the present case, the entire action against the petitioner started with a handwritten complaint present in Hindi being submitted to the

University authority by the complainant lady who appears to be a grown up married lady, more than 30 year old. The complaint is placed on record as Annexure P-1. This complaint mentions it to be submitted to the University authorities on 11.10.2021 and mentions that the complainant was raped in the year 2019 by the petitioner and she knows the petitioner since the year 2013. She contended that the petitioner gave false pretext of marriage to the complainant and used to sexually exploit the complainant and many a times she became pregnant. It was contended that her room-rent was also being borne by the petitioner and in view of her relationship with the petitioner, even her husband has given divorce to the complainant, though no Divorce decree was placed on record. She stated that she is pregnant with child of the petitioner and there has been sexual relationship between 2019 till 2021 which is known to all the family members of the petitioner as well as to the complainant. Now she does not even have money for getting her pregnancy tested and the petitioner is now refusing to give his name to the unborn child of the complainant.

13. From a perusal of this complaint, it is clear that the complainant and the petitioner were alleged to be in some relationship since the year 2013 and in sexual relationship since the year 2019 while she for the first time became student of the University in the year 2021 at the age of 30 years in Ph.D. programme. Therefore, the proposition that the position of the petitioner as Professor in the respondent-University either gave a window of opportunity to the petitioner to sexually exploit the complainant or that he harassed student by misusing the said position and then sexually exploited the complainant-student does not appear to be sustainable by any stretch of imagination. If this application of the complainant is taken to be true at its face value then at the most it can be a case of the petitioner

getting a married lady with whom he is having some extra marital relationship admitted in the University in which he is already teaching. This complaint does not make it any case of harassment relating to workplace. The sexual exploitation as per this complaint was going on since many years prior to the complainant becoming student of the university and this entire complaint does not relate to a single allegation that the petitioner misused his position as Professor of the university to sexually exploit the complainant.

14. It is also relevant to mention here that in the complaint the complainant had been loudly speaking that she is pregnant with child of the petitioner. However the child was never born and as per the judgment of criminal Court placed in the file of this case, the Sessions Court has also not referred to any child being borne to the complainant or any pregnancy of the complainant. During the course of proceedings under POSH Act, the complainant when confronted with her pregnancy stated that the child got aborted. This itself raises suspicion on the contents of the complaint Annexure P-1. She stated that on account of her relation with petitioner, her husband divorced her, but no Divorce decree has been placed on record.

15. The Committee under POSH Act was constituted by the University which is under the provisions of regulations framed by the University Grants Commission by exercising its power under UGC Act, 1956. The regulations are known as University Grants Commission (Prevention, Prohibition and Redressal of Sexual Harassment of Women, Employees and Students in Higher Educational Institutions) Regulations, 2015. As per the said regulations, ICC has to be constituted in terms of Clause-4 in the following manner comprising 9 members as follows:-

(i) Presiding Officer who shall be woman faculty member,

(ii) Two faculty members and two non-teaching employees,

(iii) Three students, if the matter involves students,

(iv) One member from NGOs nominated by the Executive Council.

16. As per the report of ICC placed on record, the ICC had the following members:-

1. Prof. Ranju Sahoo, Chairperson.
2. Prof. Navin Sharma, Faculty.
3. Dr. Pallavi Das, Faculty.
4. Dr. Sanjeev Singh, Assistant Registrar.
5. Ms. Rashmi Dhurvey, Lab Assistant.
6. Ms. Shalini Saraogi, NGO representative/ Social-Worker.
7. Ms. Anunay Toppo, student member.

17. From the aforesaid composition, it is clear that the ICC had only 7 members and even out of these 7 members, Dr. Pallavi Das was on maternity leave and did not attend any proceedings of ICC, nor signed the final report and Dr. Sanjeev Singh, Assistant Registrar was kept out from the proceedings of ICC because the complainant complained against independence of Dr. Sanjeev Singh. Therefore, the ICC had practically only 5 members and in the opinion of this Court, the said ICC was utterly illegal committee being constituted contrary to provisions of UGC regulations.

18. University and educational institutions being a special type of place which is not technically a workplace so far as students are concerned but the provisions of POSH Act being extended to Universities therefore, the UGC has framed regulations looking to the special needs of the

Universities and for that purpose, there is a specific provision to constitute ICC of 9 members including 3 student members. However, in the present case, the University had constituted ICC of 7 members in place of 9 members and out of those 7, 2 did not participate and ICC continued with only 5 members.

19. This Court has seen the original report of ICC as available in the record of Departmental Enquiry. The said report is signed on all the pages by only 2 members i.e. the Chairperson Dr. Ranju Sahoo and the student representative Ms. Anunay Toppo. Signatures of Mr. Shalini Saraogi are on the last page only and that are also photocopied and are not original signatures. In similar terms, signatures of Ms. Rashmi Dhurvey are also photocopied and are not original signatures. Prof. Navin Sharma has not signed the ICC report at all and by adding the photocopied and original signatures, only total four members have signed the ICC report.

20. Another disturbing and strange fact to be noted from the ICC report is that all the pages seem to have been signed in blank in advance by the two members i.e. Ranju Sahoo and Anunay Toppo prior to printing of the report because even on the last page of the report the signatures of these two persons are at bottom of the report though the report has ended at top of the page and these persons have signed at top of the page and their signatures are also available at bottom of the page which indicates that at bottom of number of blank sheets, signatures of these two persons were taken in advance to preparation of the report.

21. Therefore, in the considered opinion of this Court, the report of ICC is nothing but a totally farce and bogus document which cannot be relied upon in any manner.

22. Even the ICC has proceeded in a manner unknown to law. Some proceedings were conducted in the University premises while some proceedings were conducted in residence of complainant for which there was no just and reasoned cause. If the University had constituted ICC and the complainant was student of University and petitioner had already been suspended during pendency of ICC proceedings then there was no reason why the ICC did not conduct the proceedings in the University premises but conducted the proceedings by even travelling to house of the complainant at Shahdol, which is more than 100 Kms. away from the University Campus. It indicates extra interest shown by the Chairperson of ICC, and to keep the petitioner out of ICC proceedings, which seriously affects the independence of the ICC.

23. If the University in its wisdom had constituted 7 member ICC in place of 9 member ICC required as per UGC regulations, then once the complainant raised doubt over the independence of one member i.e. Dr. Sanjeev Singh and one member i.e. Ms. Pallavi Das was on maternity leave, then it was obligatory for the University to have replaced these two members. Without any replacement of these two members the ICC continued in an utterly illegal manner. Therefore, this Court is of the considered opinion that the ICC proceedings could not have been relied upon in any manner either by the enquiry officer or by the disciplinary authority to uphold the guilt of petitioner.

24. Now, proceeding to the charge sheet, the charge sheet against the petitioner had 6 charges which were as under:-

Statement of articles of charge framed against Shri Rakesh Singh, Professor, Department of History.

Article I

That the said Shri Rakesh Singh, (under Suspension) while functioning as Professor has sexually exploited a female research Scholar of IGNTU at various locations. Basedon the FIR & Complaint lodged by the said research scholar with State Police and ICC of IGNTU, ICC of IGNTU has conducted detailed enquiry by giving enough Opportunity to the said Professor Rakesh Singh for his defense, but he has failed to appear in person. Since, as per police record, he has been absconding from his normal place of residence and as well as from the addresses he has disclosed. to the University and failed to - show himself before the ICC.. Thus ICC hasdeliveredits final report in the said matter ex-parte.

Article II

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Rakesh Singh has remained unreachable in the officially registered. address. Letters sent to the said address by Speed post returned undelivered. Thus as per the official records, Shri Rakesh Singh, Professor, Department of History is a declared absconder by the M.P State Police vide Letter dated 18/11/2021remainsissued by Office of SP, Shahdol. The Police has informed the University that as on date4/4/2022, he an absconder.

Article III

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Rakesh Singh has approached the High Court of Jabalpur for obtaining interim remedy without any prior permission /Prior intimation to the University Authorities

Article IV

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Rakesh Singh has involved himself in act of blackmailing and extortion alongwith his family members, thus unbecoming of a Government Servant. '

Article V

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Rakesh Singh has involved himself in act of leaking question paper to a female research scholar of the department, thus unbecoming of a Government Servant.

Article VI

That during the aforesaid period and while functioning in the aforesaid office, the said Shri Rakesh Singh has involved himself in act of criticising the government authorities thus unbecoming of a Government Servant

25. This court will proceed to discuss the charges article wise hereinbelow, whether the charges are legally (un)sustainable, or whether it is a case of "no evidence", as to some extent that is permissible in judicial review.

26. It is true that the scope of judicial review of this Court is very limited. However, in fit cases where there is infact no evidence available against the workman i.e. in cases of no evidence the Courts and Tribunals have to step in to do justice between the parties and to save the workmen from oppressive practices of the employers. This is one of the fit cases to do so in order to do justice with the petitioner, though the Court should not act as Court of appeal. In CISF Vs. Santosh Kumar Pandey, 2023 (19) SCC 301, it was held as under :-

> *21. We have reservations regarding the reasoning given in para 10 of the impugned judgment [Santosh Kumar Pandey v. CISF, 2014 SCC OnLine Guj 15237] as it fails to take notice and properly apply the law of judicial review.* ***Judicial review is not akin to adjudication of the case on merits, and adequacy or inadequacy of evidence, unless the court finds that the findings recorded are based on no evidence, perverse or are legally untenable in the sense that it fails to pass the muster of the Wednesbury*** *[Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn., (1948) 1 KB 223 (CA)] principles [See SCC para 14 in CISF v. Abrar Ali, (2017) 4 SCC 507 : (2018) 1 SCC (L&S) 310.] . Power of the High Court under Articles 226 and 227 of the Constitution of India enables exercise of judicial review to correct errors of law, including procedural law, leading to manifest injustice or violation of principles of fairness, without normally venturing into reappreciation of evidence [See SCC paras 12-16 in*

Union of India v. P. Gunasekaran, (2015) 2 SCC 610 : (2015) 1 SCC (L&S) 554.].

(Emphasis supplied)

27. In ***Union of India & others vs. P. Gunasekaran [2015 (2) SCC 610]***, while noting that it was disturbing for the High Court to re-appreciate evidence adduced in Departmental proceedings like Appellate Court, it has been held as under :-

> *12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:*
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> *(a) the enquiry is held by a competent authority;*
>
> *(b) the enquiry is held according to the procedure prescribed in that behalf;*
>
> *(c) there is violation of the principles of natural justice in conducting the proceedings;*
>
> *(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
>
> *(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
>
> ***(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion****;*

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.

(emphasis supplied)

28. **Charge number 1** related to the sexual exploitation of student. The inquiry officer in the inquiry report has held that looking to the deposition of complainant before the inquiry officer and documentary evidence, the charge of sexual exploitation is proved.

The inquiry officer has relied on certain questions put up by the petitioner to the complainant during course of departmental inquiry wherein the petitioner suggested that the complainant and the petitioner had cordial family relations and he used to give financial support on loan to the family of complainant but when he demanded the money back, then FIR was got lodged under Section 376 IPC. The inquiry officer further relied on certain suggestions given by the petitioner that how he can give assurance of marriage once he as well as the complainant are married. On the basis of only these suggestions the inquiry officer found that the charge of sexual exploitation is proved.

The University seems to be totally ignorant of the fact that the University had no business to inquire into the relationship between the petitioner and complainant once the complainant stated that relationship was going on since the year 2013 and she became a student of the University for the first time on 02.03.2021. What the petitioner being a married person and the complainant being a 30 year old married lady did in

their private life, was not the lookout of the university in any manner whatsoever, once the relationship was being alleged to be going on since the year 2013 and sexual relations alleged to be going on since the year 2019. This was much prior to admission of the complainant in the University. This aspect of the matter has neither been looked into in the charge sheet nor in the inquiry report and nor in the order of the disciplinary authority.

Therefore, in the opinion of this court the charge no. 1 is not made out.

29. Charge number 2 related to the petitioner being unreachable in the official address and he being declared absconder by the police. Once the petitioner was facing a FIR under section 376 IPC and he was praying for bail and as indicated from the record, his bail application had been rejected by this High Court and was ultimately allowed by the Hon'ble Supreme Court, then in the intervening time if he avoided arrest then it was not something which could be treated to be a misconduct by the University, once the University had also suspended the petitioner on 07.01.2022 and hence, was no longer expected to attend duties.

30. In charge number 3 the allegation was that while functioning in the office, the petitioner approached the High Court of Jabalpur for obtaining interim remedies without any prior permission by the University.

Once there was a FIR against the petitioner and he had approached this court either for getting anticipatory bail or for quashing the FIR, it was a legal right given to the petitioner being accused in a criminal case and he need not have obtained the permission of the University to seek anticipatory bail. Therefore, charge no. 3 is not even not made out, but it is

an illegal charge which contravenes the legal right of the accused in a criminal case to seek legal remedies.

31. Charge number 4 alleges that while functioning in office the petitioner was involved in act of blackmailing and extortion along with family members. This is also based upon the complaint of the complainant upon which the ICC had been constituted and once the complaint did not relate to the period when the complainant was a student of the University, therefore, charge no. 4 is also unsustainable.

32. So far as charge number 6 is concerned, in the said charge, it is alleged that the petitioner has criticized the government in some social media post which is un becoming of a government servant. In the opinion of this court once the petitioner was of the opinion that he is being oppressed by the University and he made some social media posts then it does not amount to any misconduct, more so when from the report of the inquiry officer there is nothing to be seen that what was the actual social media posts made by the petitioner, nor print-outs of such posts are available in D.E. record as submitted by the University before this Court. Not only this, it is further pertinent to mention here that in the original report of inquiry sent by the University to this Court, neither the documents exhibited in the inquiry are attached, nor the evidence of any of the witnesses have been attached. Even the charge-sheet did not contain copy of the supporting documents to support charge number 3, 4 and 6 on the grounds that these will infringe privacy of the complainant and therefore cannot be provided and can be perused by the charge-sheeted officer and therefore in the opinion of this Court even charge no. 6 is not made.

33. **Charge number 5** relates to the act of petitioner leaking the question paper to the complainant. If this charge is made out then it will certainly amount to misconduct by a teacher because the act of leaking question paper is indeed a misconduct by a teacher.

The petitioner had raised the defense that it was not leakage of question paper but it was only sharing of some important questions which usually happens in every educational institution. He did not deny the WhatsApp chat between the petitioner and the complainant wherein some questions had been shared with the complainant. However, he stated that it was not leakage of question paper but sharing of important questions which every teacher in University usually does at the time of examination to assist the students and it was not an act of leakage of question paper.

34. In the opinion of this Court, this issue requires to be dealt with by the University authorities in detail by considering the fact that whether the question papers which are said to be leaked were framed by the petitioner and he was the paper setter of these question papers and further that whether the paper setter had shared the question papers with the petitioner and under what circumstances the petitioner came in possession of the question papers if these were not framed by him, if he was not the paper setter. The inquiry report is utterly silent on all these aspects. It is also to be assessed that whether there is academic practice in the University to share important questions before the examination which has also not been looked into in the impugned order or in the inquiry report in any manner.

35. The WhatsApp chat between the petitioner and the complainant are not disputed but it is required to be looked into whether it amounts to leakage of question paper or simple sharing of important questions which

an academic authority is well equipped to deal with, but that chosen not to deal with.

36. Therefore in the opinion of this court, only charge No. 5 would be made out against the petitioner, but for that, at present there is insufficient material against the petitioner and certain issues as pointed out above remain to be looked into so far as charge no. 5 is concerned.

37. Therefore in the considered opinion of this court, the impugned order of punishment deserves to be set aside.

38. The matter is remanded back to the disciplinary authority only in respect of charge No. 5 for which the authority would be at liberty to conduct fresh inquiry or if evidence is sufficient, to arrive at its own conclusion.

39. Let the petitioner be reinstated in service forthwith and would remain under suspension till fresh order is passed as to charge No.5, as he was under suspension till date of earlier dismissal order.

40. At this stage no orders as to back wages are being passed and the disciplinary authority would deal with the question of back wages while passing fresh order.

41. In case the petitioner is aggrieved by the fresh order, either to the extent of penalty or to the extent of back wages, he would be at liberty to take course to legal remedies as available under the law.

42. In view of the above, the petition is ***partly allowed***.

(VIVEK JAIN)
JUDGE

Nks/MISHRA