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ABBREVIATIONS AND REFERENCES

For the purpose of this report, following abbreviations and reference words have been used:

Complainant – Ms. ABC-Mrs. Sangeeta Madan; Respondent – Justice S.K. Gangele, Judge, M.P. High Court; JIC.W.– Witnesses examined on behalf of the committee; C.W. – Witnesses examined on behalf of the complainant; R.W. – Witnesses examined on behalf of the respondent; Ex. JIC – Documents summoned and marked by the committee; Ex. C – Documents marked on the side of the complainant; Ex. R – Documents marked on the side of the respondent. Ex. D - Documents not taken on record but given marking only for reference.

Part I

REPORT OF THE INQUIRY COMMITTEE CONSTITUTED UNDER SUB-SECTION (2) OF SECTION 3 OF THE JUDGES INQUIRY ACT, 1968

I. INTRODUCTION:

Having concluded its investigation into the grounds on which the removal of Justice S.K. Gangele of the Madhya Pradesh High Court had been sought, the Inquiry Committee - as (re)constituted by Rajya Sabha Notification dated 15th April, 2015 – submits its Report under Section 4(2) of the Judges (Inquiry) Act, 1968 [for short ‘the 1968 Act’]. Section 4(2) of the 1968 Act reads as under:-

“At the conclusion of the investigation, the Committee shall submit its report to the Speaker or, as the case may be, to the Chairman, or where the Committee has been constituted jointly by the Speaker and the Chairman, to both of them, stating therein its findings on each of the charges separately with such observations on the whole case as it thinks fit.”

This Report contains a brief account of the proceedings of the Inquiry Committee, pleadings of the parties and a detailed assessment of the facts investigated, alongwith the findings on each of the three charges framed. Findings and conclusion of the Inquiry Committee are recorded in Part II to V. List of witnesses and list of exhibits marked are given in Annexure VI.

A. MOTION FOR REMOVAL OF JUSTICE S.K. GANGELE AND APPOINTMENT OF THE INQUIRY COMMITTEE:-

1. On 4th March, 2015, 58 members of the Rajya Sabha gave Notice to the Hon'ble Chairman of a Motion for the removal of Justice S.K. Gangele, a Judge of the Madhya Pradesh High Court, Bench at Gwalior under Article 217(1) (c) read with Article 124(4) of the Constitution of India on the following grounds:-

- (i) **Sexual harassment of a woman Additional District and Sessions Judge of Gwalior while being a sitting Judge of the Gwalior Bench of the High Court of Madhya Pradesh.**
- (ii) **Victimisation of the said Additional District and Sessions Judge for not submitting to his illegal and immoral demands, including, but not limited to, transferring her from Gwalior to Sidhi.**
- (iii) **Misusing his position as the Administrative Judge of the High Court of Madhya Pradesh to use the subordinate judiciary to victimize the said Additional District and Sessions Judge.**

2. On the said motion being admitted under Section 3(2) of the 1968 Act, the Chairman, Rajya Sabha constituted a Committee –*“For the purpose of making an investigation into the grounds on which the removal of Shri Justice S.K. Gangele of Madhya Pradesh High Court is prayed for”*, consisting of the following three members:-

1. Hon'ble Shri Justice Vikramjit Sen
Supreme Court of India
2. Smt. Justice Manjula Chellur
Chief Justice of the Calcutta High Court; and
3. Shri K.K. Venugopal
Senior Advocate, Supreme Court of India

[Rajya Sabha Secretariat Notification dated 15th April, 2015]

In partial modification of the Secretariat's Notification No. S.O. 1015(E) dated 15th April, 2015 under sub-Section (2) of Section 3 of the Judges (Inquiry) Act, 1968, on 10th February, 2016, the Chairman, Rajya Sabha, re-constituted the Inquiry Committee by appointing the following three members:-

1. Shri Justice Ranjan Gogoi
Supreme Court of India
2. Smt. Justice Manjula Chellur
Chief Justice of Calcutta High Court; and
3. Shri K.K. Venugopal
Senior Advocate, Supreme Court of India

[Rajya Sabha Secretariat Notification dated 10th February, 2016]

The Inquiry Committee was again re-constituted on 17th March, 2016 by appointing the following three members:-

1. Shri Justice R.F. Nariman
Supreme Court of India
2. Smt. Justice Manjula Chellur
Chief Justice, Calcutta High Court; and
3. Shri K.K. Venugopal
Senior Advocate, Supreme Court of India.

[Rajya Sabha Secretariat Notification dated 17th March, 2016]

Vide Rajya Sabha Notification dated 8th April, 2016, the Inquiry Committee was again reconstituted by appointing the following three members:-

1. Smt. Justice R. Banumathi
Supreme Court of India
2. Smt. Justice Manjula Chellur
Chief Justice, Calcutta High Court; and
3. Shri K.K. Venugopal
Senior Advocate, Supreme Court of India.

[Rajya Sabha Secretariat Notification dated 8th April, 2016]

Being the member chosen under Clause (a) of sub-section (2) of Section 3 of the 1968 Act, Justice R. Banumathi was, and has continued thereafter to act as '*Presiding Officer of the Inquiry Committee*'. [Rule 3 of the 1969 Rules]. One of the Members of the Inquiry Committee (Justice Manjula Chellur) having been appointed as Chief Justice of the Bombay High Court on 22nd August, 2016, the Hon'ble Member continued and is hereinafter referred to as the Chief Justice of Bombay High Court instead of Calcutta High Court.

3. By Notification dated 10th July, 2015, the Hon'ble Chairman, Rajya Sabha appointed Shri Arun Chaudhary, IPS(retired) and former Director-General, Sahastra Seema Bal, Government of India as Secretary to the Inquiry Committee constituted under Section 3 of the 1968 Act. The Government of India by Notification dated 30th July, 2015 appointed Shri Sanjay Jain, Additional Solicitor General to assist the Committee (i.e. "to conduct the case against the Judge" as stipulated in Section 3(9) of the Act.). Mr. Arjun Mitra, Advocate was nominated as the counsel to assist Mr. Sanjay Jain, Senior Counsel.

B. BACKGROUND FACTS

4. The complainant, Ms. Sangeeta Madan had joined Madhya Pradesh Higher Judicial Services in 2011 after being selected in Madhya Pradesh Higher Judicial Services (Direct Recruitment from Bar) Exam, 2011. The complainant is a law graduate from Campus Law Centre, Delhi University, New Delhi. Prior to her recruitment in Madhya Pradesh Higher Judicial Services, she had practised as an advocate for fifteen years at the courts in Delhi from the year 1995 to 2011. She is married to a Delhi based Architect and has two daughters out of the wedlock. On her being selected in Madhya Pradesh Higher Judicial Services, on 01.08.2011, she was posted as Additional District and Sessions (trainee) Judge at Gwalior. She shifted to Gwalior along with her two daughters and aged parents. Her husband chose to stay at Delhi and commute to Gwalior every now and then. She successfully completed her training under the guidance of the then District Judge Mr. D.K. Paliwal. On 16.10.2012, she was posted as VIII Additional District and Sessions Judge, Gwalior. In addition to her responsibility as VIIIth ADJ and VIIIth member of MACT, the complainant was assigned responsibility of Special Court dealing with offences against women. On 09.04.2013, the complainant was also appointed the Chairperson of District Vishaka Committee. The complainant was also assigned the additional responsibility of Special Judge under the *Madhya Pradesh Dakaiti Aur Vayapaharan Prabhavit Kshetra Adhiniyam*.

5. Respondent, Justice S.K. Gangele was elevated as a High Court Judge, M.P. on 11.10.2004 from the Bar. He was posted at the Indore Bench of the High Court of M.P. where he discharged his judicial responsibilities till May, 2006. In June, 2006 he was transferred to the Gwalior Bench of the High Court and on 25.06.2011 he was nominated to be the Administrative Judge of the Gwalior Bench. He was also Portfolio Judge of the District Gwalior and thus was empowered to supervise the functioning of the District Court, Gwalior. Being the Portfolio Judge, Justice Gangele was in-charge of assessing the work of the complainant.

6. During this time, Justice Gangele is alleged to have sexually harassed the complainant. The complainant has given four specific instances of sexual harassment (i) the 25th Wedding Anniversary celebration of Justice Gangele which was convened on 10th and 11th December, 2013, *Ladies Sangeet* and main event respectively; (ii) During

the month of January, 2014, respondent-Justice Gangele used to send messages through the District Registrar asking complainant to meet Justice Gangele; (iii) wedding ceremony of a Judicial Officer Ms. Shivani Sharma on 22.02.2014; and (iv) farewell function on the retirement of Justice Saxena in April, 2014. Complainant further alleges that as she was resisting the sexual harassment meted out to her by Justice Gangele, at his behest, she was subjected to harassment by constant intense surveillance and also creating problem in providing staff for discharge of her official duties. Complainant alleged that in continuance of harassment at the behest of Justice Gangele, in July, 2014 in the mid-term, she was transferred from Gwalior (Category 'A' city) to Sidhi (Category 'C' city) in violation of Transfer Policy of Madhya Pradesh High Court and her representations were rejected. Left with no other option, the complainant resigned from the post of Additional District and Sessions Judge, Gwalior *vide* letter dated 15.07.2014. *Vide* order dated 17.07.2014 issued by Government of M.P., Law and Legislative Affairs Department, complainant's resignation was accepted with immediate effect and a copy of the same was effected upon her.

C. OTHER PROCEEDINGS

(i) COMMITTEE CONSTITUTED BY THE HIGH COURT OF MADHYA PRADESH

7. Complainant-Ms. Sangeeta Madan sent a letter to the Chief Justice of India dated 1st August, 2014 seeking:- (i) appropriate action after a fact finding; (ii) to reconsider the circumstances under which she was coerced and that she was left with no option but to resign; (iii) to institute an appropriate mechanism for redressal of such grievances of subordinate services Judicial Officers. Chief Justice of India called for remarks from the Chief Justice of Madhya Pradesh High Court. On 9th August, 2014, Chief Justice of Madhya Pradesh High Court sent a response to Chief Justice of India stating he had constituted a Two-Member Committee consisting of two Senior Sitting Judges of the Madhya Pradesh High Court to inquire into the matter and submit a report. Two-Judges Committee constituted by the Chief Justice of Madhya Pradesh High Court sent a communication to complainant-Ms. Sangeeta Madan dated 12th August, 2014 calling upon her to appear before the Committee for a preliminary inquiry on 19th August, 2014. Complainant-Ms. Sangeeta Madan had submitted a reply seeking clarification on the authority of law under which Two-Judges Committee had

been constituted. Ms. Sangeeta Madan had also raised objection as to the fairness of the inquiry to be conducted by the said In-house Committee constituted by the Chief Justice of Madhya Pradesh High Court.

(ii) **WRIT PETITION NO. 792 OF 2014 FILED BEFORE THE SUPREME COURT OF INDIA UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA**

8. Complainant-Ms. Sangeeta Madan has filed this Writ Petition impleading the Registrar General of the High Court of Madhya Pradesh and Justice Gangele, challenging the constitution of an In-house Committee by the Chief Justice of High Court of Madhya Pradesh. The Supreme Court dispose of the case by quoting that the role of the Chief Justice of the High Court is limited to the first stage of the investigative process, during which the only determination is whether a *prima facie* case is made out requiring a deeper probe and that the Chief Justice of the High Court of Madhya Pradesh had exceeded the authority vested in him under the “In-House Procedure”. After referring to the “In-House Procedure” applicable to the sitting Judges of the High Courts and that the same is compartmentalized into two stages, in ***Addl. District and Sessions Judge 'X' v. State of M.P.*** (2015) 4 SCC 91 in paras (46) to (49), it was held as under:-

“46. A perusal of the “In-House Procedure” applicable to sitting Judges of High Courts reveals that the same is compartmentalised into two stages:

46.1. Through the first stage, the *prima facie* veracity of the allegations contained in the complaint is ascertained. If so, whether a deeper probe is called for. The first stage does not contemplate an in-depth examination of the allegations. It requires merely an assessment based on the contents of the complaint, and the response of the Judge concerned. All that the Chief Justice of the High Court is required to do, is to determine whether a deeper probe is required. This is to be done, on the basis of a logical assessment made on a consideration of the response of the Judge concerned (with reference to the allegations levelled in the complaint).

46.2. It is the second stage of the “In-House Procedure”, relating to sitting Judges of the High Courts, which could lead to serious consequences. The second stage is monitored by none other than the Chief Justice of India. Only if the Chief Justice of India endorses the view expressed by the Chief Justice of the High Court, that a deeper probe is called for, he would constitute a “three-member Committee”, and thereby take the investigative process to the second stage. This Committee is to comprise of two Chief Justices of High Courts (other than the High Court concerned), besides a Judge of a High Court. The second stage, postulates a deeper probe. Even though the “three-member Committee” is at liberty to devise its own procedure, the inherent requirement provided for is, that the procedure evolved should be in consonance with the rules of natural justice. Herein, for the first time, the authenticity of the allegations, are to be probed, on the basis of an inquiry. The incumbents of the “three-member Committee”, would have no nexus, with the Judge concerned. Not only would the Judge concerned have a fair opportunity to repudiate the allegations levelled against him, even the complainant would

have the satisfaction, that the investigation would not be unfair. The “In-House Procedure” was devised to ensure exclusion of favouritism, prejudice or bias.

47. By forwarding the complaint received by the Chief Justice of India against Respondent 3 Justice A, to the Chief Justice of the High Court, the “In-House Procedure” was sought to be put in motion. The extract of the “In-House Procedure” (applicable to sitting Judges of High Court), reproduced in Para 33 above reveals, that the same is expressed in the simplest possible words. For recording our conclusions, we have endeavoured to explain the same through “seven steps” contemplated therein. The description of the “In-House Procedure” relating to sitting High Court Judges is being narrated hereunder, stepwise:

47.1. Step one

(i) A complaint may be received, against a sitting Judge of a High Court, by the Chief Justice of that High Court;

(ii) A complaint may also be received, against a sitting Judge of a High Court, by the Chief Justice of India;

(iii) A complaint may even be received against a sitting Judge of a High Court, by the President of India. Such a complaint is then forwarded to the Chief Justice of India;

In case of (i) above, the Chief Justice of the High Court shall examine the contents of the complaint, at his own, and if the same are found to be frivolous, he shall file the same.

In case of (ii) and (iii) above, the Chief Justice of India shall similarly examine the contents of the complaint, by himself, and if the same are found to be frivolous, he shall file the same.

47.2. Step two

(i) The Chief Justice of the High Court, after having examined a complaint, may entertain a feeling, that the complaint contains serious allegations, involving misconduct or impropriety, which require a further probe;

(ii) The Chief Justice of India, on examining the contents of a complaint, may likewise entertain a feeling, that the complaint contains serious allegations, involving misconduct or impropriety, which require a further probe;

In case of (i) above, the Chief Justice of the High Court, shall seek a response from the Judge concerned, and nothing more.

In case of (ii) above, the Chief Justice of India, shall forward the complaint to the Chief Justice of the High Court. The Chief Justice of the High Court, shall then seek a response from the Judge concerned, and nothing more.

47.3. Step three

The Chief Justice of the High Court shall consider the veracity of the allegations contained in the complaint, by taking into consideration the response of the Judge concerned. The above consideration will lead the Chief Justice of the High Court, to either of the below mentioned inferences:

(i) The Chief Justice of the High Court, may arrive at the inference, that the allegations are frivolous. In the instant eventuality, the Chief Justice of the High Court shall forward his opinion to the Chief Justice of India.

(ii) Or alternatively, the Chief Justice of the High Court, may arrive at the opinion, that the complaint requires a deeper probe. In the instant eventuality, the Chief Justice of the High Court, shall forward the complaint, along with the response of the Judge concerned, as also his own consideration, to the Chief Justice of India.

47.4. Step four

The Chief Justice of India shall then examine, the allegations contained in the complaint, the response of the Judge concerned, along with the consideration of the

Chief Justice of the High Court. If on such examination, the Chief Justice of India, concurs with the opinion of the Chief Justice of the High Court (that a deeper probe is required, into the allegations contained in the complaint), the Chief Justice of India, shall constitute a “three-member Committee”, comprising of two Chief Justices of the High Courts (other than the High Court, to which the Judge belongs), and one High Court Judge, to hold an inquiry, into the allegations contained in the complaint.

47.5. Step five

The “three-member Committee” constituted by the Chief Justice of India, shall conduct an inquiry, by devising its own procedure, consistent with the rules of natural justice. On the culmination of the inquiry, conducted by the “three-member Committee”, it shall record its conclusions. The report of the “three-member Committee”, will be furnished, to the Chief Justice of India. The report could lead to one of the following conclusions:

That, there is no substance in the allegations levelled against the Judge concerned; or that there is sufficient substance in the allegations levelled against the Judge concerned. In such eventuality, the “three-member Committee”, must further opine, whether the misconduct levelled against the Judge concerned is so serious, that it requires initiation of proceedings for removal of the Judge concerned; or that, the allegations contained in the complaint are not serious enough to require initiation of proceedings for the removal of the Judge concerned.

In case of (i) above, the Chief Justice of India, shall file the complaint.

In case of (ii) above, the report of the “three-member Committee”, shall also be furnished (by the Committee) to the Judge concerned.

47.6. Step six

If the “three-member Committee” constituted by the Chief Justice of India, arrives at the conclusion, that the misconduct is not serious enough for initiation of proceedings for the removal of the Judge concerned, the Chief Justice of India shall advise the Judge concerned, and may also direct, that the report of the “three-member Committee” be placed on record. If the “three-member Committee” has concluded, that there is substance in the allegations, for initiation of proceedings, for the removal of the Judge concerned, the Chief Justice of India shall proceed as under:

(i) The Judge concerned will be advised, by the Chief Justice of India, to resign or to seek voluntary retirement.

(ii) In case the Judge concerned does not accept the advice of the Chief Justice of India, the Chief Justice of India, would require the Chief Justice of the High Court concerned, not to allocate any judicial work, to the Judge concerned.

47.7. Step seven

In the eventuality of the Judge concerned not abiding by the advice of the Chief Justice of India, as indicated in step six above, the Chief Justice of India, shall intimate the President of India and the Prime Minister of India, of the findings of the “three-member Committee”, warranting initiation of proceedings, for removal of the Judge concerned.

48. It is apparent from the “seven steps” of the “In-House Procedure”, for sitting High Court Judges, that the role of the Chief Justice of the High Court, is limited to the first three steps. We are satisfied, that the main contention advanced by the learned counsel for the petitioner, relying on the “In-House Procedure” is fully justified. There can be no doubt, that it was not open to the Chief Justice of the High Court, either to constitute the “two-Judge Committee”, or to require the “two-Judge Committee”, to hold an inquiry into the matter, by recording statements of witnesses. The role of the Chief Justice of the High Court, being limited to the first stage of the investigative process, during which the only determination is, whether a prima facie case is made out requiring a deeper probe; the Chief Justice of the High Court had exceeded the authority vested in him under the “In-House Procedure”. It is only in the

second stage of the investigative process, that the Chief Justice of India, is to constitute a three-member Committee” for holding a deeper probe, into the allegations levelled in the complaint. The learned counsel for the petitioner, was fully justified, in submitting, that the “two-Judge Committee” constituted by the Chief Justice of the High Court, was beyond the purview of the “In-House Procedure”.

49. Having examined the facts and circumstances of the case, we are of the view, that by not strictly abiding by the procedure contemplated under the “In-House Procedure” evolved by this Court, the Chief Justice of the High Court, introduced serious infirmities in the investigative process. These infirmities were of the nature which were sought to be consciously avoided under the “In-House Procedure”. We may mention a few. It is apparent, that the “In-House Procedure” contemplated an independent holistic two-stage process. We have described hereinabove, that the first stage comprises of steps “one” to “three”. The first stage is limited to a prima facie consideration, at the hands of the Chief Justice of the High Court, for determining whether a deeper probe into the matter was required. The first stage of the “In-House Procedure” contemplates the implied exclusion of colleague Judges from the same High Court. In the process adopted by the Chief Justice of the High Court, he has consciously involved colleague Judges of the same High Court. This was sought to be avoided under the “In-House Procedure”. Unfortunately, what the Chief Justice of the High Court has embarked upon, is not a prima facie determination, but a holistic consideration of the allegations. This is also wholly contrary to the “In-House Procedure”. The Chief Justice of the High Court, has actually embarked upon steps “four” to “seven”, which are a part of the second stage of the “In-House Procedure”. The second stage of the “In-House Procedure” envisages a deeper probe, which is to be monitored by the Chief Justice of India himself. If the proceedings move to the second stage, the Chief Justice of India, would nominate a “three-member Committee”. In the process adopted by the Chief Justice of the High Court, he has usurped the investigative process, assigned to the “three-member Committee”. The Chief Justice of the High Court, has himself, commenced the deeper probe, through the “two-Judge Committee”. Furthermore, under the second stage, the inquiry is to be conducted by two sitting Chief Justices of High Courts, and one Judge of a High Court. An inquiry conducted by the “three-member Committee”, in terms of the “In-House Procedure”, would have a wholly different impact. Not only would the parties concerned feel reassured that justice would be done, even the public at large would be confident, that the outcome would be fair and without any prejudices. By doing so, the Chief Justice of the High Court, ignored the wisdom of the Committee of Judges, who devised the “In-House Procedure”, as also, the determination of the Full Court of the Supreme Court of India. In the procedure adopted by the Chief Justice of the High Court in the instant case, it is possible for one or the other party to feel, that he/she may not get justice at the hands of the “two-Judge Committee”. In fact, that is exactly the position in the present case. For the reasons recorded hereinabove, the proceedings adopted by the Chief Justice of the High Court are liable to be set aside. The same are accordingly hereby set aside.”

(iii) IN-HOUSE COMMITTEE CONSTITUTED BY THE SUPREME COURT

9. After the above writ petition was disposed, the Chief Justice of India constituted an In-house Committee headed by Dr. Justice D.Y. Chandrachud, the then Chief Justice of the Allahabad High Court, Justice G. Rohini, Chief Justice of Delhi High Court and Justice Ajay Rastogi, Senior Judge of the Rajasthan High Court. After inquiry, the Committee constituted by the Chief Justice of India submitted its report on 02.07.2015

stating that the material is insufficient to establish the charge of sexual harassment on the basis of the three alleged incidents of 10/11 December, 2013 (25th Wedding Anniversary event), 22nd February, 2014 (the wedding of a judicial officer) and April, 2014 (farewell event for a retiring judge of the High Court). The Committee ordered that the Committee or the parties shall not refer to any of the findings of the said In-House Committee.

(iv) Notice of Motion: It was moved on 17.03.2015 and Rajya Sabha has passed the motion for removal of Justice Gangele on the following three grounds of misconduct:-

- (i) **Sexual harassment of a woman Additional District and Sessions Judge while being a sitting Judge of the Gwalior bench of the High Court of Madhya Pradesh;**
- (ii) **Victimization of the said Additional District and Sessions Judge for not submitting to his illegal and immoral demands, including but not limited to transferring her from Gwalior to Sidhi; and**
- (iii) **Misusing his position as the Administrative Judge of the High Court of Madhya Pradesh to use the subordinate judiciary to victimize the said Additional District and Sessions Judge.**

These grounds of misconduct have been framed as charges by proceedings dated 02.07.2016 with grounds stated thereon.

D. GIST OF AVERMENTS IN THE COMPLAINT

10. In her affidavit before the Committee, the complainant has filed the detailed affidavit referring to specific instances of sexual harassment, based on which she purports to justify her allegation of sexual harassment by Justice Gangele:-

- (i) The first instance relates back to 10/11.12.2013, 25th Wedding anniversary of the respondent judge. The complainant has alleged that on 08.12.2013 or 09.12.2013, she received a call on her landline from the wife of CJM, Gwalior, Mr. Rajendra Chaurasia, informing her that Justice Gangele is eager to see her perform on an item song at *Ladies Sangeet* function, which was being celebrated on 10.12.2013 as a part of the 25th marriage anniversary celebrations of Justice Gangele. This proposal was to her utmost shock, but keeping in view the judicial hierarchy, she avoided the same on the pretext that she had to celebrate her younger daughter's birthday. However, owing to

the official protocol, she went to attend the main celebrations scheduled on 11.12.2013 alongwith her two daughters. The complainant has alleged that Justice Gangele found an opportunity to come close to her and uttered the following sexually coloured remarks against her:

"main aapki sexy aur khoobsurat figure ko dekhne se reh gaya. Kash aapko naachte hue dekh pata"

"he missed the opportunity of viewing a sexy and beautiful figure dancing on the floor and that he is desperate to see the same." [English translation]

(ii) During the month of January, 2014, Justice Gangele continued to send numerous messages through District Registrar asking the complainant to meet him at his bungalow and according to the complainant Justice Gangele was usually living alone in his house without his wife and daughters, which amounts to sexual harassment.

(iii) Third incident relates to 22.02.2014 when the complainant and Justice Gangele met at the wedding ceremony of a judicial officer. Allegedly, Justice Gangele, in the presence of complainant's 16 years old daughter, kept his hand on her back and made following remarks:

"aapka kaam to bahut accha hai par aap apne kaam se bahut khubsurat hain. Aapko dekhkar apni aankhein jhapkaane ka mann nahi karta"

"you have an excellent work performance but you are more beautiful than your work, I do not even want to blink my eyes." [English translation]

(iv) Fourth incident pertains to a farewell party of Justice G.D. Saxena organized by District Judiciary, Gwalior in April, 2014. Complainant alleges that Justice Gangele continuously stared at her and inspite of several efforts to avoid the same, she found herself in his constant gaze. Complainant left the party with her children before Justice Gangele could make any advances towards her.

(v) At all the above instances, the complainant silently left the gathering without making any hue and cry, so as to avoid embarrassment and disrespect. Moreover, the complainant states that she was thoughtful of Justice Gangele's authority and power which he could have misused to her disadvantage. The complainant has further alleged that from time to time she had been receiving numerous messages from Justice Gangele through the District Registrar, asking her to meet him at his residence where he usually used to reside alone without his wife and daughters. Also, the complainant

has alleged that Justice Gangele showed an abnormally high interest in the complainant's work.

(vi) **Hostile work environment:** The complainant has further claimed that she was subjected to intense forms of surveillance and harassment in her professional work as a consequence of not paying heed to the sexual advances of Justice Gangele. The allegation of the complainant that the respondent judge was misusing his position by using the subordinate judiciary to victimize her in discharging her duties as a judicial officer is on three fold: (i) not allotting/deputing peons as per her entitlement as ADJ; (ii) when she was on leave, in particular on 09.05.2014 deputing her stenographer and other staff to other courts for the whole day thereby depriving her of her staff in discharging her official work; and (iii) putting the complainant to strict surveillance by various inspections by the District Judge, Mr. Kamal Singh Thakur and District Judge (Inspection) Rajeev Sharma.

(vii) The Complainant sought an appointment with Justice P.K. Jaiswal and met him alongwith her husband on 01.06.2014 at Jabalpur and informed him about her grievances. Justice P.K. Jaiswal had assured the complainant to look into her grievances. But, no changes were brought about in the conduct of the authorities towards the complainant. Even after fifteen days of summer break, the complainant continued to be understaffed with regard to additional responsibility of two special courts. In this regard, she went to talk to the District Judge, Mr. Kamal Singh Thakur but was of no avail. The complainant alongwith her husband Mr. Sanjay Madan met the respondent Judge in the morning of 29.06.2014. The complainant alleges that Justice Gangele got irritated by seeing that the complainant was accompanied by her husband and thus, asked to meet him after 15 days as he was occupied that day and the complainant was subjected to hostile environment.

(viii) **Mid-term transfer and rejection of application seeking eight months extension:** Before completion of normal tenure of three years at Gwalior, on 08.07.2014, complainant was suddenly transferred to a remote place, District Sidhi as 2nd Additional Judge to 1st Additional District and Sessions Judge. Allegation of complainant is that Justice Gangele misused his position to get the complainant

transferred in the mid of session for not fulfilling his immoral demands. On 09.07.2014, complainant submitted a representation before the Registrar General, M.P. High Court seeking extension of eight months in terms of Clause 9(a) of the Transfer Policy of the Madhya Pradesh High Court on the ground that her elder daughter was studying in Class XII and was to appear in the Board exams that year and the said representation dated 09.07.2014, was rejected. In terms of Clause (16) of the Transfer Policy, the complainant made another representation dated 11.07.2014 for being transferred to a Class 'B' station and the same was also rejected on 14.07.2014. The complainant tried for an appointment with the Chief Justice of the High Court; inspite of her efforts, Ms. Sangeeta Madan could not meet the Chief Justice.

(ix) The Complainant alleged that when she called Justice Gangele on 10.07.2014 to consider her application seeking extension, as he was supposed to give a no-objection certificate to her application, according to her, the respondent Judge stated that "*your transfer is for not fulfilling my aspirations and for not visiting my bungalow alone even once. I will spoil your career completely*". According to the complainant, left with no other option, she resigned from the post of Additional District and Sessions Judge, Gwalior *vide* letter dated 15.07.2014. *Vide* order dated 17.07.2014 issued by the Government of M.P., Law and Legislative Affairs Department, her resignation was accepted with immediate effect and a copy of the same was effected upon her.

E. GROUNDS OF MISCONDUCT

11. By the proceedings of the Committee dated 05.09.2015 on the basis of the affidavit of the complainant and the above three grounds of misconduct, the following charges were framed by the Committee:-

- (i) **That on 09.12.13, the wife of CJM Gwalior, Shri Rajender Chaurasia called on the landline and told Ms. Madan that you are eager to see her perform a dance on an item song at the ladies sangeet on 10.12.2013 on the occasion of your 25th marriage anniversary and pursuant thereto on 11.12.2013, you found an opportunity to come close to Ms. Madan and whispered to her that "*main aapki sexy aur khubsoorat figure ko dekhne se rah gaya. Kash aapko nachte huey dekhata*", which comments amounted to sexual harassment of Ms. Madan.**

- (ii) That during the months of January 2014, you continued to send numerous message through the District Registrar asking Ms. Madan to meet you at your bungalow, though according to Ms. Madan you were usually living all alone in your house without wife and daughters.
- (iii) That on the occasion of a marriage party of a judicial officer on 22.02.2014, you in the presence of Ms. Madan and her 16 year old daughter told Ms. Madan that “*although your work is very good, but you are far more beautiful than your work*” and that you further went on to say that looking at Ms. Madan, one does not desire even to blink one’s eyes. Further, while making the above remarks, you put your hand on her back.
- (iv) That due to the fact that Ms. Madan did not respond to your overtures, you, in your capacity as Administrative Judge, subjected Ms. Madan to intense surveillance and harassment from April 2014 onwards as stated in paragraph 18-24 of the Affidavit of Ms. Madan dated 31st August, 2015.
- (v) That during the period of May 2014 to June 2014, you, subjected Ms. Madan to victimization by denying her a full office staff as stated in paragraph 26-35, paragraph 40 and paragraph 46-47 of the Affidavit of Ms. Madan dated 31st August, 2015.
- (vi) That on 08.07.2014, at your instance and with mala fide, Ms. Madan was suddenly transferred to Sidhi, a Naxal affect area. That the transfer was made solely to punish Ms. Madan and that on 10.07.2014, when Ms. Madan contacted you to plead with you to not go through with the transfer as her daughter was in Class 12, as stated by Ms. Madan in particular paragraph 55, 72, 80 and 82 of her Affidavit dated 31st August, 2015, you responded by stating that she had not fulfilled your desires and that she had not visited your residence alone to meet you even once. You further told Ms. Madan that you would finish her career completely.
- (vii) That as a result of the above acts on your part, as stated by Ms. Madan in paragraph 65, Ms. Madan was forced to resign from her post of Additional and Sessions Judge.
- (viii) “In April 2014, a farewell party was organized by the Gwalior District Judiciary for a retiring judge, Justice G.D. Saxena, in which all the Judges of the Gwalior Bench of the Madhya Pradesh High Court were invited and in the dinner you continuously stared at the complainant, Ms. Sangeeta Madan. However, much she avoided, she always found herself under your constant gaze. Sensing your attitude, complainant left the party with her children

before you could make any advances towards her.” (This additional ground was added as per the record proceedings of the Committee dated 02.07.2016)

The above grounds of misconduct and charges with particulars alongwith a statement of the grounds were served on Justice Gangele alongwith notice dated 16.09.2015.

12. By the proceedings dated 02.07.2016, charges framed as stated above in para (7) were modified and the “three grounds of misconduct” communicated to the respondent-Judge have been framed as charges against the respondent-Judge. The three specific charges framed against the respondent-Judge are as under:-

1. **Sexual harassment of a woman Additional District and Sessions Judge while being a sitting Judge of the Gwalior Bench of the High Court of Madhya Pradesh;**
2. **Victimisation of the said Additional District and Sessions Judge for not submitting to his illegal and immoral demands, including but not limited to transferring her from Gwalior to Sidhi; and**
3. **Misusing his position as the Administrative Judge of the High Court of Madhya Pradesh to use the subordinate judiciary to victimise the said Additional District and Sessions Judge.**

F. STATEMENT OF DEFENCE OF JUSTICE GANGELE

13. On receipt of notice, Justice Gangele has filed a detailed counter affidavit in three volumes. Gist of the counter affidavit is as under:-

(i) Justice Gangele has categorically denied the allegations of sexual harassment levelled against him by the complainant. With respect to the very first instance pertaining to the 25th Marriage Anniversary Celebrations on 11.12.2013 Justice Gangele maintained that during the main event of reception, he was all the time in the company of his wife at the stage where all the guests came and wished them and he was interacting with all the guests and having dinner. In order to substantiate his defence he has produced various documentary evidence including video tapes of the social gatherings in which the instances of sexual harassment have been alleged to have taken place. Justice Gangele has denied that he asked Ms. Divya Chourasia, to call the complainant and inform her that he is eager to see the complainant perform an item

song at the *Ladies Sangeet* function scheduled on 10.12.2013. Justice Gangele has produced videotapes and photographs of his wedding anniversary celebrations.

(ii) Adverting to the second instance of sexual harassment, Justice Gangele has stated that on 22.02.2014, he attended the marriage ceremony of judicial officer, Ms. Shivani Sharma which was also attended by the complainant. Justice Gangele has maintained that he attended the function for approximately thirty minutes and during that time he was accompanied by CJM Mr. Rajendra Chourasia and other Judicial Officers. Justice Gangele has totally denied having any interaction with the complainant during his short presence at the ceremony and denied the allegation that he put his hand on complainant's back in the presence of her daughter. He states that the complainant was accompanied by her husband and daughter and also Ms. Bhavna Singh, Civil Judge, Gwalior and there was no occasion for him to behave in such a manner as alleged by the complainant in her affidavit. To substantiate his defence, Justice Gangele has produced the videotape of marriage ceremony of judicial officer Ms. Shivani.

(iii) The respondent judge has also denied having sent any messages through District Registrar, Naveen Sharma.

(iv) Justice Gangele has also denied the third incident at the farewell function of Justice Saxena in April, 2014 and the allegation that he continuously stared at the complainant. Justice Gangele maintained that he was the chief guest and presiding the farewell function and that it is inconceivable that he would continuously stare at the complainant in the midst of the function and the same would go unnoticed by other attendees.

(v) **Reply to the allegation of creating a hostile work environment:** Justice Gangele has denied that misusing his position, he subjected the complainant to intense surveillance and harassment from April, 2014 onwards in the course of discharge of her official duties through the District Judge (Inspection) and District Registrar. He has maintained that any inspection/visit by the District Judge and District Registrar must have been in discharge of their regular official work. He has further submitted that on 30.05.2014, when the complainant called him on telephone, she only mentioned about her problem relating to unavailability of a full time Bungalow office peon and as her

regular peon was on leave, and that he assured her to discuss the problem later. Justice Gangele has stated that after the re-opening of the court, in pursuance of the complainant's request, on 28.06.2014 he gave her an appointment at his residence. He has also maintained that the complainant along with her husband visited his residence on 29.06.2014 and he assured her of conveying her grievances to the District Judge, in spite of the fact that allocating peons is the work of District Judge. Justice Gangele has also denied the complainant's allegations of creating hostile work environment by directing District Judge and District Registrar.

(vi) **Reply to the allegation of getting the complainant transferred to District Sidhi:** Justice Gangele has maintained that the complainant was transferred on administrative grounds and all powers in relation thereto, including any representations for extension of complainant's tenure, were to be exercised by the Chief Justice of the High Court and/or the Transfer Committee which comprised of Justice Rajendra Menon and Justice Sanjay Yadav. Justice Gangele has stated that being the Portfolio Judge he had no role to play in the transfer of the complainant. Justice Gangele maintained that it is incorrect to state that the complainant was transferred to District Sidhi, an allegedly Naxal affected area, as a vengeance for not fulfilling his alleged immoral demands. He further denied having any conversation with the complainant wherein he has stated that the complainant did not fulfill his desires and that she didn't visit his residence alone to meet him even once and, therefore, he would finish her career completely. Justice Gangele has admitted that he received a call from the complainant on 08.07.2014 concerning her mid-term transfer to which he replied by informing her that he had no power in respect of transfer of judges. He further admits that the complainant again called him on 10.07.2014 to seek his help in cancellation of her transfer; but did not seek his help for the extension of her tenure at Gwalior. Justice Gangele states that he had given the same answer that he was not part of the Transfer Committee and thus, he can be of no help to her in this regard. He also asked complainant not to contact him again. He maintains that the complainant has concocted a false and fabricated story to 'meet her ends'.

(vii) Lastly, Justice Gangele has denied the case of the complainant that she was forced to resign from her post as a consequence of her victimization at his behest and

his alleged misuse of position as a sitting judge of the High Court. He maintains that complainant's resignation was voluntary; at the time of her resignation when the complainant had gone with her husband to tender one month's salary in lieu of the notice period, she was asked to reconsider the same, which she had refused. He has further stated that at the time of resigning, the complainant had stated that she was resigning looking at her daughter's career; at that time, she had not made any allegation of sexual harassment.

14. By the proceeding dated 02.07.2016, the order dated 05.09.2015 was modified and '**three grounds of misconduct**' as in the Notice of Motion for removal of Justice Gangele were framed '**as charges**'. The seven charges framed by the earlier proceeding dated 05.09.2015, were taken as statement of gist of grounds to support the charges as per the elaborate statement of grounds served upon the respondent.

15. On the above averments of the complainant and defence statement of the respondent and the charges, Committee proceeded with the inquiry. Inquiry commenced on 04.12.2015 and ended on 19.08.2017 and spread over twenty five hearings. Complainant Ms. Sangeeta Madan examined herself as complainant Witness No.1. On behalf of complainant, complainant Witnesses No.2 to 4 were examined. On the side of complainant, Exhibit Nos. C/1 to C/8 were marked. On the side of respondent, Justice Gangele examined himself as respondent Witness No.1 and examined other witnesses as respondent witnesses Nos.2 to 7. On the side of the respondent, Exhibit Nos.R/1 to R/28A were marked. On behalf of the Committee, Justice Rajendra Menon, Justice P.K. Jaiwal, Mr. V.P. Sharma and Kamal Singh Thakur and few other witnesses were examined as JIC witness Nos.1 to 11 and Exhibit Nos. JIC/1 to JIC/44 were marked as relevant documents for the purpose of investigation.

G. PROCEDURE ADOPTED BY THE COMMITTEE

16. By order dated 12.11.2015, it was directed that the complainant shall be entitled to lead evidence as well as cross-examine any witness produced before/examined by the Committee. In furtherance of the same, by order dated 04.12.2015, the complainant was given the option to lead evidence and file a list of witnesses. It was further ordered that if the counsel for the Committee i.e. Mr. Sanjay Jain leads evidence, the role of the

counsel for the complainant would be limited to assisting the counsel for the Committee. Both complainant and respondent were represented by senior advocates, who in turn were assisted by team of advocates. The enquiry was a full-fledged one. Both complainant and respondent were given sufficient opportunity to adduce evidence and cross-examine the witnesses examined by the Committee as well as the witnesses examined by the opposite party.

17. One procedural aspect of the hearings conducted by this Committee needs special mention. During the examination of the complainant as well as examination of the other witnesses, the respondent being a sitting judge of the High Court and in view of certain apprehensions expressed by the complainant, it was thought apposite to ask the respondent judge to sit in another room adjacent to the Committee room and to witness the proceeding through video interface. The respondent thus participated in the proceedings through video interfacing (*Vide* order dated 23.07.2016). This procedure was adopted throughout the examination of the Committee's witnesses. Thereafter, during the examination of complainant's witnesses commencing from 18.02.2017, the respondent judge sat in the Committee hall and directly participated in the proceedings. The said procedure was adopted with a view to balance the right to natural justice of the complainant as well as the respondent judge.

18. Chief-examination of the Committee's witnesses was led by Mr. Sanjay Jain, learned senior counsel appointed by the Rajya Sabha in terms of Section 3(9) of the Judges (Inquiry) Act, 1968. However, *Vide* order dated 04.12.2015 of the Committee, the learned senior counsel Mr. Sanjay Jain was termed as *amicus curiae*. Thereafter, the witnesses were cross-examined on behalf of the complainant as well as the respondent judge (*Vide* order dated 23.07.2016). After Committee's witnesses (JIC W.Nos.1 to 11) were examined at length (examination of witnesses were stretched over a period of about one year), Application No.31 dated 09.12.2016 was filed by the respondent judge seeking recall of orders/minutes dated 12.11.2015 and 04.12.2015 which enabled the complainant to lead evidence and cross-examine the witnesses produced before/examined by the Committee on the ground that the said order rendered the Committee "*adversarial*" which is contrary to the scheme of the Judges (Inquiry) Act, 1968 and derogatory to the constitutional position held by the respondent

judge. In the said application, it was urged that the proceedings under Judges (Inquiry) Act, 1968 is only a fact finding inquiry and that the same is a closed affair between the Rajya Sabha and the respondent judge. The said application was dismissed by an elaborate reasoned order dated 22.01.2017 which has been challenged by the respondent judge before the Supreme Court in Writ Petition (C) No.85 of 2017 on 03.02.2017 and the same is pending before the Supreme Court.

H. REMOVAL OF A JUDGE:-

19. Article 124 of the Constitution of India provides for the establishment and constitution of the Supreme Court of India and clauses 4 and 5 of the Article provide for removal of a judge:

"124. Establishment and constitution of Supreme Court-

.....

(4) A Judge of the Supreme Court shall not be removed from his office except by an order of the President passed after an address by each House of Parliament supported by a majority of the total membership of that House and by a majority of not less than two-third of the members of the House present and voting has been presented to the President in the same session for such removal on the ground of proved misbehavior or incapacity.

(5) Parliament may by law regulate the procedure for the presentation of an address and for the investigation and proof of the misbehavior or incapacity of a Judge under clause (4)." (Emphasis supplied)"

20. Article 217 of the Constitution of India provides for Appointments and conditions of the office of a judge of a High Court and clause 1 (b) of the Article provides that:

"217. Appointment and conditions of the office of a Judge of a High Court-

(1).....

(b) a Judge may be removed from his office by the President in the manner provided in clause (4) of Article 124 for the removal of a Judge of the Supreme Court,"

As per the scheme of our constitution, a Judge of the Supreme Court or the High Court can be removed from his Office only as provided in clauses (4) and (5) of Article 124 and Article 217 of the Constitution of India by impeachment. Article 124(4) provides that removal can be made only on proved misbehavior or incapacity.

21. In pursuance to the provision of Article 124 (5) of the Constitution, the Parliament has enacted the Judges (Inquiry) Act, 1968 and Judges (Inquiry) Rules, 1969 regulating the procedure for presentation of address and for investigation and proof of misbehavior or incapacity of a Judge. The Judges (Inquiry) Act, 1968 provides the manner of conducting inquiry into the allegation of judicial misconduct upon a motion of

impeachment sponsored by at least hundred members of Lok Sabha where notice is given in Lok Sabha and fifty members of Rajya Sabha in case if notice is given in Rajya Sabha. The Presiding Officer of the concerned House has the power to constitute a Committee consisting of three persons as enumerated therein. The Judges (Inquiry) Act, 1968 has made the removal of a Supreme Court Judge or a High Court Judge subject to a Constitutional and Statutory process consisting of several stages. At every stage of the process, the Statute provides for careful consideration whether motion for removal should be continued. This shows that our constitution framers acknowledged the dignity and independence of the higher judiciary, as it was directly linked with the confidence of the people in the judiciary and intended only to remedy grave misconducts on the part of the Judges. Such grave misconduct however, need to be substantially proved, so as to save the integrity and image of the higher Judiciary from being easily tarnished. If the report of the Inquiry Committee finds a Judge guilty of misbehaviour or finds the Judge suffers from incapacity, then the motion for removal alongwith the Report of the Committee is forwarded to Speaker/Deputy Speaker who shall lay the Report alongwith the Motion for Removal before the Parliament for its consideration under Section 6 and thereafter the provisions of Article 124 (4) take over.

22. Black's law dictionary (10th Edition) defines 'Misbehaviour' as:

"One or more bad acts that are unacceptable in the eyes of the law or of other people in general" and Misbehaviour in office as Official Misconduct which is "A public officer's corrupt violation of assigned duties by malfeasance, misfeasance, or nonfeasance.- Also termed misconduct in office; misbehavior in office; malconduct in office; misdemeanor in office; corruption in office; official corruption; political corruption." Misconduct is defined as "dereliction of duty; unlawful, dishonest, or improper behavior, esp. by someone in a position of authority or trust."

The Constituent Assembly Debates with respect to Article 124 do not provide much guidance with regard to the meaning of the words, "misbehaviour". The debates revolve around the mode and method of removal. However, the word "misbehaviour" has been used in contradistinction to good behavior.

23. Report of the Inquiry Committee in the case of **Justice Ramaswami** [Justice P.B. Sawant, Justice P.D. Desai and Justice (Retd.) O. Chinappa Reddy] constituted under the Judges (Inquiry) Act 1968 contains the following points with respect to what constitutes "*misbehaviour*" in case of a Judge:

The following acts amount to “misbehaviour”-

- (a) Wilful and gross misuse of office
- (b) Wilful and persistent failure or negligence in discharge of duties
- (c) Habitual extravagance at the cost of the public exchequer
- (d) Moral turpitude
- (e) Using public funds for private purposes
- (f) Bringing judicial office into disrepute

24. There is no definition of the word “misbehaviour” in the Constitution because it was not possible to confine it to a straitjacket formula. It is antithetical to good behaviour. The Committee observed as under:-

“...The word “misbehaviour” is not defined in the Constitution and rightly so because it was obviously thought undesirable to confine it to a strait jacket formula. It is an expression which has to respond to the “felt necessities” of the situation. It is no doubt antithetical to good behavior..” (emphasis supplied)

25. Similarly in the case of **Soumitra Sen** [Justice B. Sudershen Reddy, Justice Mukul Mudgal and Mr. Fali S. Nariman], Report of the Judges Inquiry Committee in the motion for Removal of Justice Soumitra Sen, Judge, Calcutta High Court under the Judges Inquiry Act 1968 at page 27 Vol.1, the Committee while considering the meaning of the word “misbehaviour” observed as under:-

“The word “misbehaviour” after all is, the antithesis of “good behaviour”; it is a breach of the condition subsequent, upon which the guarantee of a fixed judicial tenure rests. High judicial office is essentially a public trust, and it is the right of the people (through its representatives in Parliament) to revoke this trust-but only when there is “proved misbehavior”.”

I. STANDARD OF PROOF IN THE IMPEACHMENT PROCEEDINGS

26. Our constitution has placed a judge of the constitutional court at a very high pedestal because of the sole reason that he/she forms the face of the Indian Judiciary. Removal of a Judge is a matter of the great seriousness. It affects not only the Judge personally but in a larger sense affects the general reputation of the judiciary. Impeachment proceedings initiated against a particular Judge *prima facie* lowers the image of the Judiciary as a whole and shakes the confidence of the public in the Judicial System, which is extremely detrimental to the very foundation of the civil society. An allegation of misbehaviour against a sitting judge of a constitutional Court has a cascading effect on the reputation of the judiciary as a whole. Such an allegation cannot be accepted *ipso facto* merely relying on the version of the complainant in absence of strong evidence or probabilities consistent with natural human conduct proving the allegation.

27. An inquiry in an ordinary departmental proceeding cannot be equated to an inquiry in impeachment proceedings under the Judges (Inquiry) Act, 1968. Our Constitution framers consciously and thoughtfully set a high standard for impeachment of Judges to make it apparent that only grave misconducts, proved beyond reasonable doubt, warrant impeachment. The rigorous procedure prescribed by the Constitution and the laws framed there-under to conduct the impeachment of a Judge, indicates that impeachment being an extraordinary remedy which can be resorted to only in cases where standard of proof adduced to prove the misconduct is high.

28. The Constitution of India only states the permissible grounds for impeachment, as contained in Article 124(5) (removal of a Judge of the High Court Article 217 (1) clause (c) to the proviso thereon) which includes "*proved misbehaviour*" and/or "*incapacity*". It neither states the scope/meaning of the term "*misbehaviour or incapacity*", nor the required standard of proof in the said impeachment proceedings. It is reflected in the words of Dr. Ambedkar, that it was a conscious decision of our Constitution framers to leave the interpretation of the above said terms and the machinery as to the impeachment to be determined in pursuance of a legislation, instead of laying down a detailed provision in the Constitution itself. Reference may be made to the following excerpt from **Constituent Assembly Debates, Vols. I to VI at pp. 899-900**:

"While the ultimate power may rest with the two Houses, the Clause provides that the charges must be proved. How exactly to prove the charges will be provided for in the Federal law. We need not be more meticulous or more elaborate, than the people who have tried a similar case in other jurisdictions. I challenge my friend to say whether there is any detailed provision for the removal of judges more than that in any other Constitution in the world. The general principle is laid down in the Constitution and later on the Federal law will provide for adequate machinery and that is the import of the clause" ...There is sufficient safeguard in the reference "proved misbehavior and we might make elaborate and adequate provision for the way in which the guilt could be brought home to a particular judge in any Federal law that may be passed but that is a different matter".... "But I do not think that in a Constitution it is necessary to provide detailed machinery as to the impeachment, the charges to be framed against a particular judge. To make a detailed machinery for all these could be a novel procedure to be adopted in any Constitution."

29. In the words of Prof. Jackson in *Jackson's Machinery of Justice* by J.R. Spencer, 8th edn., pp.369-70 (as quoted in *Commentary on the Constitution of India* by Arvind P. Datar, 2nd edn., p. 776), "*Misbehaviour by a Judge , whether it takes place on the Bench*

or off the Bench, undermines public confidence in the administration of Justice, and also damages public respect for the law of the land: if nothing is seen to be done about it, the damage goes unrepaired. This must be so when the Judge commits a serious criminal offence and remains in office". Therefore, it becomes immensely important that the provisions relating to impeachment proceedings are strictly adhered to and the judicial committee setup to enquire into the alleged misconduct goes deep into the root of the allegations and arrive at a decision founded upon facts proved beyond reasonable doubt. Undoubtedly, when the Judge is found guilty of misbehaviour, there is no looking back, recourse to requisite legislative action ought to be taken.

30. The provisions relating to impeachment proceedings as contained in the Constitution of India and the Judges (Inquiry) Act, 1968 have been borrowed from the United States, with required modifications suitable to the scheme of Indian legal system. However, unlike in India, in the United States, the President, Vice president, Federal Judges, and other federal officials are impeached on the same ground viz. 'High Crimes and Misdemeanour'. Over the time, the standard of proof required in impeachment proceedings in the US has also been accepted as standard of 'proof beyond reasonable doubt'. If we may refer to the Report of Alabama House of Representatives Judiciary Committee, In Re: The Impeachment of Robert Bentley, Governor of Alabama dated 02.08.2016, titled *The Constitutional Standard for Impeachment of a Governor of Alabama*, following proposition relating to required standard of proof in Impeachment proceedings emanates:

"The "drastic remedy of impeachment and removal" is "truly the political equivalent of capital punishment. (Ref: Lawrence H. Tribe, *Defining "High Crimes and Misdemeanors "*: *Basic Principles*, 67 Geo. Wash. L. Rev. 712,723 (1999)).The "adoption of a lenient standard of proof could mean that this punishment, and this frustration of popular will, could occur even though substantial doubt of guilt remained. (Ref: Charles L. Black, Jr., *Impeachment: A Handbook* 69 (1974)) Impeachment "is the heaviest piece of artillery in the legislative arsenal, but because it is so heavy it is unfit for ordinary use. It is like a hundred-ton gun which needs complex machinery to bring it into position, an enormous charge of powder to fire it, and a large mark to aim at.' (Ref: James Bryce, *The American Commonwealth*, Vol. I, 212 (1919)) The same constitutional imperatives that demand a rigorous definition of impeachable conduct, and due process of law, therefore, also require that the legislature impeach only where alleged conduct has been established by proof beyond a reasonable doubt and to a moral certainty, which is the standard articulated by the Supreme Court of Alabama."

31. As per the observation of Sawant Committee, made in its Report dated 20.07.1992 in Justice V. Ramaswami's impeachment case that the standard of proof

required in impeachment proceedings of Judges in India is '*proof beyond reasonable doubt*', as opposed to the requirement of '*clear and convincing evidence*' in the United States. The Committee referring to an article by Chief Justice Ben F. Overton of the Supreme Court of Florida, in the Chicago-Kent Law Review, noted that the standard of proof in the US was higher than preponderance of probabilities, namely, the standard required was "*clear and convincing evidence*" and then made a thoughtful departure from the same, finding that the standard required in India is nothing short of '*proof beyond reasonable doubt*'.

"We think that the concept of clear and convincing evidence, delectable though it may be, introduces needless sophistication and refinement. The impeachment proceeding is, in the strict sense, sui generis, neither civil nor criminal, in nature. The gravity of the charge against a judge of the Supreme Court or a High Court, the uniqueness of impeachment proceedings, and the forbidding consequence if the charges are held proved, make it practical, safe and necessary to insist upon a high degree of proof. That degree of proof is, in our view, proof beyond reasonable doubt without any further refinement". [as referred to in 195th Report of Law Commission of India, Chapter VI: Constitutional Principles laid down by Supreme Court of India in Justice V. Ramaswami's Cases (page No. 109)]

32. The Judge subject to impeachment proceedings is entitled to a presumption of innocence, and may be impeached only when the alleged misconduct is proved beyond reasonable doubt through admissible evidence. But where the allegations of misconduct are based on evidence which are not consistent with probabilities, the charge of 'misconduct' cannot be said to have been proved.

33. Impeachment, as already noted above is a serious blot on not merely a Judge's career but also on the reputation of entire judicial system. In **C. Ravichandran Iyer v. Justice A.M. Bhattacharjee and Others** (1995) 5 SCC 457, the Supreme Court observed that the '*behavior of the Judge is the bastion for the people to reap the fruits of the democracy, liberty and justice and the antithesis rocks the bottom of the rule of law*'. Further, with regard to the purport of the term, 'misbehaviour' appearing in Article 124(5), which deals with impeachment of a Judge, it was held as under:

"24. Article 124(4) of the Constitution sanctions action for removal of a Judge on proved misbehavior or incapacity. The word "misbehavior" was not advisedly defined. It is a vague and elastic word and embraces within its sweep different facets of conduct as opposed to good conduct. In the **Law Lexicon by P. Ramanatha Aiyar, 1987 Edn. at page 821**, collected from several decisions, the meaning of the word "misconduct", is stated to be vague and relative term. Literally, it means wrong conduct or improper conduct. It has to be construed with reference to the subject matter and the context

wherein the term occurs having regard to the scope of the Act or the statute under consideration..... Misconduct in office was construed to mean unlawful behavior or include negligence by public officer, by which the rights of the party have been affected. In ***Krishna Swami vs. Union of India and another With Raj Kanwar v. Union of India and Another (1992) 4 SCC 605***, one of us, K. Ramaswamy, J., considered the scope of 'misbehavior' in Article 124(4) and held in paragraph 71 that **"every act or conduct or even error of judgment or negligent acts by higher judiciary per se does not amount to misbehavior. Willful abuse of judicial office, wilful misconduct in the office, corruption, lack of integrity, or any other offence involving moral turpitude would be misbehavior. Misconduct implies actuation of some degree of mens rea by the doer. Judicial finding of guilt of grave crime is misconduct. Persistent failure to perform the judicial duties of the Judges or wilful abuse of the office dolus malus would be misbehavior. Misbehavior would extend to conduct of the Judge in or beyond the execution of judicial office. Even administrative actions or omissions too need accompaniment of means rea.**

25. Guarantee of tenure and its protection by the Constitution would not, however, accord sanctuary for corruption or grave misbehavior. Yet every action or omission by a judicial officer in the performance of his duties which is not a good conduct necessarily, may not be misbehavior indictable by impeachment, but its insidious effect may be pervasive and may produce deleterious effect on the integrity and impartiality of the Judge. **Every misbehavior in juxtaposition to good behavior, as a constitutional tautology, will not support impeachment but a mis behaviour which is ' a good behaviour may be improper conduct not befitting to the standard expected of a Judge. Threat of impeachment process itself may swerve a Judge to fall prey to misconduct but it serves disgrace to use impeachment process for minor offences or abrasive conduct on the part of a Judge. The bad behaviour of one Judge has a rippling effect on the reputation of the judiciary as a whole. When the edifice of judiciary is built heavily on public confidence and respect, the damage by an obstinate Judge would rip apart the entire judicial structure built in the Constitution."**(Emphasis Added)

34. Challenging the integrity and propriety of an institution by making an allegation may take no time; but building and protecting the same takes years of efforts and diligence. However, the same does not mean that grave misconducts could be allowed to go unnoticed in the guise of protecting the image of the institution. Taking stringent action against the delinquent member of the judiciary is also part of upholding the dignity of the institution. The balance lies only in adopting a high standard of proof while finding the concerned Judge guilty/not guilty of the misconduct he is charged with, based on the concrete proof of allegations. Only, if the adopted standard of proof is 'proof beyond reasonable doubt', correct decision can be arrived at by this fact finding committee which is specially constituted to facilitate the extraordinary proceeding of impeachment of a Judge.

35. We hasten to add that the insistence for higher degree of proof should be moderated by pragmatic need in cases where the allegations are like sexual

harassment which is mostly within the personal knowledge of the person who is leveling the allegations. However, if unfounded allegations are allowed to sustain without evidence and probabilities which satisfy intelligent reasoning, it would serve no purpose other than bringing disgrace not only to the concerned Judge but also to the institution and letting the justice itself to surrender to the *malafide* and unjust.

J. SEXUAL HARASSMENT

36. In this report as we are concerned with the “allegation of sexual harassment at work” and the alleged victimization thereon, it is necessary to refer to the development of jurisprudence in the area of “sexual harassment at work”. The definitions of “sexual harassment” occur in various international instruments, declarations and conventions as also in court decisions which are almost similar. However, we only refer to the definitions of sexual harassment which are prominent/oft-quoted.

37. The Committee on the Elimination of Discrimination against Women (**CEDAW**) constituted by the United Nations in its General Recommendation No.19 (January 1992) titled “Violence against Women” said that “sexual harassment” is a form of gender-based violence. It is gender based because “it is directed against a woman because she is a woman or which affects women disproportionately”. This includes “acts which inflict physical, mental or sexual harm or suffering, threats of such acts (and) coercion”. The said Recommendation defined the term “sexual harassment” as follows:-

“Sexual harassment includes such unwelcome sexually determined behavior as physical contact and advances, sexually coloured remarks, showing pornography and sexual demand, whether by words or actions. Such conduct can be humiliating and constitute a health and safety problem; it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a holistic working environment”.

[Reference: United Nations Committee on the Elimination of Discrimination against Women: General recommendation No.19: Violence against women (Eleventh Session, New York, January 1992), document No. CEDAW/1992/L.I/Add.15]

38. Relying on international convention under norms, particularly the general recommendation No.19 of the “CEDAW” constituted by the United Nations, in ***Vishaka and Others v. State of Rajasthan and Others*** (1997) 6 SCC 241, the Supreme Court defined the term “sexual harassment” for the first time in the year 1997. The definition is almost *in pari materia* with the definition proposed in “CEDAW”. In ***Vishaka’s*** case,

the Supreme Court declared that the “sexual harassment” constitutes violation of fundamental rights under Articles 14, 15, 19(1)(g) and 21 of the Constitution of India, in paras (3) and (10) held as under:-

“3. Each such incident results in violation of the fundamental rights of “Gender Equality” and the “Right to Life and Liberty”. It is a clear violation of the rights under Articles 14, 15 and 21 of the Constitution. One of the logical consequences of such an incident is also the violation of the victim’s fundamental right under Article 19(1)(g) “to practise any profession or to carry out any occupation, trade or business”. Such violations, therefore, attract the remedy under Article 32 for the enforcement of these fundamental rights of women. This class action under Article 32 of the Constitution is for this reason. A writ of mandamus in such a situation, if it is to be effective, needs to be accompanied by directions for prevention, as the violation of fundamental rights of this kind is a recurring phenomenon. The fundamental right to carry on any occupation, trade or profession depends on the availability of a “safe” working environment. Right to life means life with dignity. The primary responsibility for ensuring such safety and dignity through suitable legislation, and the creation of a mechanism for its enforcement, is of the legislature and the executive. When, however, instances of sexual harassment resulting in violation of fundamental rights of women workers under Articles 14, 19 and 21 are brought before us for redress under Article 32, an effective redressal requires that some guidelines should be laid down for the protection of these rights to fill the legislative vacuum.

10. Gender equality includes protection from sexual harassment and right to work with dignity, which is a universally recognised basic human right. The common minimum requirement of this right has received global acceptance. The international conventions and norms are, therefore, of great significance in the formulation of the guidelines to achieve this purpose.”

39. In **Apparel Export Promotion Council v. A.K. Chopra** (1999) 1 SCC 759, the Supreme Court held that in a case involving departmental inquiry against a delinquent officer on the charges of sexual harassment at workplace, the court must be upfront in accepting the version of the complainant if it inspires confidence in the light of the attending circumstances and that the court should not get swayed by insignificant discrepancies:-

“26. There is no gainsaying that each incident of sexual harassment at the place of work, results in violation of the fundamental right to gender equality and the right to life and liberty — the two most precious fundamental rights guaranteed by the Constitution of India..... That sexual harassment of a female at the place of work is incompatible with the dignity and honour of a female and needs to be eliminated and that there can be no compromise with such violations, admits of no debate. The message of international instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women, 1979 (“CEDAW”) and the Beijing Declaration which directs all State parties to take appropriate measures to prevent discrimination of all forms against women besides taking steps to protect the honour and dignity of women is loud and clear..... These international instruments cast an obligation on the Indian State to gender-sensitise its laws and the courts are under an obligation to see that the message of the international instruments is not allowed to be drowned. This Court has in numerous cases emphasised that while discussing constitutional requirements, court and counsel must never forget the core principle embodied in the international conventions and instruments

and as far as possible, give effect to the principles contained in those international instruments. The courts are under an obligation to give due regard to international conventions and norms for construing domestic laws, more so, when there is no inconsistency between them and there is a void in domestic law. (See with advantage — *Prem Shankar Shukla v. Delhi Admn.* (1980) 3 SCC 526; *Mackinnon Mackenzie and Co. Ltd. v. Audrey D' Costa* (1987) 2 SCC 469; *Sheela Barse v. Secy., Children's Aid Society* (1987) 3 SCC 50 at p. 54; *Vishaka v. State of Rajasthan* (1997) 6 SCC 241; *People's Union for Civil Liberties v. Union of India* (1997) 3 SCC 433 and *D.K. Basu v. State of W.B.* (1997) 1 SCC 416 at p. 438.)”

40. Parliament has enacted “*Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*” which received the assent of the President of India on 22.04.2013 and it came into force on 09.12.2013. The Act purports to be in effectuation of the Supreme Court’s dictum in ***Vishaka’s*** case. Section 2(n) of the Act defines the term “sexual harassment” as follows:-

“2. Definitions.-

- (n) “sexual harassment” includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely :-
- (i) physical contact and advances; or
 - (ii) a demand or request for sexual favours; or
 - (iii) making sexually coloured remarks; or
 - (iv) showing pornography; or
 - (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;”

Section 3 of the above Act which by sub-section (1) mandates that “....no woman shall be subjected to sexual harassment at any workplace”. Sub-section (2) of Section 3 reads thus:-

“3. Prevention of sexual harassment:-.....

(2) The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:-

- (i) implied or explicit promise of preferential treatment in her employment; or
- (ii) implied or explicit threat of detrimental treatment in her employment; or
- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

Sub-section (2) of Section 3, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, thus, also recognizes “quid pro quo sexual harassment” as well as “holistic environment sexual harassment”.”

41. Pursuant to the Supreme Court’s judgment in ***Vishaka’s*** and ***Medha Kotwal’s*** case, the **Central Civil Services (Conduct) Rules, 1964** were amended in 1998 and 2014 to add prohibition of sexual harassment of working women. The Explanation to Rule 3C defines “sexual harassment” as follows:-

“Explanation:-

- (l) For the purpose of this rule,-
 - (a) “sexual harassment” includes any one or more of the following acts or behaviour (whether directly or by implication) namely:-
 - (i) physical contact and advances; or
 - (ii) a demand or request for sexual favours; or
 - (iii) making sexually coloured remarks; or
 - (iv) showing pornography; or
 - (v) any other unwelcome physical, verbal, non-verbal conduct of a sexual nature.
 - (b) The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:-
 - (i) implied or explicit promise of preferential treatment in employment; or
 - (ii) implied or explicit threat of detrimental treatment in employment; or
 - (iii) implied or explicit threat about her present or future employment status; or
 - (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
 - (v) humiliating treatment likely to affect her health or safety”

42. Sexual Harassment is now made an offence under Section 354-A of the Indian Penal Code. Section 354-A IPC defines the term “sexual harassment” and the punishment thereon and it reads as under:-

“354-A. Sexual harassment and punishment for sexual harassment:-

1. A man committing any of the following acts:-
 - i. physical contact and advances involving unwelcome and explicit sexual overtures; or
 - ii. a demand or request for sexual favours; or
 - iii. showing pornography against the will of a woman; or
 - iv. making sexually coloured remarks, shall be guilty of the offence of sexual harassment.
2. Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.
3. Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment either description for a term which may extend to one year, or with fine, or with both.”

K. ALLEGATION OF SEXUAL HARASSMENT IF PROVED WOULD AMOUNT TO MISBEHAVIOUR

43. An act of sexual harassment if proved undermines the legitimacy of the institution of the judiciary and amounts to “misbehaviour” calling for the removal of a Judge under Article 124 read with Article 217 of the Constitution of India. In this regard, on behalf of the complainant, number of judgments from other jurisdictions had been relied upon to

contend that sexual harassment impairs the integrity of the judiciary and the administration of justice.

44. In ***Commission of Inquiry Re: His Honour Judge W.P. Hryciuk, A Judge of the Ontario Court (Provincial Division)*** (1993), involving a case of sexual harassment by a provincial judge, the Judicial Commissioner held that:-

“When he engages in misconduct, the magnitude of the misconduct may be measured by the extent to which he has impaired the confidence of the public in himself as a judge and in the administration of justice.”

“Making sexist and demeaning comments to women and touching them in ways which are both sexual and inappropriate are examples of such biased conduct.”

45. In ***John Fitch v. Commission on Judicial Performance*** [9 Cal. 4th 552 (1995)], a county judge was accused of a pattern of misconduct, involving inappropriate and offensive comments concerning the physical attributes and clothing of female members of the court staff, amongst other behaviour. Holding such conduct to be the proper basis for public censure, the Supreme Court of California observed that:-

“Petitioner’s misconduct was such as to “bring the judicial office into disrepute, being conduct ‘damaging to the esteem for the judiciary held by members of the public who observed such conduct’.”

46. In ***Atty. Grace M. Veloso and Ma. Joeylynn B. Quinones v. Judge Anacleto M. Caminade, RTC, Branch 6, Cebu City*** [A.M. No. RTJ-01-1655, July 8, 2004], the Supreme Court of Philippines held that:-

“Those who serve in the judiciary, particularly justices and judges, must not only know the law but must also possess the highest degree of integrity and probity, and an unquestionable moral uprightness both in their public and private lives.”

We have repeatedly held that, while every office in the government service is a public trust, no position exacts greater moral righteousness than a seat in the judiciary. Performing as he does an exalted role in the administration of justice, a judge must pay a high price for the honor bestowed upon him. Thus, a judge must comport himself at all times in such a manner that his conduct, official or otherwise, can weather the most exacting scrutiny of the public that looks up to him as the epitome of integrity and justice.

Canons 3 and 4 of the new Code of Judicial Conduct mandate, respectively, that “judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of the reasonable observer” and that “judges shall avoid improprieties and the appearance of impropriety in all of their activities.” These very stringent standards of decorum are demanded of all magistrates and employees of the courts.

Judge Caminade’s behaviour must be sanctioned. We are neither amused by his claims of innocent playfulness nor impressed by his excessive display of congeniality. He acted beyond the bounds of decency, morality and propriety. He failed to meet the standard of

conduct embodied in the Code of Judicial Conduct. His abusive and distasteful acts unmistakably constituted sexual harassment because they resulted in an intimidating, hostile, or offensive environment for his female subordinates.”

47. The Supreme Court of North Dakota in ***Judicial Conduct Commission v. Wickham Corwin***, 843 N.W. 2d 830 (2014) held that sexual harassment by a judicial officer is not only a case of sexual harassment, but involves the issue of judicial integrity and ethics. It was held that:-

“This matter comes before the Judicial Conduct Commission not as a matter in dealing with employment law or law concerning sexual harassment, but rather the matter dealing with the code involving judicial ethics. The Canons do not provide a definition of sexual harassment. In a matter such as this, sexual harassment is clearly recognized.”

Elaborate codes of conduct have been put in place to ensure that judges maintain probity in public life both in public and in private life.

48. We have no doubt in our mind that the allegations of sexual harassment if proved would amount to 'misbehaviour' warranting removal of the judge. In Article 124 (4) of the Constitution of India, our constitution framers have thoughtfully used the expression “proved misbehaviour”. As pointed out earlier, since misbehaviour of one judge has cascading effect on the reputation of the entire judiciary and undermines the public confidence in the administration of justice, charges must be based and proved by substantive evidence. We are conscious that normally sexual harassment does not happen in public view and it is difficult to adduce any independent evidence. But impeachment proceedings cannot be equated to a departmental proceeding to adopt the standard of proof of “preponderance of probability”. The present proceedings being an impeachment proceeding for removal of a High Court Judge, higher degree of proof is required. In the light of the evidence adduced, circumstances and the conduct of the parties, if the allegation of the complainant levelled against the respondent judge are not proved, beyond reasonable doubt, case of sexual harassment cannot be held to be proved to hold the respondent Judge guilty of “misbehaviour”.

L. HIGHER STANDARD OF PROOF REQUIRED TO ESTABLISH THE ALLEGATION OF SEXUAL HARASSMENT

49. So far as allegation of sexual harassment is concerned, it is very easy to make and very difficult to rebut. When an allegation of sexual harassment is made, it is necessary to see whether it is supported by other evidence direct or circumstantial

consistent with the normal human conduct and probabilities thereto; whether it is reasonably safe to act upon it to hold the respondent guilty of charges of sexual harassment. This inquiry being an impeachment proceeding against the High Court Judge, in our view, high degree of proof is required to accept the version of the complainant to hold that the respondent judge is guilty of misbehavior. To contend that the case of sexual harassment, if proved, would amount to 'misbehaviour'. On behalf of the complainant, reliance was placed upon *Re: Judge W.P. Hryciuk Inquiry, Ontario Court* (1993); *John Fitch v. Commission on Judicial Performance* [9 Cal. 4th 552 (1995)]; *Atty. Grace M. Veloso and Ma. Joeylynn B. Quinones v. Judge Annacleto M. Caminade, RTC, Branch 6, Cebu City* [A.M. No. RTJ-01-1655, July 8, 2004]; *Judicial Conduct Commission v. Wickham Corwin*, (2014) ND 50.

50. To contend that the delay in complaining about sexual violence/sexual harassment, would not affect the credibility of the victim, the complainant placed reliance upon, ***Bharwada Bhoginbhai Hirjibhai v. State of Gujarat*** (1983) 3 SCC 217; ***State of Punjab v. Gurmit Singh and Ors*** (1996) 2 SCC 384; ***Rajinder alias Raju v. State of Himachal Pradesh*** (2009) 16 SCC 69; ***Moti Lal v. State of Madhya Pradesh*** (2008) 11 SCC 20. To contend that proof beyond reasonable doubt need not be 'absolute certainty', on behalf of the complainant, reliance was placed upon, ***Ashoka Debbarma v. State of Tripura*** (2014) 4 SCC 747. Further reliance was placed upon ***Ramakant Rai v. Madan Rai and Ors.*** (2003) 12 SCC 395 and ***State of U.P. v. Krishna Gopal*** (1988) 4 SCC 302.

51. To contend that reliance cannot be placed on uncorroborated version of the victim's statements, counsel for the respondent placed reliance upon number of judgments on various proofs i.e. ***Tameezuddin alias tammu v. State (NCT of Delhi)*** (2009) 15 SCC 566; ***Raju and Others v. State of Madhya Pradesh*** (2008) 15 SCC 133; ***Raja and Others v. State of Karnataka*** (2016) 10 SCC 506; ***Rai Sandeep alias Deepu v. State (NCT of Delhi)*** (2012) 8 SCC 21; ***State of Rajasthan v. Babu Meena*** (2013) 4 SCC 206. Contending that the respondent cannot be forced to explain why he was falsely implicated, the learned counsel for the respondent placed reliance upon ***Narender Kumar v. State (NCT of Delhi)*** (2012) 7 SCC 171; ***Uday v. State of Karnataka*** (2003) 4 SCC 46; ***Toran Singh v. State of M.P.*** (2002) 6 SCC 494.

52. We have gone through the judgments which are relevant to the issue on hand. We are conscious that normally instances of sexual harassment do not come in public view. Often, there are no witnesses or material evidence to these comments or conduct. In cases involving sexual harassment, tendency of the female not to disclose their sexual harassment/aggression especially by those who are in a higher hierarchy or some of the factors which we cannot overlook. Looking for corroboration of the version of the victim cannot be insisted upon, but it is a guidance of prudence. While appreciating the evidence of the victim of sexual violence/sexual harassment, we are to examine whether her testimony inspires confidence and natural and is in consonance with natural human conduct. We are to consider whether the allegation levelled by the complainant is probable and whether it is reasonably safe to act upon her version to hold the respondent judge guilty of "misbehaviour".

Part II

I. CHARGE NO. 1 – RE. CHARGE OF SEXUAL HARASSMENT

Sexual harassment of a woman Additional District and Sessions Judge while being a sitting judge of the Gwalior Bench of the High Court of Madhya Pradesh.

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A. LIST OF WITNESSES AND DOCUMENTS RELEVANT FOR THE PURPOSE OF CARRYING OUT DISCUSSION ON THE CHARGE NO. 1.

Witnesses	Relevant Documents
<p>Complainant's Witnesses:</p> <ol style="list-style-type: none"> 1. Complainant herself [C. W. No.1] 2. Ms. Sonal Madan, daughter of the complainant [C. W. No.2] 3. Mr. Sanjay Madan, husband of the complainant [C. W. No.3] 4. Mr. Justice Deepak Verma, Former Judge, Supreme Court of India [C. W. No.4] <p>JIC Witnesses:</p> <ol style="list-style-type: none"> 1. Mrs. Divya Chaurasia, wife of Mr. Rajendra Chaurasiya, the then Chief Judicial Magistrate, Gwalior [JIC W. No.1] 2. Ms. Bhawna Singh, Civil Judge Class-II, Gwalior [JIC W. No.2] 3. Mr. Ravi Jaiswal, Senior Advocate [JIC W. No.5] 4. Mr. P.K. Jaiswal, Judge, M.P. High Court [JIC W. No.6] 5. Mr. Naveen Sharma, the then District Registrar, Gwalior District Court [JIC W. No.8] <p>Respondent Witnesses:</p> <ol style="list-style-type: none"> 1. Justice Gangele [R.W.1] 2. Mrs. Gangele [R.W.4] 3. Mr. Muniraj Kushwaha [R.W.2] 4. Mr. Manoj Jain [R.W.3] 5. Mr. Sahadev Singh [R.W.5] 6. Mr. Rajendra Chaurasia [R.W.6] 7. Mr. P.K. Sharma [R.W.7] 	<ol style="list-style-type: none"> 1. DVD of the event of Ladies Sangeet on 10th December, 2013 [Ex. R/1] 2. Part III DVD of 25th wedding anniversary of Justice Gangele held on 11th December, 2013 [Ex. R/3] 3. Photograph of the complainant alongwith her husband and daughters alongwith Ms Bhawna Singh [Ex.R/4] 4. Photograph of the complainant alongwith her husband and younger daughter [Ex.R/5] 5. Photograph of complainant with her daughter and Ms. Bhawna Singh with respondent judge and Mrs. Gangele in the reception event on 11.012.2013 [Ex.R/6] 6. Eleven photographs of the 25th Wedding Anniversary function on 11.12.2013 [Ex.R/14] 7. Affidavit of Mr. Manoj Jain, Videographer dated 05.01.2016 [R.W.3/17] 8. Affidavit of Mr. Manoj Jain, Videographer dated 29.06.2016 [R.W.3/18] 9. Original Press clipping of the news item containing the resignation of the complainant published in the newspaper "Nayi Duniya" [R.W.1/23] 10. Letter written by the complainant to the District Judge Gwalior [Ex. R/25] 11. English Translation of the letter written by the complainant to the District Judge, Gwalior [Ex. R/25A] 12. A complaint addressed to the Station House Officer, P.S. University [Ex.R/26]

B. BACKGROUND FACTS

1. We are concerned here with serious allegations of sexual harassment at workplace which entail far reaching consequences. The accused being a dignitary and the complainant too being an ex-member of district Judicial Services, stakes involved are very high. Charge No.1, complainant's allegation of sexual harassment against the respondent judge comprise of four distinct incidents, spread over a period of about five months. Additionally, the respondent is alleged to have sent messages to the complainant, through members of district judiciary, asking the complainant to meet him personally. To have a detailed inquiry into the probity of the allegations, all the alleged incidents are discussed distinctly broadly focusing on the following:

- **Respondent's 25th Marriage Anniversary Celebrations** - The allegation of receiving a request for performing on an item song at the ladies sangeet function of respondent's 25th Marriage Anniversary Celebrations on 10.12.2013. Further allegation of coming closer to the complainant and making sexually coloured remarks on the day of main event i.e. on 11.12.2013 and whispering to her that "*main aapki sexy aur khubsoorat figure ko dekhne se rah gaya. Kash aapko nachte huey dekh pata*", which comments amounted to sexual harassment of Ms. Madan.
- **Sending personal messages through members of district judiciary-** That during the month of January 2014, Justice S.K. Gangele, continued to send numerous messages through the District Registrar Mr. Naveen Sharma asking the complainant to meet him at his bungalow and the respondent judge was usually living all alone in his bungalow without wife and daughters, which amounted to sexual harassment of the complainant.
- **Marriage ceremony of a judicial officer-** That on the occasion of a marriage ceremony of a judicial officer on 22.02.2014, the respondent judge, in the presence of complainant's elder daughter is alleged to have stated that "*although your work is very good, but you are far more beautiful than your work and that he further went on to say that looking at Ms. Madan, one does not desire even to blink one's eyes*" while making the above remarks, the respondent is further alleged to have put his hand on her back, which comments and acts amount to sexual harassment of Ms. Madan.

- **Farewell party for a retiring High Court judge**-Farewell party for a retiring High Court Judge, Justice G.D. Saxena, was organised by the Judicial Officers of the Gwalior District Court in April, 2014. In the dinner, respondent is alleged to have continuously stared at the complainant.

2. In order to substantiate her allegation of sexual harassment, the complainant has narrated above four incidents where the respondent allegedly made sexually coloured remarks and unwarranted physical advances towards the complainant. Although, the three incidents happened at public places, no independent evidence is available to the alleged incidents of sexual harassment. Only complainant's elder daughter is the purported eye witness to the two out of the four incidents. Complainant has alleged that the respondent got agitated by the fact that the complainant was not responding to his immoral demands and consequently, subjected her to hostile work environment and the complainant was transferred in the mid of the session, thereby compelling her to resign from service. On the contrary, the respondent judge has completely denied the allegation of sexual harassment and that of being instrumental in the complainant's transfer.

C. RESPONDENT'S 25TH MARRIAGE ANNIVERSARY CELEBRATION:

3. Respondent's 25th Marriage Anniversary Celebration was a two day event, comprising of ladies sangeet function held on 10.12.2013 followed by the reception held on 11.12.2013. The complainant attended only the main event i.e. the Reception held on 11.12.2013. The complainant has alleged that Mrs. Divya Chaurasia [**JIC W. No.1**], wife of CJM, Gwalior, Mr. Rajendra Chaurasia, called on her landline on 08/09.12.2013 informing her that Justice Gangele is eager to see her perform on an '*item song*' at ladies sangeet function, which was being celebrated on 10.12.2013, as a part of the 25th marriage anniversary celebrations of Justice Gangele. The complainant has alleged that the said invitation was to her utmost surprise; but she silently declined the invitation stating that she is pre-occupied with her younger daughter's birthday celebrations on the day of ladies sangeet function. However, according to the complainant, considering office protocol, she could not avoid the main event scheduled on 11.12.2013 and thus, she went to attend it with her two daughters. In the main event on 11.12.2013, it is

alleged that when her elder daughter was slightly away with her friends, Justice Gangele found an opportunity to come close to her and whisper sexually coloured remarks in her ear stating that he missed the opportunity of viewing a sexy and beautiful figure dancing on the floor and that he is desperate to see the same. Complainant has stated that she silently left the party alongwith her two daughters on hearing such a sexually coloured remark.

4. Justice Gangele, relying on the testimony of Mrs. Divya Chaurasiya [**JIC W.No.1**], wife of CJM, Gwalior, Mr. Rajender Chaurasia and Ms. Bhawna Singh, Civil Judge II, Gwalior [**JIC W. No.2**] and also the videotape of his 25th Marriage Anniversary Celebrations held on 10.12.2013 and 11.12.2013, has categorically denied the allegations of the complainant and maintained that the allegations are false. The respondent judge has contended that deposition and affidavit of Mrs. Divya Chaurasiya [**JIC, W. No.1**] establish that no such call, as alleged by the complainant, was made to the complainant. More so, *Ladies Sangeet* was a close knit ladies function in which no item song was performed. According to respondent, videotape of the main event dated 11.12.2013 shows that the complainant had wished Justice Gangele and his wife on the stage and was happily interacting with the other guests and having dinner. The complainant cannot be seen to have left the function soon after the alleged incident happened; she left after having dinner when the respondent judge was still on the stage attending to the wishes of the guests.

(a) Ladies Sangeet Function dated 10.12.2013

5. As per the allegations of the complainant, on 08th/9th of December, 2013, Mrs. Divya Chaurasia wife of Mr. Rajendra Chaurasia, CJM, Gwalior, called on her landline to inform that Justice Gangele is eager to see her perform on an item song at ladies sangeet function. The ladies sangeet function was celebrated on 10.12.2013 as a part of the 25th marriage anniversary celebrations of Justice Gangele. The complainant has stated that the said proposal of Mrs. Chaurasia shocked her; but she subtly declined the invitation by informing that on the concerned day i.e. on 10.12.2013, she is pre-occupied with her younger daughter's birthday.

6. Mrs. Divya Chaurasia was examined before this committee as Committee Witness-1 [JIC W. No.1]. She has stated in her deposition that she assisted Mrs. Gangele in inviting the guests for ladies sangeet which she did so by calling the guests from her landline number. However, Mrs. Divya Chaurasia categorically denied having made any call to the complainant as alleged by the complainant. Ms. Chaurasia also stated that she did not have any direct interaction with Justice Gangele. As soon as the complainant's complaint flashed in the news in August 2014, according to Mrs. Divya Chaurasia, she approached Justice Gangele and told him that she had never made such a call to the complainant. In this regard, Mrs. Divya Chaurasia also furnished a sworn affidavit dated 23.09.2015 which has been filed alongwith the counter affidavit of Justice Gangele.

7. When further asked, she stated that arrangements for musical instruments and DJ were made for the ladies sangeet function; but no dance performances were held, only Ganesh Vandana, Antakshari and singing performances were held. The above deposition of Mrs. Divya Chaurasia that there was no dance programme, is contradicted by the videotape of the ladies sangeet function produced by Justice Gangele himself. In the video clip, one can see Justice Gangele's daughters and other girls performing dances. However, it was noticed that none of the guests or judicial officers are seen to be dancing in the video. Also, mostly there were singing performances by ladies. Ms. Divya Chaurasia further stated that as soon as the news of the complaint against Justice Gangele flashed, she talked to wife of Justice Gangele and informed that she did not make such a call to the complainant.

8. Justice Gangele was examined as respondent witness-1. He deposed that the ladies sangeet function was organized by his wife and that the guests were also invited by her only. In his evidence, he has categorically denied the suggestion that Mrs. Divya Chaurasia was facilitating the ladies sangeet function at his and his wife's request. He further stated that his wife had informed him that Mrs. Divya had offered to help her in organizing the ladies sangeet. As per the evidence of respondent judge, he never had any direct conversation with Mrs. Divya Chaurasia. When asked about the songs to which his daughters and others had danced at the ladies sangeet function, he accepted that his daughters had danced at the function, but denied the suggestion that they were

item songs. He stated that he was not familiar with the kind of songs his daughters and others had performed on.

9. Mrs. Gangele [R.W.4] has also deposed on the similar lines. She stated that she knew Mr. Rajender Chaurasia, the then Chief Judicial Magistrate at Gwalior as he used to visit Justice Gangele's official residence at Gwalior to meet Justice Gangele for official work. She further stated that whenever she visited Gwalior, Mrs. Divya Chaurasia used to accompany her husband Mr. Rajendra Chaurasia on his visits to Justice Gangele's official residence. She also deposed that Mrs. Divya Chaurasia was not in direct conversation with Justice Gangele. She has denied having invited any judicial officer except one judicial officer by name Ms. Meena Singh who was a Family Court Judge at Gwalior and who is stated to be known to Mrs. Gangele. Relevant portion of Mrs. Gangele's testimony is as under:

"Myself and my sisters and my daughters altogether planned for organizing the ladies sangeet function on 10th December, 2013. There was no printed invitation for the ladies sangeet function. The spouses of the High Court Judges were invited by me. So far as the spouses of male judicial officers and members of the Ladies Club were concerned, invitations were extended by Ms. Divya Chourasia. We have not invited lady judicial officers. I had invited one judicial officer by name Ms. Meena Singh who was a Family Court Judge at Gwalior as she is our family friend. Ms. Bhawna Singh, (JIC W. No.2) was present in the ladies sangeet function. She was a judicial officer. Witness adds: I have not invited Ms. Bhawna Singh. I do not know whether Ms. Divya Chourasia invited Ms. Bhawna Singh.

Q: When you had not invited Ms. Bhawna Singh to the ladies sangeet function, did you ask Ms. Divya Chourasia as to whether she invited Ms. Bhawna Singh to the event?

A: I did not ask Ms. Divya Chourasia. Probably Ms. Divya Chourasia might have invited Ms. Bhawna Singh whom I did not know." [Cross-examination of Mrs. Gangale dated 15.07.17]

10. Mrs. Gangele's deposition that she had invited all the guests and Mrs. Divya Chaurasia had assisted her in organising the ladies sangeet function seems plausible. We also do not see any reason to doubt Mrs. Gangele's deposition that she did not invite any lady judicial officer except Ms. Meena Singh who was personally known to her, because in the ordinary course where lady judicial officers and wives of other judges keep meeting in formal or casual functions, circle of friends and acquaintances do get widened. Apart from Ms. Meena Singh, only one more lady judicial officer viz. Ms. Bhawna Singh, Civil Judge (II), Gwalior [JIC W.No.2] was present at the ladies sangeet function. Mr. Gangele has deposed in the context of presence of Ms. Bhawna

Singh that she was invited by Mrs. Divya Chaurasia. Ms. Bhawna Singh has also accepted that she was invited by Mrs. Divya Chaurasia. It does not take us by surprise that when a casual function like ladies sangeet is organized, presence of young women who can participate and make the function more convivial is appreciated and thus, Mrs. Divya Chaurasia might have invited a few guests on her own. Certainly, there were no other lady judicial officers present at the function and therefore, it cannot be inferred that lady judicial officers were invited at the function. Ms. Bhawna Singh was in no way associated with Mrs. Divya Chaurasia or Mrs. Gangele or daughters of the respondent judge, who had organized the function and she also did not name any lady judicial officer from whom she would have gathered the information about the invitees. Ms. Bhawna's deposition that lady judicial officers were invited at the ladies sangeet function cannot be relied upon as she could have had no knowledge about it.

11. The deposition of Mrs. Gangele inspires confidence as the same is supported by the videotapes as well and in all possibilities, it seems logical that Mrs. Divya Chaurasia could have only assisted Mrs. Gangele. Being a lady and wife of a judicial officer, it seems improbable that Mrs. Divya Chaurasia would have any direct interaction with the respondent concerning arrangement of a close knit ladies sangeet function, especially when her husband Mr. Rajendra Chaurasia was already there to assist the respondent judge. Serious doubts arise that whether respondent judge would have actively participated in organizing ladies sangeet function and directed Mrs. Divya Chaurasia to ask the complainant to perform on an item song. Being a ladies event, only wife and daughters of the respondent judge could have known how the function can be convened and who all can be invited. In any case, link between Mrs. Divya Chaurasia and the respondent judge cannot be formed, especially to accept the grave allegations levelled by the complainant. In such a scenario, it is difficult to accept the version of the complainant that at the directions of the respondent, Mrs. Divya Chaurasia would have called the complainant, to demand a dance performance from her on an *item song*.

12. From the evidence of Mrs. Gangele and Divya Chaurasia, it is seen that niece of Divya Chaurasia by name Karishma was compering the *antakshari* programme and she danced to Ganesh Vandana. Mrs. Gangele has also stated that her younger daughter Ritu and nieces danced to the cinema songs. But when it was suggested to her when

those cinema songs were there “*Naagin*”, “*Punjabiyan di tooh*”, Mrs. Gangele stated that they were new songs and that she was not familiar with those songs. Mrs. Gangele stated that she was not aware of the songs. Video clippings were played during enquiry and we had seen it. We can see that there were *Ganesh Vandana*, *Antakshani* and singing performances. That apart, justice Gangele’s daughters and other girls performed dances on some cinema songs. It can nowhere be seen in the videotape of the ladies sangeet function that any person, outside the family knit or closed friends, has danced. Merely because the younger daughter of Justice Gangele and niece of Mrs. Gangele danced to some cinema songs, we cannot infer that Divya Chaurasia invited the complainant to perform dance on an item song.

13. Yet another aspect which raises doubts about the complainant’s version is relevant to be noted. Complainant has maintained that Mrs. Divya Chaurasia had called her to invite for the ladies sangeet function on 08/09.12.2013, and told her that the respondent is eager to see her perform on an ‘item song’. Complainant’s younger daughter’s birthday celebrations were celebrated on 10.12.2013. She took her daughter’s birthday celebration as an excuse to avoid the ladies sangeet function. It is the complainant’s version that her husband Mr. Madan was also present at Gwalior on 10.12.2013 to attend the birthday celebrations of their daughter. However, due to protocol mandates the complainant could not avoid reception ceremony scheduled the very next day i.e. on 11.12.2013.

14. P.K. Sharma [**R.W.7**] who was the neighbour of the complainant stated that his younger son attended the birthday party of Suhani, younger daughter of the complainant and that his son went to complainant’s house around 7.00 P.M. and returned home at around 9.00 P.M. Mr. P.K. Sharma further stated that when he opened the door for his son, he saw Mr. Madan-husband of the complainant bidding good-bye to the children. From the evidence of Mr. P.K. Sharma, it is clear that the complainant’s husband remained in Gwalior on 10.12.2013 till about 9.00 P.M. If actually complainant had been so invited by Mrs. Divya Chaurasia [**JIC W.No.1**] to perform on an item song, the complainant would have definitely informed the same to her husband on 10.12.2013 itself. While so, it passes one’s comprehension as to why

the complainant had not informed her husband about the alleged call made by Divya Chaurasia to perform dance on item song on 10.12.2013.

15. It is pertinent to note that in his evidence Mr. Madan [C.W.3] stated that his wife asked him whether he could stay back for the 25th wedding anniversary of the respondent judge and he expressed inability to attend because of his pre-occupation with other work. It thus emerges that discussion did come up regarding respondent's 25th wedding anniversary reception on 11.12.2013. If that be so in the natural course of conduct, the complainant would have definitely informed her husband about the alleged call made by Divya Chaurasia; that was not to be so. This raises serious doubts about the version of the complainant as to the alleged call made by Divya Chaurasia.

16. By considering the deposition of the above witnesses and the videotape of the function, the complainant's allegations are not proved. Merely because the daughters and niece of the respondent performed on cinema songs (*which are termed as item song*), at the ladies sangeet function, it cannot be held to be proved that the complainant was also asked to do so. Neither, it is proved that Mrs. Divya Chaurasia invited the guests at the directions of the respondent judge, nor it is proved that Mrs. Divya Chaurasia had made such a request to the complainant. Considering the fact that no outsider or elderly guests had danced at the ladies sangeet function, the allegation of the complainant that at the behest of Justice Gangele, Mrs. Divya Chaurasia had invited the complainant to perform an item song, is not proved beyond reasonable doubt.

(b) Reception dated 11.12.2013

17. Although the complainant managed to find a valid reason for avoiding the ladies sangeet function, she stated that on account of protocol mandates she chose to attend the main event scheduled on 11.12.2013. In her affidavit, the complainant had stated that when the respondent judge's wife and daughters were performing special anniversary dance and at that time the respondent judge found an opportunity to come near the complainant and allegedly made the following offending remarks:

"main aapki sexy aur khubsoorat figure ko dekhne se rah gaya. Kash aapko nachte huey dekh pata."

“he missed the opportunity of viewing a sexy and beautiful figure dancing on the floor and that he is desperate to see the same”. [English translation]

Complainant has stated that she silently left the party alongwith her two daughters on hearing such a remark. She has not adduced any other evidence in this regard to show that Justice Gangele made such offending remark or even that he separately had a talk with her.

18. The allegation of complainant that in the 25th wedding anniversary function on 11.12.2013, the respondent judge found an opportunity to come near her and uttered the above sexually coloured remarks, is not supported by any other version excepting the hearsay version of Mr. Sanjay Madan [C.W.3], husband of the complainant. In his evidence C.W.3 stated that his wife told him about the alleged sexual coloured remarks uttered by the respondent judge and that he advised her to keep herself away from respondent judge. C.W.3 has stated that he told his elder daughter [C.W.2] to be always in the company of complainant in future parties/functions and never to leave the mother alone.

19. As per the evidence of Sonal Madan [C.W.2] daughter of the complainant, on 11.12.2013, they started from their house at about 8.15 P.M. and remained at the venue for about 40-45 minutes. The complainant alongwith her two daughters and Ms. Bhawna Singh [JIC W.No.2] went to the stage and greeted the respondent judge and his wife and thereafter went to the dining area. C.W.2 stated that during her presence at the venue, she did not see any “*Jailmala* nor did she see exchange of rings and cake cutting ceremony of Justice Gangele at the venue”. She went and joined with her friends seen in the venue. Curiously, when C.W.2 was asked the question as to her stay at the venue and whether respondent judge and his wife being away from the stage and also on the special anniversary dance, the witness C.W.2 volunteers to give a very elaborate answer. Question and answer reads as under:-

Q: On 11.12.2013, did you notice during your stay at the venue whether Justice Gangele and his wife being away from the stage?

A: Yes, I did. Witness volunteers: When there was a special wedding anniversary dance, they left the stage and I noticed as indicated by my friend that Ms. Gangele came on to the stage being introduced as a bride and there was a dance performed by Justice Gangele’s daughters and his wife. However, Justice Gangele was not on the stage to perform dance.

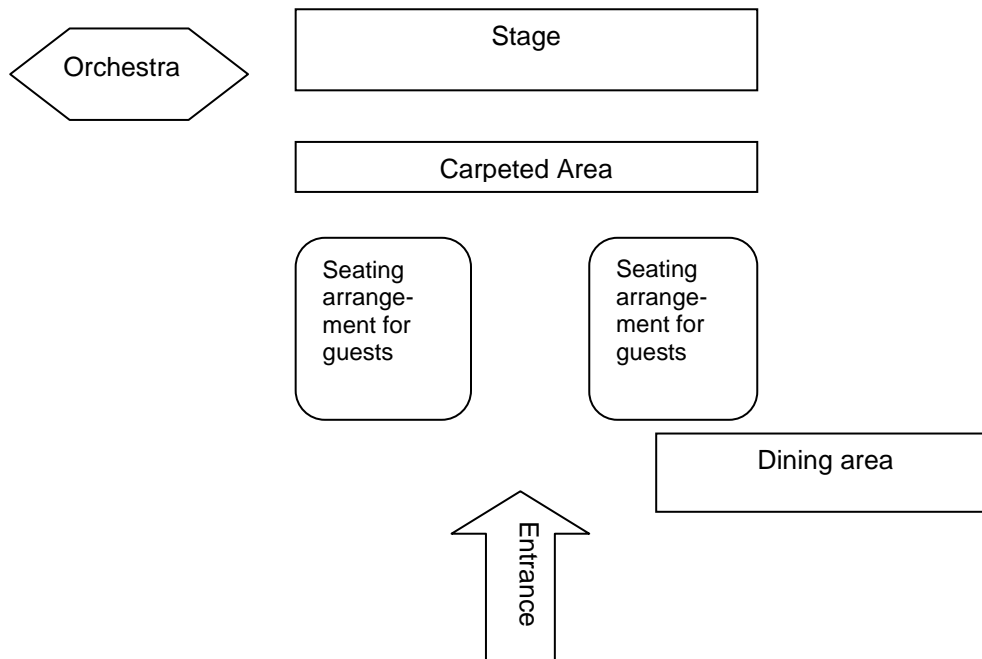
C.W.2, being the daughter of the complainant and interested witness, her evidence has to be examined with caution.

20. Version of the complainant on the alleged incident on 11.12.2013 has to be examined in the light of –(i) nature of function; (ii) number of persons present in the event; (iii) presence of complainant for a limited time i.e. 40 to 45 minutes when events like *jaimala*, ring ceremony, were in progress; (iv) presence of photographers and videographers.

21. Relying upon the testimony of Mrs. Divya Chaurasia and Ms. Bhawna Singh, as also the videotape of his 25th Marriage Anniversary Celebrations held on 11.12.2013, respondent judge has categorically denied the allegations of the complainant and maintained that the allegations are false. Submissions of respondent judge are as made:-

- Ms. Bhawna Singh, Civil Judge II, Gwalior accompanied the complainant throughout the function and to her knowledge, no such instance had taken place.
- Videotape of the main event dated 11.12.2013 shows that the complainant had greeted Justice Gangele and his wife on the stage and thereafter she had interacted with the other guests and had dinner.
- It is unimaginable that being surrounded by around 300 guests, Justice Gangele would have had an opportunity to go close to the complainant and whisper something, as alleged, in her.
- Moreover, as per the complainant's deposition, she cannot be seen to have left the function soon after the alleged incident happened; she left after having dinner when the respondent was still on the stage attending to the wishes of the guests.

22. It is seen from the evidence that at the venue of the reception, nearby the left side of the stage there was space earmarked for orchestra. In front of the stage, there were two rows of seating arrangements with a passage in the middle. Near the orchestra there was DJ floor for dancing. After the seating arrangement, there was the area earmarked for dinning which was more or less near to the entrance. As it emerges from the evidence of Mrs. Gangele, roughly the arrangement at the venue of the reception is as under:



23. The functions like *Jaimala*, ring ceremony and cake cutting were performed on the stage. Both the respondent judge and his wife stated that the guests greeted them on the stage as well as in the carpeted area which was about two to four steps from the stage. When it was suggested to the respondent judge and Mrs. Gangele [R.W.4] that they were moving around separately meeting their family members, relatives and the High Court Judges and their spouses, both, the respondent judge and his wife categorically denied the same. Both of them reiterated that they remained only on the stage/carpeted area. In her cross-examination, Mrs. Gangele also reiterated what she has stated in para (31) of her affidavit, that her husband was with her throughout the function. She has also stated that neither she nor her husband went to the washroom during the entire function which lasted for about 3-3½ hours, thereby reiterating her stand that the respondent judge had no occasion to move around separately.

24. In her evidence, Ms. Bhawna Singh [JIC W.No.2] stated that on 11.12.2013, she was with the complainant throughout and that after complainant came to the venue with her two daughters they were talking together and after sometime all four of them went together to greet the respondent judge and his wife. Ms. Bhawna Singh further stated that after greeting the judge they came down and went to the dining area and served

the dinner together and they sat on the adjacent table alongwith other colleagues. Ms. Bhawna Singh also stated that the complainant left the venue even before her.

25. Mr. Rajendra Chaurasia [R.W.6] the then CJM and Mr. P.K. Sharma [R.W.7] have also stated that the complainant came to the venue at about 8.30 P.M. and the complainant went to the stage and greeted the respondent judge and his wife and after having dinner, the complainant left the venue at around 9.30 P.M. Mr. P.K. Sharma [R.W.7] has stated that when the complainant left the venue she told him that her elder daughter Sonal Madan has to prepare for half yearly examinations. Mr. Rajendra Chaurasia has also stated that the complainant left the venue at about 9.30 P.M. Evidence of Sahadev Singh is also on the same line. It thus emerges from the evidence on record that the complainant came alongwith her two daughters at the venue at about 8.30 P.M. and left at about 9.30 P.M.

26. Mr. Sahadev Singh, PSO of respondent judge [R.W.5] stated that it was the duty of the Personal Security Officers (PSO) to accompany the respondent judge wherever he needed to go. Regarding the reception on 11.12.2013, R.W.5 stated that he had seen the complainant and her two daughters presenting bouquet to the respondent judge and his wife on the stage. He further stated that respondent judge was always within his sight and that he never saw him conversing with the complainant at any point of time. Rajendra Chaurasia [R.W.6], the then Chief Judicial Magistrate, Gwalior, who had attended to the High Court Judges and other higher judicial officers at the function also stated that the respondent judge and his wife remained on the stage and received the wishes from the guests.

27. Mr. Rajendra Chaurasia [R.W.6] has stated that in such kind of family function of the High Court Judges, it is routine practice that the Chief Judicial Magistrate facilitates the function by receiving the High Court Judges and their spouses and other Higher Judicial Officers. R.W.5 and R.W.6 are natural witnesses whose evidence cannot be discarded on the complainant's suggestion that they were deposing falsely at the behest of respondent judge.

28. The complainant has stated that the alleged incident dated 11.12.2013 took place when the special anniversary dance was being performed by Mrs. Gangele and the daughters. The video clipping [Ex.R/3] of the reception does not record the said special anniversary dance. Complainant has submitted that the video clipping cannot be relied upon as the same has been edited and thus absence of special anniversary dance does not necessarily prove that in-fact there was no special anniversary dance. On the contrary, respondent judge has denied that there was any such special anniversary dance and has further contended that the video clipping ought to be relied upon in the light of deposition of the concerned videographer.

29. In so far as the video, Mr. Manoj Jain [R.W.3] has stated that '*...normally only those portions which are not clear or empty or irrelevant in the original DVD cassettes are edited or excluded*'. Undoubtedly, it is true that in normal course a DVD cassette of a particular event is edited to strike off irrelevant and unclear portions. Also, the video tape was recorded and might have been edited much before the complainant initiated action against the respondent judge and therefore, it cannot be said that the videographer would have edited the entire special anniversary dance which otherwise seems to be an important part of the function, if at all it had taken place. Thus, the video clipping produced by the respondent judge is found reliable. It has come in evidence that the respondent judge and his wife danced for a little while at about 10.30 p.m. after all the guest left. More so, the complainant's submission that respondent judge had an occasion to come near to her and make alleged remark, amidst all the guests, does not impress us. When Mrs. Gangele and her daughters have danced only at 10.30 p.m., and when the complainant left at about 09:30 p.m., serious doubts arise as to the version of the complainant, the respondent judge came close to her and made sexually coloured remarks.

30. The complainant has deposed before this Court that she went to attend the function dated 11.12.2013 between 8.30 p.m. to 9.00 p.m., with her two daughters. The same is evident from the video tape marked as **2_1** at **20:40**. In the clipping **02_1**, the complainant is seen entering the venue at 20.40 with her two daughters. Nobody escorted her to the stage. In the same clipping **2_1**, Justice Gangele alongwith his wife

and others is seen entering the venue at **09.19**, which is much prior to the complainant's entry. Of course, the respondent went towards the stage and accepted the greetings of the guests.

31. In another video clipping, **1_3** at **00.03**, the complainant is seen walking in the lawns of the hotel with her two daughters and Bhawna Singh. Complainant's elder daughter is seen holding a bouquet in her hand. Thereafter, it is seen that all of them went near the stage to greet Justice Gangele and his wife and clicked a photograph together. Complainant cannot be seen to converse with anybody there, apart from formally greeting the couple. After the complainant, her daughters and Bhawna Singh greeted Justice Gangele, they went to have dinner which can be noted in the same clipping, **1_3** at **3.15**. Later at **4.31** complainant's elder daughter is seen alone and at **5.10**, the complainant is seen sitting with her younger daughter at the table having dinner. While all this, Ms. Bhawna Singh is seen walking and taking desserts alone at 5:48 and 5:58. Lastly, the complainant is seen with her two daughters at 06.13.

32. After considering the videotape and deposition of the witnesses, it emerges that for major part of the event, the respondent was only with his wife accepting the greetings of the guests on the stage and near the stage in the carpeted area. It would have been immensely difficult for him to leave the company of his wife and daughters and to come close to the complainant without anybody noticing the same. 25th wedding anniversary organized by the respondent was a crowded event attended by the High Court Judges and their spouses, Judicial Officers and higher officials and their relatives and friends and other persons with whom the respondent judge and his family had acquaintances. In such an occasion, the foremost thinking of the respondent judge would have been to ensure that his relatives and guests are comfortable and well attended to.

33. The following facts and circumstances raise serious doubts about the allegations of the complainant that the respondent judge found an opportunity to go near the complainant and utter the sexually coloured remarks viz.,:

- (i) the respondent and his wife remained near the stage almost all the time, accepting the greetings of the guests either on the stage or in the carpeted area;

- (ii) the complainant was mostly in the company of someone and had come and left in the mid of the function at even times;
- (iii) many guests were present on the occasion, making it very difficult for the respondent judge to come close to the complainant and making the alleged sexual remarks;
- (iv) this allegation emerged for the first time only after the complainant's transfer order and rejection of her representation and finally resignation.

Also, it seems difficult to digest that the complainant chose to attend the reception of the respondent, when on an earlier date she had allegedly received a call at the behest of the respondent asking her to perform on an item song. Excepting the complainant's version and her husband's hear-say, there is no other evidence satisfying the higher standard of proof. The uncorroborated version of the complainant that in his 25th wedding anniversary celebration, crowded by his relatives and friends, the respondent judge found an opportunity to go near the complainant and make sexually coloured remarks does not satisfy the test of "*proof beyond reasonable doubt*". Upon consideration of the facts and circumstances, we hold that this ground relating to the incident on 11.12.2013 is not proved beyond reasonable doubt.

D. SENDING PERSONAL MESSAGES TO THE COMPLAINANT THROUGH DISTRICT REGISTRAR, NAVEEN SHARMA [JIC W.NO.8]

34. Complainant has alleged that during the month of January, 2014, respondent judge further harassed her by sending numerous messages through District Registrar Mr. Naveen Sharma [**JIC W.No.8**] asking her to meet the respondent at his official residence at Gwalior where he was usually living all alone in his bungalow without his wife and daughters (who were normally living in Delhi). Here again, in this regard, excepting the version of the complainant, there is no other evidence to substantiate the allegation.

35. In his evidence, the respondent has categorically denied having sent any such messages to the complainant. The respondent judge has also denied the suggestion that he stayed alone at his official bungalow in Gwalior. He stated that his wife stayed with him upto 2010 and thereafter she has been staying in NOIDA with their younger daughter who was pursuing her school education at NOIDA. The respondent has stated that his wife used to travel to Gwalior frequently. Respondent judge has stated that

apart from Mrs. Gangele, his father and mother, who were undergoing medical treatment at Gwalior were also staying with him. Muniraj Kushwaha, peon [R.W.2] residing in the servant quarters attached to the official bungalow of Justice Gangele has also stated that the aged parents of the respondent were also staying with the respondent judge. The house being official residence of the respondent judge, personal security officials were always deployed. It is highly improbable that the respondent could have sent messages to the complainant through Mr. Naveen Sharma to meet the respondent at his residence.

36. The respondent has stated that in Gwalior, he was residing at his official residence which was throughout guarded by the armed police; that apart Personal Security Officers (PSO) were also attached to him. PSO Sahdev Singh [R.W.5] has also stated that there were three PSOs attached to the respondent judge round the clock changing their duty on rotation basis.

37. When Mr. Naveen Sharma was in the witness box, he was confronted with the averments in para (12) of the complainant's affidavit, where the complainant has alleged that Mr. Naveen Sharma used to carry numerous messages on behalf of the respondent judge to the complainant asking her to meet the respondent at his official bungalow. Mr. Naveen Sharma has categorically denied the said allegation. On behalf of the complainant, it was suggested that Mr. Naveen Sharma is deposing falsely to support the respondent judge as he being the portfolio judge of Gwalior District, as well as the Administrative Judge of the Gwalior Bench, was in-charge of counter signing the annual confidential report of the Judicial Officers recorded by the Principal District Judge; the respondent judge had the discretion to either endorse the ACRs or disagree with the ACRs recorded by the District Judge. The said suggestion was categorically denied by Mr. Naveen Sharma.

38. This Committee has noticed that Mr. Naveen Sharma was trying to evade the questions put to him and inspite of the question being explained to him in Hindi, he was pretending as if he did not understand the questions. Be that as it may, but the core of the fact still remains that the complainant could not adduce any evidence much less substantive evidence of the alleged messages sent to her by the respondent judge. Mr.

Naveen Sharma's conduct in trying to evade the questions, coupled with his suspicious demeanour by itself cannot go alone to prove the version of the complainant, without any corroboration. Not only the complainant failed to prove that Mr. Naveen Sharma used to bring untoward messages of the respondent to her; but also failed to prove that the respondent judge shared a special rapport with Mr. Naveen Sharma, which comforted him in sending such messages through Mr. Sharma. Because, it is beyond imagination that a sitting judge of a High Court would engage a Judicial Officer to openly send messages to another lady Judicial Officer, without fear of being exposed at one point or other. One cannot solely proceed on the assumption that all the subordinate judicial officers would oblige and support the respondent judge in his illegal acts merely because he was the responsible for approving or disapproving the same, their ACRs.

39. If really the alleged messages were sent to the complainant at the behest of respondent judge, her natural conduct would have been to inform her husband Mr. Sanjay Madan [C.W.3] which she did not do, even though Mr. Sanjay Madan used to visit his wife and daughters at Gwalior almost every weekend. The husband of the complainant Mr. Sanjay Madan [C.W.3] has not stated anything about his being informed by his wife that such messages were allegedly sent to the complainant by the respondent judge. The fact that there was no contemporaneous information by the complainant about the alleged messages even to her husband, raises serious doubt about the version of the complainant. More so, when the respondent judge was residing at his official residence alongwith his aged parents and the house was guarded by armed police and Personal Security Officers (PSO), it is hard to believe that he would invite the complainant to his official residence to accede to his immoral demands. The Committee is of the view that this ground is also not established beyond reasonable doubt.

E. WEDDING CEREMONY OF JUDICIAL OFFICER, MS. SHIVANI SHARMA DATED 22.02.2014

40. Complainant has alleged that she was further harassed sexually on 22.02.2014, on the occasion of marriage of a Judicial Officer, Ms. Shivani Sharma. The complainant alongwith her husband and both the daughters attended wedding ceremony of Ms.

Shivani Sharma. Justice Gangele also attended the said wedding ceremony. After greeting the couple, the complainant and her husband and children had snacks and dinner. As per the version of the complainant, her husband Mr. Madan [C.W.3] went to the sweet corner alongwith younger daughter Suhani while the elder daughter [C.W.2] stayed back with the complainant. The complainant stated that when she was with her elder daughter, the respondent judge came near her and stated:

“aapka kaam toh bahut acha hai, par aap aapne kam se bahut khubsoorat hai. Aapko dekh kar apni ankhe jhapkaane ka mann bi nahi karta.”

“you have an excellent work performance but you are more beautiful than your work, I do not even want to blink my eyes.” [English translation]

The complainant further stated that the respondent judge stared at her from head to toe and then put his hand on her shoulder and slid it towards her back. The complainant was shocked and upset and she allegedly told the respondent that such advances are unwelcome. The complainant further stated that she asked her elder daughter to call her father so that they can leave.

41. Mr. Madan [C.W.3] as well as her elder daughter [C.W.2] Ms. Sonal Madan have deposed in line with the complainant’s version. The complainant’s elder daughter was supposedly with the complainant when the respondent judge made the alleged sexually coloured remark coupled with the unwarranted physical conduct. The complainant’s daughter deposed in her cross-examination that she was shocked to see the respondent judge put his hand on her mother’s shoulder and slid it towards her back, while stating to her mother that ‘*her work is very good, but she is way more beautiful than her work, one does not desire even to blink his eye*’. The complainant’s husband has deposed that he was at the dessert corner with their younger daughter when the alleged incident took place and that his elder daughter came to him and asked to leave, after which they left the function. It was only after they left, the complainant told him about the incident, which was to his utmost surprise. He has stated that he was shocked to learn that the respondent judge dared to misbehave again with his wife.

42. Justice Gangele denied the above allegations and stated that he attended the function for almost thirty minutes and during his short presence at the function he was accompanied by Mr. Rajendra Chaurasia, CJM, Gwalior and his PSO, Sahdev Singh

Yadav and, therefore, there was no occasion for him to go near the complainant and talk to her, much less the alleged remarks. Further, Justice Gangele stressed on the point that the complainant hid the fact that her husband also accompanied her to the marriage ceremony of Ms. Shivani Sharma. The respondent stated that it is unthinkable that he would make such a remark and conduct himself in the alleged manner whilst the complainant was in the presence of her husband. More so, when there was large gathering of Judicial Officers.

43. Ms. Bhawna Singh [**JIC W.No.2**] has also affirmed the version of the respondent that she accompanied the complainant at the wedding ceremony of Ms. Shivani Sharma. Relevant portion of her deposition in examination-in-chief is as under:

"I went to the venue early and Ms. ABC came after some time. After Ms. ABC came to the venue, we were generally together. Both of us went to the dias together to greet the newly wedded couple.

Q. Did you notice any other person accompanying Ms. ABC?

A. Ms. ABC was accompanied by her husband and daughters but I cannot remember any other person being in her company.

.....

About two to three hours I was at the venue. By the time I left the venue, many of the guests had left but some were present. I went to the venue driving my own car. Since it was late, Ms. ABC's car was following my car till my house when I returned home."

However, later in her cross-examination Ms. Bhawna Singh has accepted that she did not accompany the complainant throughout the function, as she was also interacting with other officers. But she also stated that the complainant never went out of her sight and since the venue was a small ground, if the alleged incident would have happened she would have definitely noticed the same. She also accepted that complainant's elder daughter throughout accompanied the complainant. It is an admitted fact that Ms. Bhawna used to share very cordial relation with the complainant as complainant always used to enquire from her if she had any problems. Admittedly, Ms. Bhawna was present at ceremony where the alleged incident took place and she also left the venue with the complainant itself, even though not in the same car. In spite of the same, she has not supported the version of the complainant.

44. Rajendra Chaurasia [**R.W.6**] the then CJM has stated that in the evening of 22.02.2014, he went to the official residence of the respondent judge and escorted him to attend the wedding ceremony of Shivani Sharma and that they reached the venue-

Mangalam Garden at about 9.15 P.M. alongwith the respondent judge. He has further stated that there were other judicial officers like Mr. P.K. Sharma [R.W.7], ADJ Gwalior and Mr. Naveen Sharma, the then District Registrar and other judicial officers who had accompanied the respondent judge. R.W.6 further stated that he took the respondent judge to the stage to bless the newly married couple and after the respondent judge came down from the stage, R.W.6 and other judicial officers escorted him to the dining area. R.W.6 also stated that the respondent judge remained at the function only for about thirty minutes and during that time he never saw him meeting the complainant at any point of time. To the same effect is the evidence of PSO Sahdev Singh [R.W.5] and Mr. P.K. Sharma [R.W.7]. Nothing substantial was elicited from the witnesses R.W.5 to R.W.7 to discredit their version. It was only suggested that witnesses R.W.6 and R.W.7 have deposed falsely since Justice Gangele as their Portfolio Judge was to counter sign the ACRs of the witnesses. R.W.6 and R.W.7, they have obliged the respondent judge which suggestion both the witnesses have denied. It has thus come on record through deposition of Mr. P.K. Sharma, Mr. Rajendra Chaurasia and PSO Sahadev Singh that the respondent judge was throughout accompanied by them at the wedding ceremony of Ms. Shivani Sharma and no evidence was adduced to rebut the same. We do not find any reason to doubt the version of R.W. 5 and R.W. 7.

45. At the wedding ceremony of two judicial officers of subordinate judiciary, a High Court judge is bound to be accompanied by many guests and officers. Even otherwise, as per respondent, he was at the function only for approximately thirty minutes during which he was accompanied by his PSO, Sahadev Singh Yadav. The complainant and her husband would have definitely noticed the presence of respondent, as being a High Court Judge he would have received special attention. It is surprising that the husband of the complainant could not accompany her for this brief period of thirty minutes, being completely oblivious of the incident that took place just 2-3 months back on 11.12.2013. It is quite unbelievable that in a wedding ceremony that a High Court judge who was surrounded by the judicial officers and other guests was just waiting for the time as to when the complainant's husband will go for dessert and to take that opportunity to go near the complainant to make sexually coloured remark. In line with the above reasoning, it is difficult to accept the version of the complainant solely relying on the

deposition of complainant's daughter, who as discussed above is a highly interested witness. Here again, the complainant's version does not satisfy the requirement of higher degree of proof required for impeachment of a judge.

F. FAREWELL PARTY OF JUSTICE G. D. SAXENA:

46. On 05.04.2014, District Judiciary of Gwalior organized a farewell party for Justice G.D. Saxena on his retirement. All the judges of the Gwalior Bench of the High Court including the respondent judge were invited. The complainant has alleged that the respondent judge amidst all the judges of the High Court and the members of district judiciary, continuously stared at her during the dinner and inspite of her strong efforts she could not escape his gaze. The complainant has maintained that knowing the attitude of Justice Gangele and given his past conduct, she sensed his wrong intentions and left the function with her daughters before the respondent could make any advances towards her.

47. *Per Contra*, the respondent has categorically denied the allegations of the complainant. He maintained that he was Chief Guest at the farewell party of Justice G.D. Saxena and he attended the function for about an hour during which he did not even notice the presence of the complainant. He stated that it was highly improbable for a judge of the High Court who was invited as a chief guest at a formal event, to commit such an act when he is surrounded by fellow High Court judges and members of district judiciary.

48. Mr. Rajendra Chaurasiya [R.W.6] who was also present at the farewell party of Justice Saxena, has deposed that all the judges posted at Gwalior Bench of the High Court were present at the function and the respondent judge was the chief guest at the function. [R.W.6] further stated that the High Court judges were sitting in the front, at the right side of the dais, whereas the judicial officers of the district judiciary were seated a little behind the High Court judges, and so far as dinner, there was a separate arrangement for the High Court judges and the judicial officers of the district.

49. In the farewell party of Justice G.D. Saxena, organized in the month of April, 2014, apart from the complainant and the respondent, all the judges of the Gwalior

Bench of the High Court and the members of the district Judiciary were also present. Admittedly respondent judge was the chief guest at the function and he stayed at the venue for about an hour. For the dinner, there was separate arrangement for the High Court judges and judicial officers of the district. It is complainant's allegation that during the dinner, she was constantly stared at by the respondent judge and that she had to finally leave the function with her daughters when she failed to avoid the staring of the respondent.

50. In the facts and circumstances of incident, it does not seem natural or plausible that the respondent would have committed such an act of staring at the complainant in the presence of all the judges of the High Court and members of district judiciary, that too when he was invited as a chief guest at the function. It is very difficult to accept the version of the complainant that the respondent avoided all his colleagues and subordinates present at the function only to stare at the complainant and also that he was unmindful of how others would react to such an act. Considering the fact and surrounding circumstances, we are of the view that this ground is also not proved beyond reasonable doubt.

G. DELAY IN REPORTING THE ALLEGED INCIDENTS OF SEXUAL HARASSMENT AND CONTENTION REGARDING 'REASONABLE WOMAN STANDARD' TEST

51. It is complainant's contention that her conduct in reporting the alleged sexual harassment at a belated stage should be tested on the anvil of conduct of a reasonable woman. It was suggested that fear of losing job often inhibit a woman from speaking up for delayed periods of time, especially when the power imbalance between the harasser and the victim is great. The complainant further suggested that it is not correct to contend that being a judge, the complainant was aware of the law relating to sexual harassment and thus, she should have promptly acted upon the misbehaviour of the respondent judge. The complainant argued that it is one thing to judge another's case on law and it is altogether another thing to herself be a victim of sexual harassment and thus, complainant's conduct should be viewed '*as a conduct of a reasonable woman*' and '*not as a conduct of a judge*'. Citing several foreign precedents the complainant urged to apply '*reasonable woman standard*' test in the present case.

52. It is to be clarified here that even though the complainant has relied on the '*reasonable woman standard*' test to contend that the complainant's conduct in not making a contemporaneous complaint against the alleged sexual harassment, she was subject to, should be tested on the anvil of a conduct of a reasonable lay-woman and not that of a judge. She has suggested that in ordinary course, how a judge would have conducted himself in the present circumstances should not be considered and in-fact how a reasonable lay-woman would have acted should be considered. The essence of '*reasonable woman standard*' test lies in objectivity and not subjectivity. The test of '*reasonable woman standard*' does not suggest that conduct of a particular person should be judged aloof of the circumstances attending the person. When the complainant is a well educated professional woman working as an Additional District Judge, it is irrational to suggest that her conduct should be tested in ignoring the circumstances attending to her. Complainant's designation, her attitude of immediately reacting to circumstances adverse to her etc. cannot be brushed aside and probity of her allegations can only be ascertained in light of such circumstances.

53. In order to clarify actual purport of '*reasonable woman standard*' test, we would like to quote a few paras from one of the foreign precedents relied upon by the complainant herself, viz. in the case of ***Ellison vs. Brady 924 F.2d 874 (1991)***. It clearly lays down that *reasonable woman standard does not establish a higher level of protection for men*. It only means that view of a reasonable woman is taken into consideration, as opposed to a man's view because a sex-biased reasonable person standard may tend to be male-biased.

"[5] Next, we believe that in evaluating the severity and pervasiveness of sexual harassment, we should focus on the perspective of the victim. King, 898 F.2d at 537; EEOC Compliance Manual (CCH) 615, 3112, C at 3242 (1988) (courts "should consider the victim's perspective and not stereotyped notions of acceptable behavior.") If we only examined whether a reasonable person would engage in allegedly harassing conduct, we would run the risk of reinforcing the prevailing level of discrimination. Harassers could continue to harass merely because a particular discriminatory practice was common, and victims of harassment would have no remedy.

We therefore prefer to analyze harassment from the victim's perspective. A complete understanding of the victim's view requires, among other things, an analysis of the different perspectives of men and women. Conduct that many men consider unobjectionable may offend many women.

...We realize that there is a broad range of viewpoints among women as a group, but we believe that many women share common concerns which men do not necessarily

share. For example, because women are disproportionately victims of rape and sexual assault, women have a stronger incentive to be concerned with sexual behavior.

[6] In order to shield employers from having to accommodate the idiosyncratic concerns of the rare hyper-sensitive employee, we hold that a female plaintiff states a prima facie case of hostile environment sexual harassment when she alleges conduct which a reasonable woman would consider sufficiently severe or pervasive to alter the conditions of employment and create an abusive working environment.

We adopt the perspective of a reasonable woman primarily because we believe that a sex-blind reasonable person standard tends to be male-biased and tends to systematically ignore the experiences of women. The reasonable woman standard does not establish a higher level of protection for women than men.”

54. It is absolutely, undisputed that the allegations levelled against the respondent judge if found to be true would amount to sexual harassment of the complainant and would amount to ‘misbehaviour’. In the present case the question is not whether a particular conduct of respondent judge viz. making sexually coloured remarks against the complainant or staring at her continuously at a formal function, etc. would amount to sexual harassment. The question is whether the respondent judge conducted himself in such a way as alleged by the complainant. If it is proved that the respondent judge acted in the manner suggested by the complainant, case of sexual harassment is undoubtedly made out. But, if the allegations of the complainant are not proved in light of the attending circumstances and evidence relied upon, then the test of ‘reasonable woman standard’ would not be of any help to her.

55. The complainant further contended that since there was no formal mechanism of complaining of sexual harassment meted out to a judicial officer by a judge of the High Court, the question of delay in complaining does not arise. As per the complainant what is relevant is her contemporaneous refusal to submit to the immoral demands of the respondent judge and her clear indication to the respondent judge that his advances are unwelcome. It was submitted that as any reasonable person would have done, the complainant also explored all the avenues of preventing sexual harassment before making a formal complaint against the respondent judge. According to the complainant, apart from personally resisting unwelcomed conduct of the respondent, she shared her grievance with her husband who advised their elder daughter Sonal Madan not to leave the company of the complainant in any parties/function.

56. However, we are completely in disagreement with above contention of the complainant. The evidence on record clearly suggests that the complainant never seems to have reacted on alleged sexual harassment meted out to her; she only acted upon the issue of staff harassment and mid-term transfer. The allegations of sexual harassment are levelled for the first time much after her resignation i.e. in the complaint made to the Chief Justice of India on 1st August, 2014. We are conscious that in cases of sexual harassment, we need to keep the hierarchy of the Department/establishment in mind. But given her conduct in strongly reacting to the behavior of her stenographer, police constable, staff problem, the delay in raising the grievance after the alleged incidents of sexual harassment, raises doubts about the versions of the complainant.

57. The complainant relies upon testimonies of certain independent witnesses viz., Justice P.K. Jaiswal [**JIC W.No.6**]; Retd. Justice Deepak Verma [**C.W.4**]; and Mr. V.B. Singh, the then PPS to Chief Justice of M.P. High Court [**JIC W.No.9**] to whom the complainant had allegedly apprised about the said incidents.

58. As per the complainant's version, on 20.05.2014, she had called Mr. Ravi Jaiswal [**JIC W.No.5**], Senior Advocate, whom she knew personally, to apprise him about the alleged acts of sexual harassment as well as staff harassment to seek his advice in the entire matter. Mr. Ravi Jaiswal is the brother of Justice P.K. Jaiswal, sitting Judge, Madhya Pradesh High Court. Complainant is acquainted with Mr. Ravi Jaiswal since her practice days. On 30.05.2014, Mr. Ravi Jaiswal had called the complainant and informed her that he had arranged a meeting of the complainant and her husband with his elder brother, Justice P.K. Jaiswal on the very next day at Jabalpur. Complainant and her husband took a flight from Delhi to Jabalpur on 01.06.2014, to meet Justice P.K. Jaiswal. The complainant has produced the flight tickets to substantiate her claim.

59. According to the complainant, she had informed Justice P.K. Jaiswal that Justice Gangele had sexually harassed her. Husband of the complainant Mr. Sanjay Madan [**C.W.3**] has also deposed on similar lines. The complainant has also stated that she had informed Justice Jaiswal about how the respondent had been directing District Judge Mr. Kamal Singh Thakur, Mr. Rajeev Sharma, District Judge (Inspection) and District Registrar, Mr. Naveen Sharma to harass her so that she succumbs to

respondent judge's illegal and immoral demands. As per the version of the complainant, Justice Jaiswal told her to approach her Portfolio Judge Justice Gangele, for which the complainant is said to have told him that “*Sir, wohitohhaisne mere saathbadtameezikeehai*”. This conversation as stated by the complainant is emphatically denied by Justice P.K. Jaiswal.

60. Justice P.K. Jaiswal has categorically denied that the complainant had told him about the alleged misbehaviour of Justice Gangele. He categorically denied that the complainant had mentioned about the instances of sexual harassment. Justice P.K. Jaiswal deposed that the complainant and her husband had met him on 01.06.2014 and they had discussed only complainant's staff problem. He maintained that the complainant had told him as to how District Registrar, Mr. Naveen Sharma harassed creating problem to her in not posting peons/staff. Justice Jaiswal stated that the conversation related only to the staff problem. Mr. P.K. Jaiswal further stated that he had told the complainant that he would talk to Justice Gangele who was the Portfolio Judge of Gwalior District. Justice P.K. Jaiswal further stated that he had called the respondent judge and asked him to look into the staff problem of the complainant and that after reopening of the courts that is, after 15th or 18th June, 2014, when he had called Justice Gangele and he had told him that he already spoke to District Judge Gwalior. But Justice P.K. Jaiswal asserted that Justice Gangele's name was not referred to in any other context.

61. Justice P.K. Jaiswal stated that as per the order of Chief Justice of Madhya Pradesh High Court, in the first week of July, 2014, he was sitting in Gwalior Bench, alongwith two other judges. Mr. P.K. Jaiswal stated that while he was sitting in Gwalior Bench, the complainant called him over phone and stated that she wanted to meet him to pay condolences for the death of his brother's wife (Mr. Ravi Jaiswal). Justice P.K. Jaiswal further stated that when the complainant met him to offer condolences, she informed him about the problem of her transfer from Gwalior to Sidhi and apart from the problem of her transfer, the complainant did not discuss any other matter with him.

62. There were few calls made by Justice P.K. Jaiswal to the respondent judge and *vice versa*. Justice P.K. Jaiswal was questioned by Mr. K.K. Venugopal, Hon'ble

Member of the Committee as to why he did not advise the complainant to approach her Portfolio Judge (Respondent) and why he himself took up the issue of staff problem of the complainant. Mr. K.K. Venugopal further questioned Justice P.K. Jaiswal that for trivial issue of staff problem, why the complainant should meet another High Court Judge. It was further suggested that the complainant's actual grievance was against Justice Gangele and, therefore, she had approached Justice P.K. Jaiswal. This was categorically denied by Justice P.K. Jaiswal. Relevant questions and answers are as under:-

Q. Were you not surprised as to why for a trivial issue of staff problem, Ms. ABC and her husband chose to fly from Delhi to Jabalpur to meet you?

A. I was not surprised.

Q. Was it not irrational on the part of an experienced Judge like you to have not advised an Additional District Judge to follow the normal practice of approaching the Administrative Judge at Gwalior?

A. According to me, she should have approached the Administrative Judge at Jabalpur.

Q. In any event why did you not tell Ms. ABC to meet Justice Gangele and place her grievance instead of taking lead to help Ms. ABC?

A. I have no reason.

Q. Is it possible that you did not advise Ms. ABC to place her grievance before Justice Gangele because her grievance itself was against Justice Gangele?

A. No grievance was raised by her against Justice Gangele.

[Page Nos.19 & 20 of Deposition of Justice P.K. Jaiswal (JIC W.No.6)]

63. On the same lines, questions were also put to Justice P.K. Jaiswal by Mr. Sanjay Jain, learned Amicus Curiae. Justice P.K. Jaiswal tried to help the complainant since her grievance was against Justice Gangele himself. It was emphatically denied by Justice P.K. Jaiswal. The relevant questions and answers are as under:

Q. Why did you entertain so many calls from Ms. ABC and you made calls on your own if the problem was confined to the issue of staff only?

A. She narrated her staff problem and, therefore, as a human problem and on humanitarian grounds I entertained the calls the also made calls to her.

Q. Keeping in view the fact that Ms. ABC was introduced to you for the first time on 1st June, 2014 by your brother Ravi Jaiswal and also that your brother did not pursue this issue after 1st June, 2014 why did you take a walk so long [to pursue and follow up the matter] to keep on interacting with Ms. ABC as also with Justice Gangele.

- A. I cannot give any specific reason.
- Q. Given this background, when you learnt about the transfer of Ms. ABC, against the transfer policy with the daughter in mid-session of Class XII, did you not find it difficult?
- A. No I do not think so.

[Page Nos.21 & 22 of Deposition of Justice P.K. Jaiswal (JIC W.No.6)]

64. When being thus repeatedly questioned as to why Justice P.K. Jaiswal tried to help the complainant, Justice P.K. Jaiswal stated that he felt it was a human problem and on humanitarian grounds, he entertained the calls from the complainant and also made calls to her in order to help her. In so far as the issue of transfer is concerned, Justice P.K. Jaiswal stated that he tried to help the complainant in the transfer matter since the complainant's daughter was in class XIIth and someone in her family was not doing well. Justice P.K. Jaiswal emphatically denied that the complainant had raised any grievance regarding the alleged sexual harassment meted out to her by the respondent judge. In the light of such emphatic denial, it cannot be said that the complainant had raised the issue of sexual harassment before Justice Jaiswal.

65. When Justice Jaiswal was in the witness box, the committee observed that Justice Jaiswal was not answering the questions directly. He repeatedly said that "*he did not remember exactly*" and whenever any suggestion was put to him, by and large, he replied very casually by saying, "*it may be so*". This does not, however, advance the case of the complainant as Justice Jaiswal categorically denied complainant's version that she had apprised him about the sexual harassment allegedly meted out to her by the respondent judge. It is not uncommon that when a person appears as a witness in any court/proceeding, having been subjected to prolonged and unchecked cross-examination, he is confounded. Complainant knows Justice P.K. Jaiswal only through Ravi Jaiswal (brother of Justice P.K. Jaiswal). When Justice P.K. Jaiswal categorically stated that the complainant had raised only her staff problem which she was facing in the district, the complainant's version that she had raised her grievance about the alleged sexual harassment by the respondent judge contemporaneously, remain unsubstantiated.

66. The complainant had sought indulgence of Hon'ble Justice Deepak Verma, Former Judge, Supreme Court of India, through her uncle, Mr. H.S. Bhatia, Advocate, Chindwara (M.P.) in cancelling/postponing her transfer to District Sidhi. Justice Verma stated that Mr. Bhatia after informing him about the mid-term transfer of the complainant had requested him to help his niece-complainant. Thereafter, the complainant personally spoke to Justice Verma over phone and apprised him about her transfer to Sidhi (M.P.) about 500 kms. away from Gwalior, she expressed her concerns related to her elder daughter's education and how her abrupt transfer to Sidhi would adversely affect her as she would find it difficult to move immediately and requested him to help her to keep the transfer order in abeyance. The complainant also informed him that she had also sought indulgence of Justice P.K. Jaiswal in this matter.

67. Justice Verma has filed a separate affidavit before this committee, in which he has stated that pursuant to his conversation with the complainant, he called Justice Rajendra Menon and requested him to do whatever best he could do for the complainant. He further stated that Justice Menon had assured him that he will look into the matter and do the needful. However, two day thereafter or so, Justice Menon called him back to inform that the complainant had already tendered her resignation.

68. Justice Verma further stated that after tendering her resignation, the complainant personally met him and apprised him that the respondent judge sexually harassed her. According to Justice Verma, the complainant told him that the respondent judge tried to prejudice her work by creating a hostile work environment and that her abrupt transfer was another way of victimizing her and also that she was left with no other option except to resign. Complainant apprising Justice Verma about the alleged sexual harassment meted out to her, was only after tendering her resignation. The evidence of Justice Verma cannot be taken into consideration as one of the contemporaneous efforts taken by the complainant to ventilate her grievance. The reason being, it was long after the alleged incidents of sexual harassment and much after rejection of her representations and her resignation.

69. The allegations levelled by the complainant against the respondent judge are very grave and we do accept that fear of hierarchy exists in the system. But the delay in

raising the issue of allegations of sexual harassment by the respondent judge raises serious doubts in our mind. At this juncture, we feel it appropriate to refer to the conduct of the complainant in quickly reacting to any behavior which she felt inappropriate. **Ex.R/26** dated 29.06.2013, is the complaint made by the complainant to the district judge against her stenographer Hariom Sharma about his behavior which in complainant's opinion, disturbed the decorum of the court. She also complained about the behavior of one constable in **Ex. R/25** to the Station House Officer recommending to take action against the said constable. Given the conduct of the complainant in strongly reacting to the behavior of her stenographer, police constable and also her staff problem, absence of any reaction to the alleged sexual harassment meted out to her by the respondent judge, raises serious doubts in our mind. As pointed out earlier, the allegations of sexual harassment emerged for the first time much after her resignation that is in the complaint made to the Chief Justice of India on 01.08.2014 long after her resignation.

H. OTHER OBSERVATIONS OF THE COMMITTEE WHICH ARE RELEVANT:

70. As discussed earlier, the complainant has narrated the alleged sexual harassment meted out to her in the 25th wedding ceremony of the respondent (10.12.2013 and 11.12.2013). Ms. Shivani Sharma wedding dated 22.02.2014 and Justice Saxena's farewell on 05.04.2014 alleged messages carried by Mr. Naveen Sharma. In para (18) of her affidavit, the complainant has stated that *"....did not succumb to his illegal and malicious aspirations. As a result, from April 2014 onwards Justice Gangele, who was the Administrative Judge, began to act in a vindictive manner and started subjecting me to intense forms of surveillance in my professional work and meted out various forms of harassment..."*. Even though the complainant has alleged that the respondent judge was acting in a vindictive manner in April, 2014, ACR for the year 2013, recorded by the respondent judge for the complainant on 14.04.2014 speaks otherwise. **Ex. R/5A** is the ACR of the complainant for the period from 01.01.2013 to 31.12. 2013 recorded by the respondent on 14.04.2014. Part I of the ACR refers to the "Personal Data" filled in by the complainant herself and her self assessment alongwith the details of disposal. Part II refers to the assessment/grading recorded by the District

Judge so far as the complainant is concerned that the District Judge has graded her as “**B-Very Good**”. The respondent judge who was the Portfolio Judge of Gwalior district, by his endorsement dated 14.04.2014 has affirmed the grading awarded by the District Judge and also the remarks recorded by the District Judge. If really, the respondent judge had developed a vindictive attitude towards the complainant from April, 2014 onwards, the respondent judge would not have affirmed the grading for the complainant as “**B-Very Good**” as recorded by the district judge. This further raises doubt on the version of the complainant that respondent judge was acting in a vindictive manner.

71. It is pertinent to note that the complainant called the respondent judge on 30.05.2014 to apprise him about the peon problem which she was facing and told him that she was under-staffed. The respondent judge is said to have told the complainant that he is on vacation and he will revert back to her after he returns from the vacation. On behalf of the respondent judge, it was submitted that if the respondent judge had sexually harassed the complainant as alleged by her, in the normal course of conduct, the complainant—a victim of sexual harassment would not have contacted her alleged perpetrator after having been harassed by him. If really, the respondent judge had sexually harassed the complainant as alleged by her, she would not have contacted the respondent judge himself to sort out her peon problem. We find much force in the said submission.

72. On behalf of the respondent judge, much reliance was placed upon the report “*Nai Dunia*”, newspaper clippings [Ex.RW-1/23] published on 16.07.2014 to contend that the complainant did not disclose any sexual harassment from the respondent judge at the earliest. According to the respondent, as per the newspaper clippings [Ex.R/10] which carries the statement of the complainant where she has said to have stated to the correspondent of ‘*New Dunia*’ that her elder daughter is a student studying in class XIIth and that she has decided to give priority to the future of her daughters study and, therefore, she resigned from the service. To prove the said newspaper clippings, since reporter of the newspaper was not examined. We are not inclined to go into the correctness or otherwise of the said newspaper clippings i.e. “*New Dunia*”.

73. Having made all the above observations, a doubt arises in our mind, as to why, the complainant should make this allegation against the respondent judge. There is no convincing explanation from the respondent judge. Of course, the decision in **Narender Kumar vs. State (NCT of Delhi)** (2012) 7 SCC 171, relied upon by the respondent judge, it has been held that it is not for the respondent to explain as to why such allegations are levelled against him. Be that as it may, we are of the view that the evidence on record is not sufficient to establish the charges beyond reasonable doubt to hold the respondent guilty of misbehaviour.

I. CONCLUSION

74. The four instances of sexual harassment alleged by the complainant: (i) the 25th Wedding Anniversary celebration of Justice Gangele which was convened on 10th and 11th December, 2013, *Ladies Sangeet* and main event respectively; (ii) sending alleged personal messages through the District Registrar asking the complainant to meet the respondent; (iii) alleged incident at wedding ceremony of a Judicial Officer Ms. Shivani Sharma on 22.02.2014; and (iv) farewell function on the retirement of Justice Saxena in April, 2014, are not proved beyond reasonable doubt. We hold that charge No.1 is not proved.

Part III

II. CHARGES ALLEGED IN RE: TRANSFER

- (ii) **Victimisation of the said Additional District and Sessions Judge for not submitting to his illegal and immoral demands, including, but not limited to, transferring her from Gwalior to Sidhi.**

Ground in support of the above charge

“That on 08.07.14, at the instance of you, Justice S.K. Gangele, and with *mala fide*, Ms. Madan was suddenly transferred to Sidhi, a Naxal affect area. That the transfer was made solely to punish Ms. Madan and that on 10.07.2014, when Ms. Madan contacted you to plead with you to not go through with the transfer as her daughter was in Class 12, as stated by Ms. Madan in particular paragraph 55, 72, 80 and 82 of her Affidavit dated 31st August, 2015, you responded by stating that she had not fulfilled your desires and that she had not visited your residence alone to meet you even once. You further told Ms. Madan that you would finish her career completely.”

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A. LIST OF WITNESSES AND DOCUMENTS RELEVANT FOR THE PURPOSE OF DISCUSSION ON THE CONCERNED CHARGE

Witnesses	Relevant Document
<p>Complainant's Witnesses:</p> <ol style="list-style-type: none"> 1. Complainant herself, C.W. No.1 <p>JIC Witnesses:</p> <ol style="list-style-type: none"> 1. Mr. Kamal Singh Thakur, District Judge, JIC W. No. 4 2. Mr. Ved Prakash Sharma, the then Registrar General, at present Judge, Madhya Pradesh High Court JIC W. No. 7 3. Mr. V.B. Singh, PPS to Chief Justice Madhya Pradesh High Court, at present Registrar, Indore Bench, JIC W. No. 9 4. Mr. Justice Rajendra Menon, the then Judge, Madhya High Court, at present Chief Justice of the High Court of Patna, JIC W. No.11 <p>Respondent Witnesses:</p> <ol style="list-style-type: none"> 1. Justice Gangele, R.W.1 2. Mr. P.K. Sharma R.W.7 	<ol style="list-style-type: none"> 1. Transfer order of the complainant dated 08.07.2014 (Ex.JIC/3) 2. Communication sent by Mr. Kamal Singh Thakur, recommending transfer of the complainant (Ex.JIC/14) 3. Representation of complainant dated 9th July, 2014 seeking extension for completion of her daughter's studies in Class XII to stay at Gwalior. [Ex. JIC/23] 4. Representation of the complainant dated 11th July, 2014. [Ex. JIC/24] 5. Recommending transfer of Ms. Savita Ogle on out of turn at her request on medical grounds [Ex. JIC/25] 6. Minutes of the Meeting of the Transfer Committee dated 07th July, 2014 in which name of the complainant is found at S.No. 5 in Agenda 'G'. [Ex. JIC/27] 7. Agenda of the Meeting dated 07th July, 2014 of the Transfer Committee to deal with matters pertaining to transfer and posting of officers. [Ex. JIC/29] 8. Statement showing the pendency of cases along with court pendency [Ex. JIC/30] 9. Noting dated 11th July, 2014 of Mr. Ved Prakash Sharma, Registrar General, JIC Wit No.7 regarding representation of the complainant against her transfer to Sidhi. [Ex. JIC/31] 10. Rejection of the complainant's first representation dated 09.07.2014 [Ex. JIC/31] 11. Rejection of the complainant's second representation dated 11.07.2014 [Ex. JIC/32] 12. Transfer Policy of the Madhya Pradesh High Court [Ex. JIC/38] <p>Respondent's Exhibits</p> <ol style="list-style-type: none"> 13. Details of the roster of the Gwalior Bench and List of Committees of M.P. High Court [Ex.RW1/24] 14. Anonymous letter diarised on 10th June, 2014 obtained by the respondent-Judge from M.P. High Court through RTI Act. [Ex.R/27] 15. Reply dated 28th June, 2014 by Mr. Kamal Singh Thakur addressed to the Principal Registrar obtained by the respondent-Judge through RTI Act. [Ex.R/28]

B. BACKGROUND FACTS

1. As already noted, on 08.07.2014, the complainant was transferred in the mid of session from District Gwalior to District Sidhi, as 2nd Additional Judge to 1st Additional District and Sessions Judge, Sidhi i.e. from a class 'A' city to a class 'C' city. The complainant has alleged that Justice Gangele, in collusion with the District Judge, Gwalior as well as with transfer committee ensured that by the transfer order dated 08.07.2014, she is transferred mid-term to a far-away place Sidhi which is a naxal affected area to punish her for not fulfilling his immoral demands and also ensured that her representations are rejected. In terms of Clause 9(a) of the Transfer Policy, the complainant filed a representation dated 09.07.2014 before the Registrar General, High Court of Madhya Pradesh through the District and Sessions Judge, Gwalior, seeking extension of her posting at Gwalior for eight months till the completion of academic session of her elder daughter as her fifteen year old daughter was in the midst of her Class XII Board session and explaining her difficulties in moving to District, Sidhi. The said representation dated 9th July, 2014 [Ex. JIC/23] was rejected on 11th July, 2014 [Ex. JIC/31]. On the same day i.e. on 11th July, 2014, in terms of clause (16) of the Transfer policy, the complainant made another representation to the Registrar General, M.P. High Court requesting for being transferred to a 'B' Class City in M.P such as Sehore, Raisen, Dewas, Ujjain and the same was also rejected on 14th July, 2014 [Ex. JIC/32].

2. In her evidence, the complainant stated that on 10th July, 2014, she had also called Justice Gangele to make a complaint regarding her abrupt mid-term transfer to Sidhi. Complainant has maintained that being the Administrative Judge-cum-Portfolio Judge, Justice Gangele was supposed to give a no-objection certificate to her representation seeking eight months extension of her tenure at Gwalior; only then her request for extension could have been accepted. When the complainant apprised him about her situation, Justice Gangele is alleged to have given a reply in the following words:-

"Tumne meri ichchai puri nahi ki hai. Ek bar bangle par akeli milne nahi aayi ho. Ab apka transfer parinam ke roop me aapke saamne hai. Tumhara career main chaupat kar doonga."

"Your transfer is for not fulfilling my aspirations and for not visiting my bungalow alone even once. I will spoil your career completely". [English translation]

3. The complainant's resignation was accepted by Government Order No. 3(A)1/2011/21-B(one) dated 17.07.2014 issued by the Government of Madhya Pradesh, Law and Legislative Affairs Department and a copy of the same was affected upon her. The complainant has maintained that her mid-term transfer as well as rejection of her both the representations, is not a regular administrative exercise; rather, it is a part of the scheme designed by Justice Gangele for wreaking vengeance on her as she did not submit to his immoral demands. The complainant has put forth several factual data before the committee to substantiate her plea that how her mid-term transfer as well as rejection of her representations were *mala fide* and contrary to the transfer policy of the High Court.

4. As opposed to the stand of the complainant, Justice Gangele has categorically denied that he had played any role in complainant's transfer. He has maintained that the complainant was transferred on '*administrative grounds*' and that all the powers in relation thereto, including any representations for extension of complainant's tenure, were to be considered by the Chief Justice of the High Court and/or the transfer committee which comprised of Justice Rajendra Menon, Justice Kemkar and Justice Sanjay Yadav and he had no role to play in the same.

C. TRANSFER OF THE COMPLAINANT WHETHER VIOLATIVE OF TRANSFER POLICY

(a) Guidelines/norms of the transfer policy

5. Every High Court has General Transfer Policy or Guidelines for transfer of the judicial officers. The transfer policy of Madhya Pradesh High Court lays down guidelines for transfer and posting of judicial officers in the State of Madhya Pradesh [Ex. JIC/38] and it has come into force with effect from the year 2012. As per Clause 27 of the Transfer Guidelines, the Chief Justice of Madhya Pradesh High Court may delegate the powers to any judicial officer or Committee of Judges/Officers for the implementation of the Policy/Guidelines. In terms of Clause 27, the Chief Justice has constituted a Transfer Committee [Ex. JIC/28]. At the relevant point of time, Justice Rajendra Menon [JIC W. No.11] was the Chairman of Transfer Committee and Justice Kemkar and Justice Sanjay Yadav were the Members of the said Committee. Justice

Kemkar was transferred to Indore Bench and after his transfer, the Committee was not re-constituted. Being the then Registrar General, Justice Ved Prakash Sharma [**JIC W. No.7**] was the Secretary of the Transfer Committee. Normally, on the note put up by the Registrar General, meeting of the Transfer Committee is convened and the Committee recommends transfer of judicial officers and after being approved by the Chief Justice, transfer orders are issued.

6. It is brought on record from the evidence of Justice Menon [**JIC W. No.11**] that normally Registrar General meets the Chairman during the lunch break and after getting approval of the agenda, the date for the meeting of the Transfer Committee is fixed and the paper book is prepared and the same is sent to the residence of the members and the Chairman a day in advance.

7. In his evidence, Justice Menon [**JIC W. No.11**] has stated that transfer of the complainant was based on the letter dated 03.07.2014 [**Ex. JIC/14**] sent by the then District Judge Thakur. Justice Menon [**JIC W. No.11**] maintained that no departure was made in the case of the complainant and that her transfer orders were passed in line with the transfer policy of the High Court. Justice Menon stated that solely, by taking into account the letter of District Judge-Kamal Singh Thakur [**JIC W. No.4**] dated 03.07.2014 [**Ex. JIC/14**], the Transfer Committee recommended the transfer of the complainant. Justice Menon stated that the transfer of the complainant was based upon the letter [**Ex. JIC/14**] of the District Judge Kamal Singh Thakur. Justice Ved Prakash Sharma [**JIC W.No.7**], the then Registrar General of the High Court stated that **Ex.JIC/14** recommending transfer of the complainant from Gwalior was placed before the Transfer Committee. The transfer of the complainant was thus based on the recommendation of the District Judge Kamal Singh Thakur [**Ex. JIC/14**].

8. The transfer of the complainant in the mid-session from District Gwalior to Sidhi is stated to be in exercise of administrative powers under Clause (22) of the transfer policy. Justice Menon further stated that in **Ex.JIC/14** even though some allegations were made against the complainant without referring the matter to Administrative Committee-I, the Transfer Committee recommended for transfer of the complainant and the same was approved by the Chief Justice on the very same day that is 7th July, 2014.

The processing of transfer order is depicted from the following sequence of dates and events:-

- Letter sent by Kamal Singh Thakur, District Judge to the High Court03/07/2014
- Hard Copy of Ex. JIC/14 must have been received in the Principal Bench, Jabalpur04/07/2014
or
05/07/2014
- Saturday and Sunday05/07/2014
and
06/07/2014
- Meeting of the Transfer Committee and the decision taken to transfer the complainant07/07/2014
- Approval by the Chief Justice on the same day07/07/2014

Contention of the complainant is that the transfer of the complainant during mid-academic term, in the absence of urgency or administrative grounds was not proper and in violation of transfer policy. Further contention of the complainant is that transfer guidelines are made in aid of the better administration and therefore it is expected that there is some compliance of the transfer guidelines.

9. As per Clause (5) of the Transfer Policy, the normal approximate tenure of posting at a place shall be three years. As per Clause 4, annual transfer of judicial officers shall be effected normally by the 15th of March every year and the judicial officers will be given time for joining the new station on the first day of April of the relevant year so as to coincide with the academic session. Transfer in the annual chain is a general rule. However, a Judicial Officer may be transferred even before completion of the prescribed tenure at a particular place in the interest of administration of justice. Clauses (22) and (26) of the policy envisages the power of Chief Justice or the Transfer Committee with respect to transfer or posting of any judicial officer in the interest of the administration.

10. On being questioned, Justice Menon [**JIC W. No.11**] admitted that he must have seen the letter dated 3rd July, 2014 sent by the District Judge-Kamal Singh Thakur recommending the transfer of the complainant [**Ex. JIC/14**] for the first time at the meeting at 4:30 p.m. on 7th July, 2014. Justice Menon [**JIC W. No.11**] has admitted that the allegations made in **Ex. JIC/14** if correct, were serious [**Ex. JIC/14** discussed at

length later]. When being confronted with the transfer order of Ms. Sangeeta Madan, Justice Menon [**JIC W. No.11**] stated that the meeting of 7th July, 2014 must have been fixed in the afternoon of 6th July, 2014 when the Registrar General came to him to seek approval of the same and the papers pertaining to the meeting must have been circulated in the evening of 6th July, 2014. The calendar of 2014 being shown to the witness, it was elicited that 6th July, 2014 was a Sunday. On being confronted with the calendar for the year 2014, Justice Menon [**JIC W. No.11**] changed his earlier version and stated that the Registrar General could not have met him on 6th July, 2014 and similarly, the paper book could not have been circulated on 6th July, 2014. He also admitted that even without discussing the matter with the Chief Justice or referring the matter to Administrative Committee-I, the Transfer Committee recommended transfer of the complainant and the same was approved by the Chief Justice on the very same day i.e. 7th July, 2014.

11. In the backdrop of the Transfer Policy, if the case of the complainant is analyzed *prima facie*, we find mid-session transfer of the complainant was in violation of the Transfer Policy. As per clause 5 of the Transfer Policy, the normal prescribed tenure of posting at a place shall be three years. As per clause 4 of the annual transfer of judicial officers shall be effected normally by 15th March every year. Transfer in the annual chain is a general one. However, a judicial officer may be transferred even before completion of tenure at a particular place in the interest of administration of justice. Clauses (22) to (26) of the Transfer Policy is in the power of the Chief Justice of the transfer committee with respect to mid-term transfer of judicial officers. The complainant was transferred in the mid session as opposed to the normal routine of the annual transfer.

12. Clause (8) of the Transfer Policy provides the manner in which transfer exercise shall be carried out. No doubt transfer in the annual chain is a general rule. As the complainant was transferred in the mid-session, before completion of her normal tenure at Gwalior, in terms of clause 9(a) of the transfer policy, she filed a representation dated 9th July, 2014 [**Ex. JIC/23**] before the High Court, sent through District Judge, Kamal Singh Thakur [**JIC W. No.4**] along with enclosures including the fee receipt of Little

Angel High school where her daughter was studying, seeking extension of her tenure at Gwalior by eight months so that her elder daughter who was studying in Class XII Board could complete her academic session. In her representation dated 9th July, 2014, the complainant placed before the transfer committee her practical difficulties in joining the new post at Sidhi and at the same time expressed her willingness to obey any orders served on her thereafter. The following is the excerpt from her representation dated 9th July, 2014 [Ex. JIC/23]:-

“.....As I am a part of the Indian judicial family, I am abiding and I will always abide by the laws and regulations of the system. Due to this sudden transfer/posting orders served on me, in the middle of the academic year of the education of my elder child studying in class XII (a crucial year for the future career), I most humbly request you to please look into the matter and allow me to support my daughter to complete her academic year.”

13. Complainant’s representation seeking extension of her tenure till her daughter completes the academic session, was in terms of Clause 9(a) of the transfer policy. As per Clause 9(a) of the transfer policy if a judicial officer posted at Category ‘A’ city is transferred and the officer has a daughter studying in the final year of the Board examination or University examination and the education institution where the daughter is studying does not have hostel facility for girls then the officer shall be entitled to extension of tenure till the completion of the academic session of the officer’s daughter. Clause 9 of the transfer policy [Ex. JIC/38] reads as under:-

“9. Normally, a request for extension of tenure shall not be accepted except in the following cases:

(a) That the daughter (not son) of the Judicial Officer is studying at the place of his current posting, and is in the Final Year of a Board Examination or University Examination, and the educational Institution where such daughter is studying, does not have hostel facility for girls. This will be the criteria for officers seeking overstay in A category places. For B, C, or D category places, it may be the daughter or son, and non-availability of hotel will not be essential. It is further clarified that the aforesaid request shall be considered only if the facts with regard to education of the daughter and non-availability of Hostel facility in the Institution is certified by the District Judge concerned, after proper verification, and the District Judge as well as the Portfolio Judge have no objection to the over-stay of the Officer.

(b)

(c) Any other substantial reason because of which in the opinion of the District Judge, the Portfolio Judge or the Chief Justice, the overstay of the officer would be justified.

If any Judicial Officer submits such representation covered by sub-clauses (a), (b) or (c) above to his District Judge for being forwarded to the Registrar

General, it will be obligatory for the District Judge to send the representation along with his comments within one week of its receipt after the necessary verifications. The Registry will place the matter before the concerned Portfolio Judge within a week of the last date of receipt of representations, and the Portfolio Judge will return the file with his comments/opinion within a week thereafter.”

14. The complainant would have completed her tenure of three years at Gwalior on 31.07.2014. When the complainant was transferred (as on 07.07.2014) she was only short of twenty four days for completion of her three years tenure at Gwalior. Since the complainant was short of twenty four days (as on 31.07.2014), her case was not taken up for consideration during Annual General Transfers of 2014. Grievance of complainant is that since her case was clearly covered by Clause 9(a), her representation dated 09.07.2014 [Ex. JIC/23] seeking extension should not have been rejected within two days of its submission.

15. Justice Menon [JIC W. No.11] admitted that the Committee did not take note of the Annexures of the complainant's representations which contained the fee receipt of the complainant's daughter containing the name of the school in which her daughter was studying. Justice Menon also admitted that he did not inquire into the availability of the hostel facility in the school in which the complainant's daughter was studying. In the Office Note put up by the Registrar General [Ex. JIC/31], there is no indication about the availability of the hostel facility in Little Angels School, where the complainant's daughter Sonal Madan was studying. Ex. JIC/31 only states that adequate educational facilities including CBSE schools are available at Sidhi. Clearly, the Transfer Committee did not inquire about the availability of the hostel facility in the school where complainant's daughter was studying nor chose to satisfy itself about the availability of the educational facilities at Sidhi; but chose to reject the complainant's first representation [Ex. JIC/23] dated 9th July, 2014 on 11th July, 2014 [Ex. JIC/31], on the same day on which the note was put up by the Registrar General.

16. Justice Menon [JIC W. No.11] initially maintained that the case of the complainant would not be covered by Clause (9) of the transfer policy; according to him Clause (9) applies only to annual transfers and not to mid-term transfers which are effected either on promotion or in the interest of administration. In his evidence, Justice Menon stated that “Clause (9)” cannot be read in isolation; but it has to be read

alongwith the other clauses in the transfer policy. However, when it was pointed out to him that on 7th July, 2014, the complainant was only short of 24 days for completion of her tenure of three years at Gwalior, Justice Menon accepted that the case of the complainant will be covered by Clause (9) of the transfer policy, which reads as under:-

"It is correct to say that Ms. ABC would have completed her tenure of three years at Gwalior on 31st July, 2014. When we transferred her on 7th July, 2014 Ms. ABC was only short of 24 days for completion of her tenure of three years at Gwalior.

Q: Is it not correct to say that therefore her request for extension of tenure would come under Clause (9) of the Transfer Policy Exhibit JIC/38?

A: It is true.

Q: If so, the fact that her daughter is studying for a board exam in Class XII would come under the exception set out in Clause 9 of Exhibit JIC/38?

A: Yes.

Q: If that be so, you could have waited for eight months for transferring Ms. ABC. Isn't it?

A: Yes, there was such option was available with the Transfer Committee.

It is correct to say that Ms. ABC would have completed her tenure of three years at Gwalior on 31st July, 2014. When we transferred her on 7th July, 2014 Ms. ABC was only short of 24 days for completion of her tenure of three years at Gwalior.

Q: Is it not correct to say that therefore her request for extension of tenure would come under Clause 9 of the Transfer Policy (Exhibit JIC/38).

A: It is true."

[Vide Page No. 30 of deposition of JIC W. No.11]

17. The complainant had been transferred from class 'A' city to class 'C' city instead of transfer to class 'B' city, which again was in violation of the Transfer Policy. Clause (16) of the Transfer Policy stipulates that on transfer normally judicial officers will have to go from category 'A' to category 'B', from category 'B' to 'C', from category 'C' to category 'D' and from category 'D' to category 'A' or lower category places. Places available for posting based on these guidelines are classified in to four categories namely A, B,C and D as mentioned in the Annexure 'A' to these Guidelines. Clause (16) reads as under:-

"16. On transfer, normally, judicial officers (except District Judges, which term here does not include Additional District Judges) will have to go from A to B, from B to C, from C to D, and from D to A or lower category places. Any lower category may be given (i) either at the option of the Officer, or (ii) if post is not available in the category of entitlement or (iii) if for any other reason the transferring Authority is of the opinion that the officer should be transferred to a lower category. However, in cases (i) and (ii) the officer will retain his category entitlement and attempt will be made at the next transfer to post him to that category to which he should have been posted at the transfer where he could not be accommodated. Every Judicial Officer will have to serve in each category place for the normal tenure prescribed above for that category. However, if overstay of pre-mature transfer request of the Officer is allowed by the High Court for any particular place of posting, then the actual period of stay at such place will be deemed to be the normal tenure of that place for that posting."

18. Category 'A' are cities like Bhopal, Gwalior, Indore and Jabalpur. Category 'B' stations are municipalities like Dewas, Katni, Rewa, Sehore, Ujjain, Raisen etc. which are very near to big cities like Bhopal, Gwalior, Indore, Jabalpur. Category 'C' stations are district headquarters and tehsil headquarters but far away from the big cities. As per the transfer policy of Madhya Pradesh High Court [Ex. JIC/38], on transfer from Gwalior ('A' city) complainant was entitled to be transferred to category 'B' city. Grievance of the complainant is that in violation of the transfer policy, she was transferred from category 'A' city (Gwalior) to category 'C' city (Sidhi), even though there was no vacancy at Sidhi.

19. In her second representation dated 11.07.2014 [Ex. JIC/24], complainant requested for transfer her to stations which come under the category of class 'B' cities such as Sehore, Raisen, Devas, Ujjain etc. As discussed earlier, as per the transfer policy, complainant was entitled to transfer from class 'A' city to class 'B' city. Complainant's second representation dated 11th July, 2014 [Ex. JIC/24] was also rejected by the Transfer Committee. The Office Note dated 14.07.2014 [Ex. JIC/32] put up by the Registrar General and the order of the Committee reads as under:-

“Kind attention is invited to another representation (dated 11th July, 2014) submitted by Smt. Sangeeta Madan, 8th A.D.J., Gwalior, regarding her transfer from Gwalior to Sidhi, almost on identical grounds pertaining to education of her daughters.

The Committee has already considered the representation dated 9th July, 2014 of Smt. Madan and has been pleased to reject the same.

The matter is submitted again for kind consideration and orders in view of the repeat representation dated 11th July, 2014.

**(Ved Prakash)
Registrar General
14.7.2014**

HON'BLE SHRI JUSTICE RAJENDRA MENON

In view of the order already passed on the representation no further reconsideration is to be made.

**Sd/-
14.7.2014**

HON'BLE SHRI JUSTICE SANJAY YADAV

**Sd/-
14.7.2014”**

20. The prayer made by the complainant in her subsequent representation dated 11th July, 2014 [Ex. JIC/24] was entirely different which according to the complainant could not have been rejected. The Transfer Committee did not exercise either of the two

options viz., to give the complainant an extension of eight months nor considered the option of transfer to class 'B' station. It appears that the transfer committee was persistent in dismissing the representation of the complainant, be it what may be. The irresistible conclusion is that the decision of the High Court to transfer the complainant from Gwalior (Category 'A' City) to Sidhi (Category 'C' City) and rejection of her representations, was in violation of the Transfer policy.

21. Of course, the Norms/Guidelines contained in the transfer policy [**Ex.JIC/38**], are only administrative instructions. It is well-settled that the transfer policy in the nature of Guidelines issued by the High Court did not give an indefeasible right to the judicial officers. They are only directory in nature and not mandatory for the High Court to be strictly followed. But these Guidelines are made in aid of better administration. We are conscious that personal difficulties of the officer is no concern of the department/High Court. But when the transfer of judicial officers are governed by guidelines in the transfer policy, be it annual transfer or mid-term session, the transfer committee was expected to comply with the Guidelines at least to some extent.

22. When being questioned, Justice Menon has admitted that on transfer from 'A' station (Gwalior), the complainant was entitled to Category 'B' station; but huge pendency of cases at Sidhi impelled the Committee to transfer the complainant to Sidhi. However, in his cross-examination Justice Menon has accepted the pendency of cases at other places at which the complainant had sought her transfer by way of her subsequent representation [**Ex. JIC/24**] was even more than at Sidhi. Actually, there were vacancies of ADJs in Raisen, Sehore, Ujjain and no vacancy of ADJ in Sidhi. In spite of vacancies at the above places; the complainant's request to be transferred to the above places which are category 'B' stations was not considered. Of course, in exercise of its power of supervision, High Court has the power to transfer the judicial officers even in the mid-session keeping in view the exigencies of the administration. But rejection of complainant's two representations appears to be unmindful of the hardships caused to the complainant.

23. Application of Clause (9) of the transfer policy cannot be said to be restricted to the transfer in annual general exercise. Clause (9) nowhere provides that it is enabling

only those officers, who are being transferred in the annual general exercise, to seek extension of tenure. In light of the above, the Committee finds that the transfer of the complainant was violative of the transfer policy. The Committee is of the view, when representations were received from the complainant, that the High Court should have considered her representations rather than unmindfully rejecting them.

(b) Administrative exigencies as claimed do not seem to exist

24. Clauses (22) and (26) of the Transfer Policy [Ex.JIC/38] enable the Chief Justice or on his behalf committee of two senior judges to take any decision as they deem fit to transfer any judicial officer in the interest of administration. Clauses (22) and (26) read as under:-

“Clause 22. A Judicial Officer may be transferred even before completion of the prescribed tenure or in mid-term in case his performance is found to be below the norms prescribed or if grounds exist for initiating enquiry against him. He may also be transferred before completing the prescribed tenure in public interest or in interest of administration, if so decided by the High Court.

Clause 26. Notwithstanding anything contained herein, the Chief Justice or on his behalf, a Committee of two senior Judges nominated by the Chief Justice, will have overriding powers to pass any order regarding the transfer or posting of any Judicial Officer at any time”.

As per Clause (22) of the Transfer Policy, a judicial officer may be transferred in mid-term (i) in case his performance is below the norms prescribed or; if grounds exist for initiating inquiry against him; (ii) in public interest or in the interest of administration, if so decided by the High Court. Justice Menon has stated that the transfer of the complainant was in the interest of the administration and would fall under clause (22) of the Transfer Policy. Justice Ved Prakash Sharma [JIC W.No.7] also stated that the transfer of the complainant would fall under clauses (22) and (26) of the Transfer Policy.

25. Complainant admittedly, was transferred before completion of her normal tenure at Gwalior. In their evidence, Justice Menon [JIC W. No.11] and the District Judge-Kamal Singh Thakur [JIC W. No.4] have admitted that the “*Annual Confidential Reports*” of complainant were all good and, therefore, it was not a case where “*the performance was below the norms fixed*”. It was also not a case where “*the reasons existed for an inquiry to be initiated against the complainant*”. As per the evidence of Justice Menon [JIC W. No.11] and as per the copy of the information received by the complainant

through RTI (enclosed as Annexure 30 of her affidavit), transfer of the complainant was effected purely on administrative grounds. Strenuous attempts were made by the complainant to demonstrate that the transfer was not on account of administrative exigencies.

26. Though the Committee is required to consider whether transfer order was on account of alleged victimization by the respondent, we need to firstly examine whether the transfer of the complainant was actually due to exigencies of administration. To prove that the transfer of complainant to Sidhi was not really in the interest of administration, during the course of enquiry, various aspects were brought out by the complainant. Let us first refer to pendency of cases at Sidhi and also Sehore, Devas, Raisen and Ujjain, the places where the complainant as brought out in evidence. **Ex.JIC/30** indicates the number of vacancies and pendency of cases at Sehore, Raisen and Ujjain (the alternative places where the complainant sought transfer) and also the pendency at Sidhi which reads as under:-

S.No.	Place	Vacancy	Average Pendency per Judge
14.	Dewas	2	1941
22.	Indore	6	1615
23.	Jabalpur	6	962
32.	Raiseen	1	769
38.	Sehore	2	852
44.	Sidhi	0	1533
47.	Ujjain	2	1199

When being confronted with the pendency of the cases, Justice Ved Prakash Sharma [**JIC W.No.7**], the then Registrar General stated that “without electricity cases, the pendency in Sidhi was on the higher side compared to other places.” His evidence is as under:-

“without electricity cases, the pendency in Sidhi was on the higher side compared to other places.

Without electricity matters at Dewas, the pendency was 794 per Judge at Sehore 502 per Judge at Ujjain 532 per Judge at Raisen 470 per Judge at Sidhi 803 per Judge.”

27. From the evidence of Justice Ved Prakash Sharma [**JIC W. No.7**], it is seen that District Judge, Sehore had requested for posting two additional district judges at District Sehore. Justice Ved Prakash Sharma has admitted that there were two clear vacancies of ADJ at district Sehore, one accruing in the normal course and other due to

compulsory retirement of one Chhaya Rajesh Kumar Kaul. However, Justice V.P. Sharma [**JIC W. No.7**] also explained that the pendency of cases at the places like Sehore, Raisen, Dewas and Ujjain were not more than that at district Sidhi, by stating that many matters in Sehore, Dewas and Raisen were electricity matters and that there was not much average pendency per judge as compared to pendency in Sidhi. **JIC W.No.7**, the then Registrar General further stated that if there is pendency in a particular place, depending upon the pendency of the cases the posting is made in addition to the sanctioned strength in a particular place.

28. District Sidhi, where the complainant was transferred, was a *naxal* affected area. During the annual general transfer in March, 2014 around hundred additional district judges were transferred to various districts in Madhya Pradesh but no additional district judge was posted at Sidhi. Contention of the complainant is that if really there was any such administrative exigency of posting an additional district judge at Sidhi, the High Court could have posted an additional district judge in Sidhi during annual general transfer itself; but that was not done. It was further submitted that by the same transfer order dated 08.07.2014 by which the complainant was transferred, eight other Additional District Judges sent on deputation were called back; but none of them were posted at Sidhi. During cross-examination of Justice Ved Prakash Sharma [**JIC W. No.7**], it was further brought in evidence that in the next annual general transfer in March, 2015 (after complainant's resignation), in total, seventy two additional district judges and thirteen additional district judges upon their promotion to the cadre of District Judge had been transferred and posted at various places; but no one had been posted at Sidhi. In fact, one judicial officer who was posted at Sidhi as a Chief Judicial Magistrate, was promoted to the post of Additional District Judge in April, 2014 and on promotion, he was transferred from Sidhi to Dhar as III Additional District Judge. On behalf of the complainant, it was, therefore, urged that if the High Court considered that in view of the pendency in Sidhi, posting of an additional district judge was necessary, the transfer Committee could have very well posted the said promoted judicial officer at Sidhi. All these circumstances urged by the complainant only go to show that there was no administrative exigency to post an additional district judge at Sidhi as projected by Mr. V.P. Sharma, the then Registrar General and by Justice Menon.

29. According to the complainant, transfer of an additional district judge to Sidhi had neither happened before nor thereafter and only the complainant was transferred to Sidhi as an additional district judge. In the facts and circumstances, the Committee finds merit in the said contention. The Committee also finds that the transfer of the complainant to Sidhi appears to be not in the interest of administration.

30. In the minutes of the Transfer Committee Meeting held on 07.07.2014, agenda S. No. H [Ex. JIC/29] relates to transfer of one judicial officer Shri Devendra Paul Singh Gaur who had completed four years of service and there was recommendation that he be transferred on the ground of complaints lodged against him. A perusal of Ex. JIC/41 shows that the District Judge as well as the Portfolio Judge had recommended the transfer of Mr.DPS Gaur. Even though the said officer had completed four years at Gwalior in spite of the said recommendation, agenda concerning transfer of Mr. DPS Gaur was dropped. When being questioned, Justice Menon was trying to explain that in the case of Mr. DPS Gaur, there were complaints and counter complaints against the said officer and the matter was pending before the Administrative Committee-I (A.C.I) wherein departmental inquiry was recommended by A.C.I. Neither Ex. JIC/29 nor the note put up by the registry depicts pendency of any such complaint before A.C.I regarding Mr. DPS Gaur. Further, in his evidence, Justice Menon accepted that the pendency of departmental proceedings against a Judicial Officer was no bar for consideration of his transfer. Relevant portion of his deposition is as under:-

“It is true that so far as judicial officer Mr. Gaur, the subject matter of transfer was on the agenda, he had already completed four years of service at Gwalior and was in any case, liable to be transferred from Gwalior and we were aware that disciplinary action was initiated and in spite of it we took a conscious decision to drop the transfer agenda of Mr. Gaur.”

[Page No. 15 of deposition of JIC W. No.11]

31. Contrary to the case of Mr. DPS Gaur, in the case of complainant, the complaint made against her by District Judge-Kamal Singh Thakur [Ex. JIC/14] (03.07.2014) was very quickly acted upon by the transfer committee and she was transferred to district Sidhi, even though there was no vacancy. Justice Menon asserted that by taking into account, letter of the District Judge, Gwalior dated 03.07.2014 [Ex. JIC/14], the Committee transferred the complainant to Sidhi. Justice Menon deposed that normally when such a letter is received from the concerned District Judge, transfer orders are

passed without seeking any explanation from the concerned officer. We are conscious that transfer is an incidence of service. Although, it cannot be said that complainant could seek parity with Mr. DPS Gaur or any other officer, when it comes to decision of transfer because transfer of an officer is the absolute prerogative of the High Court, but it can be definitely said that a lenient view could have been shown in the case of complainant.

32. Undoubtedly, the Norms/Guidelines contained in the transfer policy [Ex. JIC/38], are only administrative instructions. It is well-settled that the transfer policy is in the nature of Guidelines issued by the High Court and it does not give indefeasible right to the judicial officers. It is only directory in nature and not mandatory for the High Court to be strictly followed. But these Guidelines of the Transfer Policy are made in aid of better administration. Therefore, the Transfer Committee was expected to comply with the Guidelines at least to some extent. As the same was not done, the Committee is of the view that the transfer of the complainant was in violation of transfer policy and thus irregular.

D. WHETHER IRREGULARITY IN THE TRANSFER OF THE COMPLAINANT CAN BE ATTRIBUTED TO THE RESPONDENT JUDGE

(a) Deposition of the then District Judge Kamal Singh Thakur [JIC W. No. 4]

33. As discussed earlier, Justice Menon [JIC W. No. 11] has deposed that transfer of the complainant was based upon the Ex.JIC/14 sent by District Judge Kamal Singh Thakur to transfer the complainant, which reads as under:

**“FROM: DJ COURT GWLFAX NO.: 07512402243 3 JUL. 2014 11:16 AM P1
CONFIDENTIAL**

OFFICE OF THE DISTRICT AND SESSIONS JUDGE, GWALIOR (M.P.)

NO.- 344/STENO

GWALIOR, DATED 3/7/14

**TO,
REGISTRAR GENERAL
M.P. HIGH COURT
JABALPUR, MADHYA PRADESH.**

SUBJECT: - Regarding the transfer of Smt. Sangeeta Madan, VIIIth Additional District and Sessions Judge, Gwalior.

Smt. Sangeeta Madan is posted as VIIIth Additional District and Sessions Judge in Gwalior since 01.08.2011. She is going to complete her three years on 31.07.2014. Smt. Sangeeta Madan unnecessarily keeps complaining regarding her

staff. class III and Class IV employees are posted in accordance with the sanctioned posts of Additional District and Sessions Judges. Presently, all the sanctioned posts of Additional District and Sessions Judges and the civil judges are filled and all of them are provide with adequate staff, whenever Smt. Sangeeta Madan's clerk proceeds on leave, she places a demand for a substitute which could be made available only if some other judge was on leave, failing which it would not be possible to allot a substitute to her. She expresses her grievance at the same.

Smt. Sangeeta Madan has been assigned two peons, out of which one, who was posted at her residential office, had fallen sick. On a request being made by her, a peon from the office was allotted to her temporarily and she was informed that soon a new peon will be made available to her. Smt. Sangeeta Madan had expressed her displeasure and had spread the word that she was being harassed. I have provided her the peon for the entire day.

Smt. Sangeeta Madan enters into disputes with other judges and her behavior towards them is not appropriate especially with the civil judges.

Smt. Sangeeta Madan makes anonymous complaints against the District Judge and other judges and she states publicly that the administrative skills of the present District Judge are not of an adequate order, unlike the previous District Judge. This was perhaps being done by Smt. Sangeeta Madan at the behest of certain other people so that my administration can be stated to be inappropriate.

Due to the above conduct and behavior of Smt. Sangeeta Madan, the atmosphere of the district judiciary is being adversely affected. Being the district Judge, I keep getting the information of her spreading wrong opinion.

So for the proper functioning of the district judiciary of Gwalior, the transfer of Smt. Sangeeta Madan is necessary. You are kindly requested to transfer her from Gwalior.

Sd/-
(Kamal Singh)
District and Session Judge
Gwalior, M.P.”

A perusal of the above **Ex. JIC/14** shows that, District Judge Kamal Singh Thakur [**JIC W.No.4**] had recommended the transfer of the complainant on three grounds viz.:- (i) complainant was habitual of making unnecessary complaints regarding her staff and non-allocation of substitute staff; (ii) complainant did not use to behave cordially with other Judges, especially with the Civil Judges; (iii) complainant made anonymous complaints against the District Judge and other Judges publicly stating that unlike the previous District Judge, administrative skills of the present District Judge were not adequate.

34. The very first ground on which District Judge Kamal Singh Thakur recommended transfer of the complainant is that the complainant was habitual of making unnecessary

complaints regarding her staff and non-allocation of substitute staff. Being a District Judge, Mr. Kamal Singh Thakur was responsible for allocating staff to the judicial officers of the district. It is brought on record before this Committee that difference of opinion existed between the complainant and District Judge Kamal Singh Thakur regarding allocation of staff. The complainant has alleged that most of the time she was understaffed even though sufficient staff was available in the pool, whereas District Judge Kamal Singh Thakur has alleged that there was shortage of staff. Without going into correctness of the rival stand of both complainant and the District Judge, it can be certainly said that there existed dispute between the complainant and District Judge Kamal Singh Thakur with regard to allocation of staff.

35. Insofar as the second allegation that “complainant enters into dispute with other Judges” is concerned, it can be seen that in **Ex. JIC/14**, the District Judge Kamal Singh Thakur has neither mentioned the names of the Judicial Officers or staff from whom he had gathered the information about the complainant picking up dispute with other judicial officers, nor any written complaint lodged against the complainant in this regard was produced. On being questioned that there was no basis for making a statement that the complainant enters into dispute with the other Judges, Kamal Singh Thakur [**JIC W. No.4**], District Judge stated as under:-

“Q: In Ex. JIC/14 in para 3 you have stated that Ms. ABC enters into disputes with other judges and her behaviour towards some is not appropriate especially with the Civil Judges. I put it to you that there was absolutely no basis to make such a statement. What do you have to say?”

A: Some Judicial Officers by name Mr. P.K. Sharma, ADJ, Mr. Manish Sharma, Civil Judge, Mr. Naveen Sharma, District Registrar complained to me about Ms. ABC.

None of the above judicial officers gave any complaint in writing about Ms. ABC.

Mr. Naveen Sharma, District Registrar/Magistrate also performs judicial work. In some special case under M.P. Dacoity Act, judicial remand of accused was not done by Mr. Naveen Sharma and the same was sent to Ms. ABC as a Special Judge. Therefore, Ms. ABC questioned Mr. Naveen Sharma as to why he sent the matter to her for remand.”

[Page No. 12-13 of deposition of JIC W. No.4 dated 03.09.2016]

36. The allegations that complainant is entering into dispute with the other Judges appear to be a legal issue, that is, whether a Special Judge or a Magistrate has to give the first judicial remand so far as the special enactment Madhya Pradesh Dacoity Act. District Judge-Kamal Singh Thakur [**JIC W. No.4**] admitted that the “so-called dispute”

between Mr. Naveen Sharma [**JIC W. No.8**] and the complainant pertains to a legal issue. We may usefully refer to the relevant portion of the deposition of **JIC W. No. 4-Kamal Singh Thakur**, District Judge as under:

"It is true to suggest that the so-called dispute between Mr. Naveen Sharma and Ms. ABC pertains to a legal issue whether the Special Judge or Magistrate has to give the first judicial remand so far as the Special Enactment M.P. Dacoity Act. In a meeting of the then District Judge Mr. Jagdish Baheti with all other judicial officers and the said legal issue was resolved. Mr. Naveen Sharma informed me about the same. I am not aware whether it was resolved that the Magistrate would give the first remand. Judicial Officer Mr. P.K. Sharma and Ms. ABC were neighbours and they were having some dispute. But I am not aware of the nature of dispute nor do I know who was to be blamed."

[Page No. 13 of deposition of JIC Wit. No.4 dated 03.09.2016]

In his evidence, **JIC W. No.4-Kamal Singh Thakur**, District Judge categorically admitted that the above alleged incidents happened before he became the District Judge in Gwalior. He has also admitted that the said issue has nothing to do with any of the incidents referred to him in April, May, June and July, 2014. He also admits that since the legal issues were already resolved, he did not examine the same as who has to give the first judicial remand so far as the special enactment Madhya Pradesh Dacoity Act. The allegation levelled by District Judge Kamal Singh Thakur thus seems to be his own impression of the complainant *which he would have formed in the course of serving as District Judge at Gwalior by himself and also on the message given to him by Mr. Naveen Sharma, the then District Registrar.*

37. In **Ex. JIC/14**, Kamal Singh Thakur stated that the complainant was in the habit of making anonymous complainants against the district judge and other judges and publically stating that unlike the previous district judge, the administrative skills of the present district judge are not adequate. **Ex. R/27A** is stated to be the anonymous complaint sent to the High Court. On being asked by the High Court to send his reply/remarks to the said anonymous complaint (**Ex. R/27**), the District Judge Kamal Singh Thakur had sent his reply **Ex. R/28** stating that on inquiry he learnt that the said anonymous complaint must have been sent by the complainant as it contains certain allegations made by the complainant in her earlier complaint [**Ex.JIC W. No.9**] sent to district Nazir. In his evidence before the Committee, Mr. Kamal Singh Thakur stated after conducting an informal enquiry, he learnt that the anonymous complaint was sent by the complainant. Mr. Kamal Singh Thakur who was incharge of the District

administration did not call for any explanation from the complainant. From the evidence of Kamal Singh Thakur and his remarks sent to the High Court [**Ex. R/28**], we find that Kamal Singh Thakur had formed his own opinion that *his administration has been faulted at while appreciating the administration of the previous district judge. Mr. Kamal Singh Thakur had his own reasons/apprehensions for recommending the transfer of the complainant.*

38. Brief mention about taking on record the documents **Ex. R/27A** and **Ex. R/28** are necessary. When Mr. Kamal Singh Thakur was examined (date of examination 01.09.2016), the committee questioned him as to how he stated in **Ex.JIC W.No.14** that the complainant makes anonymous complaints against the district judge and other judges. On such question, when Mr. Kamal Singh Thakur was in the witness box, he opened a folder which he had brought alongwith him and tried to produce photocopies of the complaint allegedly sent by the complainant and his reply sent to the High Court. Since photocopies of those documents were not produced from proper custody nor obtained by Mr. Thakur under RTI, the committee declined to take on record those documents then produced by Kamal Singh Thakur. Later the respondent Judge himself obtained those documents [**Ex.R/27A and Ex.R/28**] under Right to Information Act and produced before the committee. Since those documents have been furnished by the Public Information Officer of Madhya Pradesh High Court under RTI Act and since Kamal Singh Thakur had already spoken about those documents, those documents were received on record even without recalling Mr. Kamal Singh Thakur.

39. Justice Menon deposed that normally when such letter like **Ex.JIC/14** is received, transfer orders are passed without seeking any explanation from the concerned officer. Justice Menon [**JIC W. No.11**] admitted that the allegations made against the complainant in **Ex.JIC/14** are of serious nature which may warrant disciplinary proceedings. When confronted with the question that as to why the Transfer Committee had not verified the contents of [**Ex.JIC/14**] (dated 03.07.2014), Justice Menon stated that *“if a District Judge expresses that the atmosphere created by a Judicial Officer is not conducive, the High Court normally recommends the transfer of such Judicial Officer depending upon the assessment made by the District Judge who makes the*

recommendation". Justice Menon had stated that they had confidence in the District Judge Mr. Kamal Singh Thakur and acted upon **Ex. JIC/14** transferred the complainant.

40. Justice Menon [**JIC W. No.11**] admitted that the allegations made against the complainant in **Ex. JIC/14** are of serious nature which may warrant disciplinary proceedings. Justice Menon further stated that the Committee did not verify the contents of **Ex.JIC/14** since they had confidence in the District Judge Kamal Singh Thakur. The then Registrar General, Mr. V.P. Sharma [**JIC W. No.7**] also stated that the copy of **Ex. JIC/14** was not sent to the complainant nor the High Court called for any explanation from the complainant before placing the same before the Transfer Committee. Justice Menon [**JIC W. No.11**] has also stated that Transfer Committee did not choose to call for any explanation from the complainant nor referred the matter to A.C.I. [**Page No.10 of the deposition of JIC W. No.11**].

41. We are conscious that for the purpose of effecting the transfer of an officer, the question of holding an elaborate inquiry, does not arise; what is required is the *prima facie* satisfaction of the Transfer Committee. But when the complainant was being transferred in the mid-term session, transfer committee ought to have inquired about the **Ex.JIC/14**. But the sequence of events preceding complainant's transfer and rejection of her representations, we are of the view that the transfer of the complainant appears to have been processed with rapidity.

42. On being questioned, as to why the Transfer Committee did not enquire into the correctness of the contents made in **Ex. JIC/14** in order to know whether **Ex. JIC/14** was an outcome of the prejudice District Judge-Kamal Singh Thakur [**JIC W. No.4**] against the complainant, Justice Menon [**JIC W. No.11**] stated that since the District Judge had good reputation he did not make further inquiry. We are not convinced by the reasons stated by Justice Menon [**JIC W. No.11**]. The opinion expressed by the District Judge-Kamal Singh Thakur [**JIC W. No.4**] in **Ex. JIC/14** might be based on surmises and conjectures. The Transfer Committee was required to satisfy the reasons regarding the correctness of the allegations made. The relevant portion of the deposition of Justice Menon [**JIC W. No.11**] is as under:-

“Q: District Judge says in Exhibit JIC/14 that Ms.ABC might be doing so by the provocation of certain people so that District Judge’s Gwalior posting could be proved wrong. What do you say?”

A: Yes, it is true.

Q: If it is true, is it not possible that the District Judge opined so based on surmises and conjectures in order to get rid of Ms. ABC from Gwalior. What do you say?

A: It could be so.”

[Page No.27-28 of deposition of JIC Wit. No.11]

43. As discussed earlier, in terms of Clauses (22) and (26) of the transfer policy, the High Court/Chief Justice/Transfer committee has overriding powers to transfer any judicial officer in the interest of administration. Transfer of a judicial officer is the discretionary power of the High Court; however it ought to have been exercised in light of guiding principles laid down in the transfer policy. The discretion exercised by the transfer committee in the present case is definitely an irregular exercise of power.

44. As per clause 9(a) of the Transfer Policy of the Madhya Pradesh High Court, if a Judicial Officer is transferred mid-term and the officer has a daughter studying in the final year of the board examination or university examination and the education institution where daughter is studying does not have hostel facility for girls then the officer shall be entitled to extension of tenure till completion of academic session of the officer’s daughter. **JIC W. No.4**-Kamal Singh Thakur, District Judge stated that he is aware of the guidelines of the Transfer Policy of the Madhya Pradesh High Court. Yet before making recommendation, **Ex. JIC/14** to transfer the complainant, the District Judge-Kamal Singh Thakur **[JIC W. No.4]** did not verify whether she had a daughter studying and preparing for board exam. **Ex. JIC/14**-recommendation made to the High Court to transfer the complainant was a mid-term transfer. **JIC W. No. 4** Mr. Kamal Singh Thakur was aware of the guidelines of the transfer policy, even then he did not verify about the complainant's daughters studying in Class XII Board examination. This shows that Mr. Kamal Singh Thakur was acting with prejudice against the complainant. **JIC W. No.4**-Kamal Singh Thakur, District Judge also admitted that had he known that the complainant’s daughter has to take up the board examination, he would not have recommended for her transfer; rather he would have recommended her transfer in

March, 2015 after the board examination. The relevant portion of his deposition is as under:-

“Q: If you had known that Ms. ABC had daughter who has to take up the Board examination would you have still recommended her transfer against the Guidelines of transfer policy laid down by Madhya Pradesh High Court?

A: I would not have so recommended for transfer; rather I would have recommended for transfer of Ms. ABC in March, 2015 since board examination would have been over.”

[Page No.9 of the deposition of JIC Wit. No.4 dated 04.09.2016]

45. The mid-term transfer of the complainant and irregularity committed is attributable to the District Judge Mr. Kamal Singh Thakur and also the Transfer Committee in not verifying the correctness of the allegations made in **Ex.JIC/14**.

46. The respondent judge had pleaded ignorance that he had no knowledge about the communication sent by the District Judge Mr. Kamal Singh Thakur, the **Ex.JIC/14** recommending transfer of the complainant. The said plea of the respondent judge is not convincing to us. The respondent judge was the port folio judge of Gwalior district and also administrative judge of the Gwalior zone. Before recommending transfer of the complainant under **Ex.JIC/14**, Mr. Kamal Singh Thakur, District Judge must have definitely apprised the respondent judge about the proposal that he was going to make to the High Court. Be that as it may, the allegation of the complainant that District Judge Kamal Singh Thakur acted at the behest of the respondent judge is not substantiated by any material. On the other hand, in all probability, it appears that Mr. Kamal Singh Thakur as District Judge of Gwalior and Mr. Naveen Sharma, District Registrar have carried wrong impression about the complainant in the mind of the respondent who was the Portfolio Judge. We do not however find any material which could link the allegation of sexual harassment against the respondent judge with the illegality in the transfer of the complainant.

(b) Respondent’s Call Detail Record (CDR) analysis

47. It is the case of the complainant that her mid-term transfer was neither on administrative grounds due to alleged pendency of cases at district Sidhi, nor in public interest; but a blatant act of victimization and that the said victimization was carried out as per the directions of the respondent judge. The motive of respondent judge is alleged to have been nothing but to punish the complainant for not yielding to his immoral demands. In order to substantiate her claim, the complainant has tried to link the

respondent judge with her abrupt transfer, by producing the said call detail records, respondent judge, Justice Menon and others, pertaining to a certain period of time which the complainant found relevant for her purposes. **Ex.JIC/40** specifies the date and duration of conversation between Justice Gangele and Menon, J. over their respective mobile phone. Below is the table of the call detail records of the Respondent Judge (9425322181) and Justice Rajendra Menon (9425112456) from 27.06.2014 to 17.07.2014:-

From	To	Date	Time	Duration (Sec)
Gangele, J. 9425322181	Menon, J. 9425112456	29.06.2014	10:20:56	211
Gangele, J. 9425322181	Menon, J. 9425112456	30.06.2014	8:59:36	94
Gangele, J. 9425322181	Menon, J. 9425112456	30.06.2014	20:42:54	323
Gangele, J. 9425322181	Menon, J. 9425112456	01.07.2014	21:36:26	298
Menon, J. 9425112456	Gangele, J. 9425322181	02.07.2014	19:17:54	282
Gangele, J. 9425322181	Menon, J. 9425112456	03.07.2014	19:33:26	24
Menon, J. 9425112456	Gangele, J. 9425322181	04.07.2014	8:33:00	256
Menon, J. 9425112456	Gangele, J. 9425322181	04.07.2014	16:38:22	277
Menon, J. 9425112456	Gangele, J. 9425322181	06.07.2014	19:27:46	175
Gangele, J. 9425322181	Menon, J. 9425112456	08.07.2014	19:48:54	183
Complainant 8989826996	Gangele, J. 9425322181	08.07.2014	20:17:01	128
Gangele, J. 9425322181	Menon, J. 9425112456	09.07.2014	21:40:04	300
Gangele, J. 9425322181	Menon, J. 9425112456	10.07.2014	8:58:19	664
Complainant 8989826996	Gangele, J. 9425322181	10.07.2014	19:06:05	79
Gangele, J. 9425322181	Menon, J. 9425112456	10.07.2014	19:30:17	143
Menon, J. 9425112456	Gangele, J. 9425322181	14.07.2014	9:09:40	539
Menon, J. 9425112456	Gangele, J. 9425322181	15.07.2014	18:35:56	86
Menon, J. 9425112456	Gangele, J. 9425322181	16.07.2014	19:28:49	253
Menon, J. 9425112456	Gangele, J. 9425322181	17.07.2014	08:42:42	141
Menon, J. 9425112456	Gangele, J. 9425322181	17.07.2014	17:16:14	163

The complainant, relying upon the call records of the respondent judge and Justice Menon has alleged that illegality in the transfer order is attributable to the respondent judge. On the contrary, Justice Menon has deposed that transfer of the complainant was solely based on the recommendation of the District Judge Kamal Singh Thakur. The respondent judge and Justice Menon stated that their conversations related to various administrative matters.

48. It is not in dispute that the Complainant along with her husband met the respondent Judge at his residence on 29.06.2014 at about 10:00 a.m. and remained there for about 15-20 minutes. As per the above stated call detail records, on the very same day, immediately after the Complainant left, the respondent Judge had called Rajendra Menon, J. at 10:20:56 a.m. and had conversed with him for 211 seconds. Yet again on 03.07.2014, when Mr. Kamal Singh Thakur, District Judge had faxed a complaint against the Complainant to the Registrar General, the respondent Judge had called Rajendra Menon, J. at 19:33:26 hrs. Again on 04.07.2014 at 08:33:00 hrs., respondent Judge called Rajendra Menon, J. and spoke for about 256 seconds.

49. Also, on 06.07.2014 at 19:27:46, Menon, J. had called the respondent Judge and had conversed with him for 175 seconds. As per the complainant, decision to transfer her was taken on 07.07.2014, which was a consequence of conversation between respondent judge and Justice Menon on 06.07.2014. On 08.07.2014 by 6:45 pm, transfer orders of the judicial officers were uploaded on the website of the High Court. On the same day, the respondent Judge called Menon, J. at 19:48:54 and conversed for 183 seconds. The complainant had also called the respondent Judge on 08.07.2014 at 20:17:01 hrs. for informing him about her abrupt transfer, to which the respondent Judge had replied by informing her that he had nothing to do with her transfer order. Again on 09.07.2014, respondent Judge had called Menon, J. at 21:40:04 hrs. and had conversed with him for 300 seconds.

50. Likewise, the complainant has submitted that frequent conversation between the respondent Judge and Menon, J. continued till the final rejection of Complainant's representations against her abrupt mid-term transfer. As per the records, the complainant had moved her first representation on 09.07.2014 seeking extension of her

posting at Gwalior, before the Registrar General, M.P. High Court. Complainant's first representation was rejected on 10.07.2014. The complainant had then moved her second representation seeking extension of her posting at Gwalior, or in alternative seeking transfer to a category 'B' city on 11.07.2014. The complainant had also called the respondent judge on 10.07.2014, at 19:30:17 hrs. The complainant has alleged that the respondent judge had told her that her abrupt transfer was a result of not paying heed to his immoral requests and had also threatened her of completely ruining her career. On the very same day, the respondent judge had called Menon, J. at 21:40:04 hrs. and had conversed with him for 300 seconds. Complainant's second representation was also rejected on 14.07.2014. In the morning of 14.07.2014, at 09:09:40 hrs. Menon, J. had called the respondent Judge and had conversed with him for 539 seconds. As per the stand of the complainant, all the above conversations between the respondent judge and Justice Menon, pertained only to the issue of her transfer/rejection of her representations.

51. On the contrary, the respondent judge has throughout maintained that he had no role to play in the mid-term transfer of the Complainant from District Gwalior to District Sidhi, as he was not a member of the concerned transfer committee. When confronted with the two calls made by the respondent Judge to Menon, J. on 27.06.2014 (19:32:11) and 29.06.2014 (10:20:56), the respondent Judge has stated that it was regarding the boycott strike by the lawyers at Indore bench and regarding the availability of infrastructures to facilitate the three Judges from Indore to sit at Gwalior bench. Likewise, when confronted with the two calls made by respondent judge to Menon, J. on 30.06.2014 (08:59:36 and 20:42:54), the respondent Judge stated that the purpose of those two calls was again out of curiosity to know as to why the strike/boycott at Indore by lawyers was being continued for such a long time which never happened on earlier occasions. So far as the calls made on 01.07.2014 (21:36:26) and 02.07.2014 (19:12:54), the respondent Judge has again stated that it was regarding boycott of lawyers at Indore bench, roster sitting at Gwalior and regarding the Vyapam scam. In so far as the call made by the respondent judge to Menon, J. on 03.07.2014 (19:33:26), the respondent Judge has stated that the said call was regarding arrival of the three Judges at Gwalior and other arrangements that were made with regard to their stay at

Gwalior. With regard to other calls made on various other dates, the respondent Judge stated that it was either about the boycott of lawyers at Indore bench or roster sitting at Gwalior bench.

52. Menon, J. [**JIC W.No.11**] was also confronted with **Ex.JIC/40** which is a statement of call details of his mobile number **9425112456**. Menon, J. has also denied the suggestion that the above mentioned conversations held between him and Justice Gangele pertained to the 'transfer of the complainant. Justice Menon has stated that he knew Justice Gangele since the time of his practice at the Bar at Jabalpur probably from 1984 onwards and that they know each other as Members of the Bar. Justice Menon further stated that after Justice Gangele was appointed as a Judge of the High Court in the year 2004 as brother Judges of same High Court, our association continued. Justice Menon, has further stated that at the relevant point of time, Justice Gangele was at Gwalior as Administrative Judge and he was at Principal Bench, Jabalpur and was a Member in important committees like Administrative Committee No.I, Administrative Committee No. II, 12th Finance Commission, 13th Finance Commission and also Chairman of Judicial Education apart from being Member of the Transfer Committee.

53. During the relevant time, Justice Gangele was the senior most judge in Gwalior Bench and was the Administrative Judge. The respondent judge also stated that as Administrative Judge of the Gwalior Bench, he used to interact with the Chief Justice as well as other Judges of the High Court posted at Principal Bench at Jabalpur and in that way he used to talk frequently to senior Judges like Justice Rajendra Menon. Justice Gangele has also stated that he was also Member of various Committees:- Administrative Committee No.I, Gwalior High Court Building Committee and was also a member of a committee which sends recommendation to the Chief Justice with regard to the High Court Judges who are to be made permanent and such other Committees. Respondent Judge has stated that on functioning of these Committees and on other administrative matters, he used to be in conversation with Justice Rajendra Menon regularly.

54. Respondent judge had stated that between December 2013 to September 2014, he had spoken to Justice Menon forty one times and Justice Menon called him thirty

seven times. The conversation between Justice Gangele and Justice Menon coincide, to some extent, in time and space with the transfer order and rejection of representations of the complainant. Justice Menon and the respondent Judge being members of so many Committees and the respondent Judge being the administrative judge of the Gwalior Bench, on behalf of the respondent, it was urged that the conversation might have related to those Committees or on other administrative matters.

55. As discussed earlier, the respondent judge was the Portfolio Judge of District Gwalior and also the Administrative Judge of Gwalior Zone, the respondent must have been definitely apprised about the proposal for transferring the complainant by Mr. Kamal Singh Thakur. Certain conversations between respondent judge and Justice Menon at certain interval of time of which some conversations coincide with the processing of transfer order of the complainant and consideration of her representations. The coincidence of call details records is suggestive that the respondent judge's interference with the transfer and consideration and rejection of her representations. The respondent's interference might have been due to the wrong impression created in his mind by Mr. Kamal Singh Thakur and District Registrar Mr. Naveen Sharma about the complainant. In fact, during recording of evidence, this Committee noticed that the witnesses Mr. Kamal Singh Thakur [**JIC W.No.4**] and Mr. Naveen Sharma [**JIC W.No.8**] were not directly answering the questions and were trying to be evasive. In fact, this Committee has through Rajya Sabha asked the High Court of Madhya Pradesh to proceed against Mr. Naveen Sharma departmentally for his conduct. As Charge No.1 is not proved, it is not possible to link mid-term transfer of the complainant to Charge No.1. In our view, mere interference of the respondent judge in the transfer cannot be said to be on account of victimization due to the complainant's refusal to accede to the respondent immoral demands.

56. The complainant has maintained before us that on the advice of Justice P.K. Jaiswal she tried to fix a meeting with the then Chief Justice of the High Court of Madhya Pradesh, but of no avail. According to the complainant, call details below-mentioned would show that the complainant frequently contacted Mr. V.B. Singh,

Principal Private Secretary to the Chief Justice of M.P. High Court through calls and messages between 10.07.2014 and 17.07.2014, to fix a meeting with the then Chief Justice of M.P. High Court. The Complainant has also produced true copies of railway tickets booked for her travel from Gwalior to Jabalpur, on 10.07.2014, 11.07.2014, 12.07.2014, 14.07.2014 and 15.07.2014 to support her claim.

57. So far as complainant's failed attempt to meet the then Chief Justice of High Court of Madhya Pradesh is concerned, Call Detail Records of the Complainant (**8989826996**), the Respondent Judge (**9425322181**) and Mr. V.B. Singh, PPS to Chief Justice (**9425115362**), as capitulated in the below tables is relevant:

CDR BETWEEN COMPLAINANT AND PPS

From	To	Date	Time	Duration (Sec)
PPS 9425115362	Complainant 8989826996	10.07.2014	18:18:52	1/SMS
Complainant 8989826996	PPS 9425115362	10.07.2014	18:19:50	1/SMS
PPS 9425115362	Complainant 8989826996	10.07.2014	18:25:10	5
Complainant 8989826996	PPS 9425115362	10.07.2014	18:26:43	186
Complainant 8989826996	PPS 9425115362	11.07.2014	08:27:27	62
Complainant 8989826996	PPS 9425115362	13.07.2014	20:14:05	172
Complainant 8989826996	PPS 9425115362	14.07.2014	09:01:04	1
Complainant 8989826996	PPS 9425115362	16.07.2014	21:27:51	599
Complainant 8989826996	PPS 9425115362	17.07.2014	09:20:55	458
Complainant 8989826996	PPS 9425115362	17.07.2014	20:31:48	217

58. Mr. V.B. Singh, PPS to the Chief Justice has deposed in his evidence that he had not received any calls on his mobile or landline number from Justice Gangele during the period from 10.07.2014 and 04.08.2014 is falsified by the call detail records produced. It is evident from the CDRs called for from 20.05.2014 to 20.07.2014, there were calls made between PPS and Justice Gangele including the calls made during the period when the complainant was transferred and her making two representations and finally

tendering of her resignation. The call detail records between Justice Gangele and the PPS [JIC W. No. 9] reads as under:

CDR BETWEEN PPS AND JUSTICE GANGELE

From	To	Date	Time	Duration (Sec)
PPS 9425115362	Gangele, J. 9425322181	10.07.2014	10:12:01	31
Gangele, J. 9425322181	PPS 9425115362	16.07.2014	17:47:40	248
Gangele, J. 9425322181	PPS 9425115362	16.07.2014	20:50:06	847
Gangele, J. 9425322181	PPS 9425115362	17.07.2014	16:43:36	219
PPS 9425115362	Gangele, J. 9425322181	17.07.2014	20:47:02	812
PPS 9425115362	Gangele, J. 9425322181	20.07.2014	19:14:04	29

59. The complainant had contacted PPS on the evening of 10th July, 2014 at 18:26:43 hrs. On the very same day PPS had contacted Justice Gangele at 10:12:01 hrs. The complainant had tried to contact PPS and spoke to him on 13th July, 2014 for 172 seconds. After tendering her resignation on 15th July, 2014, she had again contacted the PPS on 16th July, 2014 at 21:27:51 hrs. for 599 seconds. On the very same day, Justice Gangele had contacted PPS at 17:47:40 hrs. and 20:20:06 hrs. for 248 and 847 seconds respectively. Contention of the complainant is that the call detail records that Justice Gangele having noticed the fact of complainant approaching the PPS seeking appointment with the Chief Justice, he had tried to speak to PPS in order to prevent the complainant meeting the Chief Justice. During cross-examination of PPS by the complainant was suggested to the PPS [JIC W.No.9] that even after the resignation, the complainant called PPS number of times in particular on 16.07.2014 (21:27:51–599 sec.) and that she informed PPS about the compelling circumstances (sexual harassment) meted out to her by the respondent judge forcing her to resign and that the complainant requested PPS to convey the same to the Chief Justice and sought an appointment with the Chief Justice. PPS [JIC W.No.9] has categorically denied the same and Mr. V.B. Singh [JIC W.No.9] has stated that the complainant had contacted him seeking an appointment with the Chief Justice only to ventilate her grievance regarding her untimely transfer.

60. The complainant had again contacted the PPS on 17th July, 2014 at 09:20:55 hrs and again at 20:31:48 hrs. which lasted for 458 and 217 seconds respectively. On the very same day Justice Gangele had contacted PPS at 16:43:36 hrs. (219 seconds) and the PPS had contacted at 20:47:02 hrs. (812 seconds). The time and duration of the calls show that as and when the complainant had contacted the PPS in trying to meet the Chief Justice, Justice Gangele also contacted the PPS.

61. When being questioned regarding the calls to the PPS, the respondent judge stated that it was normal for him to call the PPS to the Chief Justice to discuss various administrative matters. Being confronted with the calls made to PPS and *vice versa*, the respondent judge stated that “*it was normal for him to call the PPS of Chief Justice to discuss administrative matters*”. Respondent judge further stated that “*from December, 2013 to August, 2014 he called PPS 60 times and PPS called him 47 times*” and both of them called each other on their mobiles. The calls between respondent judge to PPS and *vice versa* brought before this Committee related to the period from 10.07.2014 to 20.07.2014, the period during which the complainant was trying to have an appointment with the Chief Justice. Here again, the proximity of timing of the calls to PPS is suggestive that the respondent was having conversation with the PPS either to have a track of complainant's follow up or to ensure that the complainant does not meet the Chief Justice. Here again, such interference or conduct of the respondent judge cannot amount to misbehavior nor can it be linked to Charge No.1, which is held to be not proved.

E. CONCLUSION

62. In light of the above discussion, it emerges that the decision of the transfer committee to transfer the complainant from district Gwalior to district Sidhi was based on the recommendation sent by the then district judge Kamal Singh Thakur [**JIC W. No. 4**] who had his own reasons to believe that the complainant (i) was habitual of making unnecessary complaints regarding her staff and non-allocation of substitute staff; (ii) she did not use to behave cordially with other Judges, especially with the Civil Judges; (iii) she made anonymous complaints against the District Judge and other Judges publicly stating that unlike the previous District Judge, administrative skills of the present District

Judge were not adequate, and thus, she should be transferred to some other place. The transfer committee committed an irregularity on solely relying on the recommendation of District Judge Kamal Singh Thakur and without making any verification or enquiring on the same, was not justified in transferring the complainant in mid-session. Equally unjustifiable was the rejection of her representations. Transfer of the complainant also does not seem to be in the interest of the administration and, in our view, it was punitive.

63. The crucial question for consideration is whether the respondent judge interfered with the transfer of the complainant. Second question for consideration is whether such interference is to victimize the complainant on account of not submitting to his immoral demands. The coincidence of call detail records between the respondent judge and Justice Menon, in time and space, and the rapidity of the events in processing the transfer of the complainant and quick rejection of her representations are suggestive of respondent judge's interference with the complainant's transfer and rejection of her representations of the complainant. But since Charge No.1 is held '**not proved**', the interference by the respondent judge with the transfer of the complainant cannot be linked to Charge No.1. Therefore, it is held that the interference of the respondent judge is not proved to be on account of not submitting to his immoral demands.

64. The proceeding against the respondent judge being an impeachment proceeding, a higher standard of proof is required to hold that the respondent judge harassed the complainant and ensured that she be transferred from Gwalior. Removal of a judge is a matter of great seriousness. The protection given to a judge holding constitutional position has a purpose to serve. Removal of a judge on allegations like corruption or sexual harassment affects not only the judge personally but in a large sense affects the general reputation of the judiciary and, therefore, higher degree of proof is required.

65. The interference of the respondent judge in transfer of the complainant may be an improper conduct. But the same will not amount to '*misbehavior*' within the meaning Article 124 (4) read with Article 217 of the Constitution of the India. As held in *C. Ravichandran Iyer v. Justice A.M. Bhattacharjee and Others* 1995 (5) SCC 457

"....every action or omission by a judicial officer in the performance of his duties which is not a good conduct necessarily, may not be misbehavior indictable by impeachment....." The committee is of the view that the respondent judge's interference with the transfer of the complainant cannot amount to 'misbehaviour' warranting impeachment proceedings. It is held that Charge No.3 is not proved.

F. COMMITTEE'S OBSERVATION ON THE UNJUST TRANSFER OF THE COMPLAINANT AS A JUDICIAL OFFICER:

66. From her ACR and her performance we find that the complainant was a good officer. It is unfortunate that wrong impressions were created by Mr. Kamal Singh Thakur and Mr. Naveen Sharma, District Registrar, about the complainant, both in the High Court as well as with the respondent judge. Therefore, there is a possibility of respondent judge forming wrong impression about the complainant especially when she has been approaching Justice P.K. Jaiswal for one reason or other. Consequently, the respondent judge pursuing the complainant's transfer, has resulted in the complainant's transfer to Sidhi. Under these circumstances, the complainant probably had no option than to submit her resignation since her elder daughter was pursuing Board XII Exam. In these circumstances, we find that the transfer of the complainant to Sidhi has become unbearable for her to continue in service resulting in her resignation. So far as the Madhya Pradesh High Court is concerned, without naming any particular individual, the Committee is of the view that there has been a total lack of human face in the transfer of the complainant. The Committee is of the opinion that, in the interest of justice, the complainant has to be re-instated back in the service, in case, if the complainant intends to re-join service. We are conscious that the above opinion is not within the purview of our reference.

Part IV

CHARGE NO.3 – RE. CHARGES OF MISUSE OF POSITION USING SUBORDINATE JUDICIARY TO VICTIMIZE THE COMPLAINANT:

- (iii) **Misusing his position as the Administrative Judge of the High Court of Madhya Pradesh to use the subordinate judiciary to victimize the said Additional District and Sessions Judge.**

GROUND IN SUPPORT OF THE ABOVE CHARGE:-

- (iv) That due to the fact that Ms. Madan did not respond to your overtures, you, Justice S.K. Gangele, in your capacity as Administrative Judge, subjected Ms. Madan to intense surveillance and harassment from April 2014 onwards as stated in paragraph 18-24 of the Affidavit of Ms. Madan dated 31st August, 2015, which amounts to victimization of Ms. Madan and is a misuse of your position as a sitting Judge of a High Court.
- (v) That during the period of May 2014 to June 2014, you, Justice S.K. Gangele, subjected Ms. Madan to victimization by denying her a full office staff as stated in paragraph 26-35, paragraph 40 and paragraph 46-47 of the Affidavit of Ms. Madan dated 31st August, 2015 which amounts to victimization of Ms. Madan and is a misuse of your position as a sitting Judge of a High Court.

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A. WITNESSES WHOSE DEPOSITIONS AND DOCUMENTS WHICH WOULD BE RELEVANT TO DISCUSS ON THE CHARGES ALLEGED IN MISUSE OF POSITION USING SUBORDINATE JUDICIARY TO VICTIMIZE THE COMPLAINANT:-

Witnesses	Relevant Documents
<p>Complainant's witnesses:</p> <ol style="list-style-type: none"> 1. Complainant, (C. W. No.1) <p>JIC Witnesses:</p> <ol style="list-style-type: none"> 1. Mr. Rajeev Sharma, the then District Judge (Inspection), District Courts, Gwalior, [JIC W. No.3] 2. Mr. Kamal Singh Thakur, the then Principal District Judge, District Courts, Gwalior, [JIC W. No.4] 3. Naveen Sharma, District Registrar. 4. Mr. Asha Ram, peon then attached to the complainant. 5. Justice P.K. Jaiswal Judge, M.P. High Court. <p>Respondent's Witnesses:</p> <ol style="list-style-type: none"> 1. Justice Gangele [R.W.1] 	<ol style="list-style-type: none"> 2. Correspondence dated 15th May, 2014 bearing No. 188/Vig./4 addressed to the Registrar General, Madhya Pradesh High Court by Mr. Rajeev Sharma, JIC. W. NO.3 marked as Ex. JIC/1. 3. Correspondence dated 7th July, 2014 addressed to the District and Sessions Judge calling for bail applications of three judicial officers including Ms. ABC marked as Ex. JIC/2. 4. Report dated 2nd August, 2014 sent by Mr. Rajeev Sharma, JIC.W. No.3 on bail applications of Ms. ABC marked as Ex. JIC/4. 5. Response of Mr. Rajeev Sharma to Representation cum Demand for justice tendered by Ms. ABC Ex. JIC/5. 6. Synopsis of Inspections made by Mr. Rajeev Sharma now produced by the High Court of M.P. between 24th March, 2014 and 15th September, 2014. [Ex. JIC/6] 7. Letter No. 277/14 dated 14th July, 2014 by Mr. Rajeev Sharma to Registrar General M.P. High Court. [Ex. JIC/7] 8. Statement of Call Records of Justice Gangele Mobile No. 9425322181 Call details referred to as JIC/8(A), JIC/8(B) and JIC/8(C) [Ex. JIC/8] 9. Letter dated 2nd July, 2014 written by Ms. ABC to District Nazir, Gwalior, M.P. [Ex. JIC/9] 10. Office note dated 09.05.2014 put up by Ms. Shefali Gomse, Court Manager. [Ex. JIC/10] 11. Leave details of all the judicial officers at Gwalior from 1st March, 2014 to 30th June, 2014 obtained under the Right to Information Act from Public Information Officer/ Judicial Superintendent, District Court, Gwalior dated 11.05.2016. [Ex. JIC/11] 12. Daily Attendance Register, District Court Gwalior for the month of May, 2014 obtained under Right to Information Act [Ex. JIC/12] 13. Extract of Register of Allocation of work from 5th May, 2014 to 14th May, 2014 obtained under the Right to Information Act. [Ex. JIC/13] 14. A communication dated 03.07.2014 in Hindi sent to the High Court by JIC W. 4 addressed to the Registrar General Madhya Pradesh High Court seat at Jabalpur. [Ex. JIC/14] 15. Availability/Status of Peons in Gwalior District Court Complex during the period from 01.04.2014 to 15.07.2014 [Ex. JIC/15] 16. Order dated 23rd June, 2014 relating to posting of peons [Ex. JIC/16]

	<p>17. Letter dated 12th May, 2014 written by Ms. ABC addressed to the District Judge complaining against Ms. Shefali Gomse, Court Manager [Ex. JIC/17]</p> <p>18. Letter dated 20th May, 2014 written by Ms. ABC addressed to the District Judge requesting for a Bungalow Peon [Ex. JIC/18]</p> <p>19. Annexure 12 filed in the complaint which is stated to be an extract of the telephone calls pertaining to the mobile numbers of JIC W No. 5 and Ms. ABC [Ex. JIC/19]</p> <p>20. Extract of Daily Attendance Register Class III employees of District Court Gwalior for the month of June, 2014 obtained under the Right to Information Act [Ex. JIC/20]</p> <p>21. Extract of Daily Attendance Register Class III employees of District Court Gwalior for the month July, 2014 obtained under the Right to Information Act [Ex. JIC/21]</p> <p>22. Deputing a substitute Peon to Ms. ABC for two hours on daily basis was by an order passed in the handwriting of JIC W. No. 4 Mr. Kamal Singh Thakur [Ex. JIC/22]</p>
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B. BACKGROUND FACTS

1. Allegation of the complainant is that the respondent judge used to harass her through Mr. Kamal Singh Thakur, District Judge [**JIC. W.No.4**] and Mr. Naveen Sharma, District Registrar [**JIC.W.No.8**] by not providing peons and other required staff as per her entitlement, in order to ensure that she is not able to discharge her duties efficaciously, thereby creating a hostile work environment. The complainant has further alleged that she was subjected to constant surveillance by frequent inspections. It is complainant's allegation that she was subjected to above stated victimization as a consequence of not obliging the respondent.

2. The allegation of the complainant that the respondent judge was misusing his position by using the subordinate judiciary to victimize the complainant in discharging her duties as a judicial officer is three fold: (i) not allotting/deputing peons as per her entitlement as ADJ; (ii) when she was on leave, in particular on 09.05.2014 her stenographer and other staff were deputed to other courts for the whole day thereby depriving her of her staff in discharging her official work; and (iii) putting the complainant to strict surveillance by various inspections. Having regard to the nature of allegations levelled by the complainant regarding staff problem *vis-a-vis* hostile work environment, it is necessary to consider her allegations in the light of the evidence of Mr. Kamal Singh Thakur [**JIC.W. No.4**], Mr. Naveen Sharma [**JIC. W. No.8**], Justice P.K. Jaiswal [**JIC W. No.6**] and also Mr. Ravi Jaiswal [**JIC. W. No. 5**], Senior Advocate and brother of Justice P.K. Jaiswal.

3. Mr. Kamal Singh Thakur [**JIC W.No.4**] was the then District Judge, Gwalior and as a District Judge apart from his judicial work, he also had to cater to day to day administration of the courts. He supervised the entire staff and officers as well as distributed work among them. As a District Judge, he was in charge of allotment of staff to the judicial officers, sanction of leave to the judicial officers, sanction of TA bills, medical bills, review of monthly disposal of cases of the judicial officers, recording of the annual confidential reports in the month of January of all the judicial officers including the Additional District Judges, allocation and transfer of staff (peons, stenos, typists etc.) to the court and to the judicial officers, based on the note put up by the

Superintendent, Court Manager, Head Clerks, counter-signed by the District Registrar in the rank of Civil Judge(Senior Division).

4. Mr. Naveen Sharma, District Registrar, Gwalior [**JIC. W. No. 8**] was a Civil Judge (Senior Division) and he was discharging the duties of District Registrar in addition to his judicial work. The District Registrar was responsible for making all the administrative arrangements and executing the orders of the District Judge.

5. Mr. Naveen Sharma, in his evidence, has stated that the staff related issues raised by the complainant was relating to '*some staff going on leave and substitute not being posted and day to day issues pertaining to the allocation of staff.*' Though in his evidence, it is deposed by Mr. Naveen Sharma [**JIC. W. No. 8**] that his duties include posting and transfer of staff from one court to another, he has stated that he had no authority to assign any of the stenographers of one particular judge or a court to another court or a judge whenever the judicial officers of a court were to be on leave. He has further stated that such assignments or allocation of work were used to be brought to his knowledge by the Court Manager and that he was not the decision-making authority.

C. RE. ALLEGATION OF NON-ALLOTMENT/NON-DEPUTATION OF PEONS AS PER COMPLAINANT'S ENTITLEMENT:

6. As mentioned in her affidavit dated 31st August, 2015, the grievance of the complainant is that on 12th May, 2014 her office peon [Shri Asgar Khan] was diagnosed with cancer and that he had proceeded on medical leave [w.e.f. 12th May, 2014] in order to undergo treatment at Mumbai. It is her case that in the place of Asgar Khan no full-time office bungalow peon was posted in his place even though the peons were available. In her affidavit, the complainant has stated that since her oral request was not acceded to, she was forced to write to the District Judge Kamal Singh Thakur, to provide a bungalow peon as surplus staff was available in the pool. *Vide* order dated 22nd May, 2014, a bungalow office peon was assigned to the complainant to report from 9:00 a.m. to 11:00 a.m. whereas according to the complainant, she was entitled to a full-time bungalow peon. As one of the grievances of the complainant is that she was harassed in the form of non-allotment of peons, the District Judge, Mr. Kamal Singh

Thakur was examined as Committee's Witness to inquire into the probity of the allegations made against him by the complainant.

7. According to Mr. Thakur [**JIC W.No.4**], the complainant met him in his chamber concerning her peon problem, probably on 19th or 20th May, 2014, though she had not sought prior appointment. On a written request given by her, Office Superintendent had informed her that there was no extra peon available. Thereafter, Mr. Thakur made a note on the file to ascertain the availability of a peon from the concerned Additional District Judge who was in charge of Nazarat Section. A report was placed before him to the effect that since seven to eight new judges were appointed, all available peons were attached to them and a peon who was transferred from Rajgarh District was to work in Library and Record Sections. He had directed that the said peon be deputed to attend to complainant's home office for two hours daily *vide* order dated 22.05.2014 and a full time Peon by name Smt. Mohini Sharma be posted with the complainant with effect from 1st July, 2014. As per his version, an Additional District Judge is entitled to have only two peons attached to Court and that he had made alternative arrangement by deputing a peon to the home office of the complainant (for two hours daily) within one or two days of her complaint by order dated 22nd May, 2014 and this arrangement continued till full-time peon was allotted to the complainant on 1st July, 2014.

8. When the complainant met Mr. Kamal Singh Thakur [**JIC. W.No.4**] in his chamber and tried to sort out the issue by calling the Office Superintendent, according to Mr. Thakur, he was not aware of the availability status at that very moment. On getting the report from Nazarat Section, he learnt that a peon was transferred from Rajgarh District to Gwalior and that he was deputed to work in the Library and Record Sections and *vide* order dated 22.05.2014, the said peon was directed to report at the bungalow of the complainant with effect from 22nd May, 2014.

9. Insofar as staff-related issues are concerned, the complainant has stated in her affidavit that she felt humiliated by the manner in which she was subjected to by non-allotment of staff even though there were surplus staff. It is alleged that Mr. Kamal Singh Thakur also threatened her that he would spoil her annual confidential report and that she could make a complaint to the Administrative Judge if she had any problem

with the administration. The complainant has further alleged that in the light of what transpired between her and the District Judge, she gave it an after-thought and decided to speak to the portfolio judge i.e. Justice Gangele, over phone on 30th May, 2014. The complainant has further alleged that she informed the respondent judge about the alleged threat of Mr. Kamal Singh Thakur, District Judge [**JIC.W. No.4**] and the reason as to why she was being harassed without any fault on her part. The complainant stated that respondent judge replied by informing her that he was out of station and thus could not talk to her at that time. The respondent judge in his deposition has stated that he told the complainant that he was on vacation and he was out of Gwalior and would talk to her after returning to Gwalior. The complainant and her husband met Justice P.K. Jaiswal on 01.06.2014 at Jabalpur at his family residence and apprised him about the staff problem, who then told the complainant that he would talk to the respondent judge. The complainant went on summer vacation from 01.06.2014 to 15.06.2014. Thereafter on 29.06.2014, the complainant and her husband met the respondent judge at his official residence at Gwalior to ventilate her grievance about her staff problem.

10. In his deposition, Mr. Kamal Singh Thakur has fairly admitted that in the last week of June, 2014 Justice Gangele had called him and asked him about the problem of peon faced by the complainant and that he had apprised the respondent judge about the non-availability of peons and the alternative arrangement that he made in deputing the peon for two hours daily. At that time Mr. Kamal Singh Thakur also assured the respondent judge that a full-time peon will be deputed soon. Mr. Thakur has further admitted that since respondent judge had enquired from him about the peon problem faced by the complainant, he assumed that there was an oral complaint made to him and accordingly took steps to allot a full-time peon to the complainant.

11. On being questioned as to when earlier he was not able to make alternative arrangement for a full-time peon then as to how he was able to make an arrangement for a full-time peon within 2-3 days of interference by the respondent judge, Mr. Thakur replied that since the complaint was made to the High Court Judge he withdrew a peon from some other section and allotted a full time peon to the complainant in order to save his reputation and the image of his administration in Gwalior District. He has further

admitted that he *suo motu* did not make such arrangement as the section work would have suffered.

12. Insofar as the status of availability of peons in the Gwalior District Court for the period from 1st April, 2014 to 15th July, 2014, is concerned, the complainant has placed before us the document obtained by her through the Public Information Officer of the Gwalior District Court and the same is marked as **Ex.JIC/15**. Case of the complainant is that as per **Ex.JIC/15** though peons were posted to other judicial officers who were junior to the complainant, no peon was posted with her. In his cross-examination, Mr. Kamal Singh Thakur has stated that out of the thirteen peons one was attached to the complainant's home and the said peon was suffering from illness who had applied for long leave hence the complainant had to face difficulty. In so far as the rest of the peons are concerned, the witness stated that they were entrusted with the work of cleaning and maintenance of the court complex which is about three storeys and also to attend calling work in the court in the place of peons who attended regular calling work if they were on leave. When he was queried that in the same manner if he could have posted one peon out of those twelve to the complainant as he did it for other officers he had fairly stated that he could have done it. But the fact remains that Mr. Kamal Singh Thakur seems to have taken some steps when it was brought to his personal knowledge. Having considered the above from the records of the District Court, Gwalior made available by the High Court and having gone through the evidence of Mr. Kamal Singh Thakur, we are convinced that allotment of peon is a matter of routine nature and the District Judge being in charge of administration is constrained at times due to lack of availability of peons or posting of extra peons and at times may not be in a position to satisfy the request of judicial officers. That does not mean that Mr. Kamal Singh Thakur was harassing the complainant at the behest of the respondent judge.

13. Requirement of peon is felt in every Section/Branch of any office and they are engaged round the clock in any institution and they are an integral part of any institution. Their requirement is felt at every stage right from the opening of a file to weeding it out. They have to attend to delivery of dak and other maintenance work such as cleaning, wiping, dusting of the premises as a whole, attending calling work, attending the work in

the Sections, attending to the home-office of judge concerned. A person in charge of the administration has to strike a balance between the availability of peons and the exigencies of administration.

14. Peons are an integral part of the District Court in its smooth functioning and the administrator will have to strike a balance between the availability of the peons and the requirement. This being ground reality, contention of the complainant that she was harassed by not posting peons, cannot be accepted for the very reason that the District Judge had made efforts immediately on complainant's request. It is quite obvious from the records that he had acknowledged the request of the complainant and made efforts to post a full-time peon, even though initially a peon was posted for two hours per day only. When Mr. Kamal Singh Thakur had made genuine attempts which are evident from the record and also from his evidence, we find it difficult to accept the allegation levelled by the complainant that she was being harassed by the District Judge Kamal Singh Thakur at the behest of respondent judge. The allegation that the administrative judge who is a sitting judge of the High Court will be communicating with a District Judge time and again only to ensure that a peon is not posted with the complainant, that too only for a few days, is quite unbelievable and unacceptable.

D. RE. ALLEGATION OF HARASSMENT BY DEPUTING COMPLAINANT'S STENOGRAPHER TO WORK IN ANOTHER COURT

15. The case of the complainant is that when she was on leave on 9th May, 2014, her stenographer could not complete the work assigned to him by the complainant as he was deputed to work in the court of XIIth ADJ. The complainant gave a written complaint against Ms. Shefali Gomse, Court Manager, who had allegedly deputed her stenographer-Mohit Shrivastav to the court of XIIth ADJ, due to which the stenographer could not type the judgment dictated by the complainant. The complainant alleges that deputation of her stenographer during her leave was to harass her by creating a hostile work environment and the same was done deliberately by the District Judge and the District Registrar Naveen Sharma. It was explained by Mr. Thakur that the court manager informed him that the stenographer did not inform about the pending judgments to be typed and, therefore, the concerned stenographer was deputed to the

XIIth ADJ, as the stenographer of that court was on leave and work of that court would have suffered if no alternative arrangements were made.

16. On a written complaint made by the complainant, an explanation was called for from the court manager in which she has stated that the stenographer had not mentioned about the pending judgment to be typed and that the stenographer of the complainant was posted in the court of XIIth ADJ, as the stenographer of that court was on leave. Mr. Kamal Singh Thakur [**JIC W.No.4**] has deposed that he was satisfied with the explanation given by the court manager because whenever any temporary arrangement is to be made by the court manager, there is no obligation on the part of the court manager to verify about the pendency of work with those staff who had to be deputed to other courts. According to Mr. Thakur, it was the duty of the staff concerned to explain their difficulty if their deputation to other courts would cause inconvenience to the judge with whom they are posted. Mr. Kamal Singh Thakur stated that Mr. Mohit Shrivastav, stenographer of the complainant did not inform about the pending judgment to be typed and, therefore, he was deputed to XIIth ADJ. Mr. Thakur has categorically denied the suggestions that he had deliberately deputed complainant's stenographer to another court for the whole day. In fact, an explanation was also called for from complainant's stenographer Mr. Mohit Shrivastav. In the said explanation, Mr. Mohit Shrivastav stated that the complainant had given him the dictation of judgment to be completed and the same was communicated to Ms. Shefali Gomse, Court Manager prior to deputing him to another court. Mr. Thakur reiterated that in the court to which Mr. Mohit Shrivastav was deputed, a number of staff were on leave on 05.05.2014 and, therefore, the stenographer of the complainant's court had to be deputed for the whole day.

17. On behalf of the complainant, our attention was drawn to circular as per which staff of judicial officers who is on leave can be deputed for half a day only and not more than that. To the allegation made by the complainant that her staff can be posted in some other court for half a day only, **JIC W.No.4** has stated in his evidence that though it is evident from circulars issued from time to time that the stenographer attached to a judge who is on leave could be deputed to other work only for half a day but under special circumstances they can be posted for the whole day, which was done in the

case of the stenographer of complainant. It was suggested to Mr. Thakur that he had intentionally absolved the court manager Ms. Shefali Gomse even though by deputing complainant's stenographer Mr. Mohit Shrivastav to the court of XIIth ADJ (Mr. Umesh Shrivastav) she had violated the circular. On behalf of the complainant, it was urged that in violation of the circular, the complainant's stenographer was deliberately deputed to other court to victimize her and prevent her from discharging her official work. In our view, this contention has no force. In the interest of district court administration, it is for the district judge to take appropriate decision in deputation of the staff. On the note being put up by the court manager, Mr. Thakur, District Judge deputed the complainant's stenographer to XIIth ADJ. Circulars are made only for convenience of the better administration, if exigencies of administration required a departure can be made from the circular.

18. We were also taken through Ex.JIC/11 which is the leave details of all the judicial officers at Gwalior from 1st March, 2014 to 30th June, 2014 obtained under the Right to Information Act from PIO/Judicial Superintendent, District Court, Gwalior. **Ex.JIC/13** is an Extract of Register of allocation of work of the employees posted at Gwalior from 5th May, 2014 to 14th May, 2014 obtained under the Right to Information Act. Confronting Mr. Kamal Singh Thakur with **Ex.JIC/11** and **Ex.JIC/13**, it was suggested to him that number of stenographers/typists of other judicial officers were on leave but those staff which were available were deputed to various sections. To which, he replied stating that as per record [**Ex.JIC/13**] the staff deputed of other judicial officers who were on leave, were deputed to various sections; but excepting two of them, others were not stenographers. Mr. Thakur had categorically denied the suggestion that many stenographers were available in the common pool and inspite of the same he had deliberately deputed the complainant's stenographer to another court for the whole day. Even though Mr. Thakur was repeatedly questioned at length, nothing substantial could be elicited from him to substantiate the allegation of the complainant that she was being deprived of her staff, in particular stenographer, thereby harassing her in discharge of her work.

19. It is the case of the complainant that with the help of Mr. Ravi Jaiswal [**JIC.W. No. 5**], Senior Advocate and brother of Justice P.K. Jaiswal, she and her husband met

Justice P.K. Jaiswal on 01st June, 2014 at Jabalpur in his family residence. The complainant and her husband are said to have travelled from Delhi to Jabalpur by air. During the course of cross-examination of Justice P.K. Jaiswal [**JIC. W. No. 6**], it was suggested to him by the complainant counsel that the complainant had narrated to him about the sexual harassment allegedly meted out to her by the respondent judge. Justice P.K. Jaiswal categorically denied the above suggestion and stated that the complainant had raised only staff related issues which she had been facing in the court. Justice P.K. Jaiswal also deposed that in the last week of May, 2014 or first week of June, 2014, complainant had informed him that Mr. Naveen Sharma, District Registrar, Gwalior was not posting good staff thereby hindering the efficacious discharge of her duties, to which Justice Jaiswal had replied that he would talk to respondent judge who was her Portfolio Judge. Justice P.K. Jaiswal emphatically stated that the name of the respondent judge was not referred to in any other context.

20. The complainant proceeded on summer vacation from 1st June, 2014 to 15th June, 2014. In her evidence, the complainant has stated that after the summer vacation she went to meet the District Judge Kamal Singh Thakur on 17th June, 2014 and told him that with additional responsibility of two Special Courts, she was understaffed and that she was not given the staff of the approved cadre she was entitled to. She had also taken that opportunity to apprise him about the need for an alternative Stenographer due to the increased workload she was handling at that moment, and had again requested for a full time bungalow office peon. The complainant has stated that Mr. Kamal Singh Thakur told her that he could not do anything to solve her problems and that she had to meet the Administrative Judge i.e. the respondent judge. However, Mr. Kamal Singh Thakur [**JIC. W. No. 4**] has categorically denied the above version of the complainant.

21. It is the case of the complainant that, the respondent judge had called her in the evening of 28th June, 2014 asking her to meet him at his bungalow in the late evening but she preferred to go on the next day i.e. 29.06.2014 morning alongwith her husband Mr. Sanjay Madan [**C.W. No. 3**]. It is her case that on seeing her husband alongwith her, the respondent judge got irritated and paid no heed to them and told them to meet

him after fifteen days as he was occupied that day. Per contra, the respondent judge has stated that after returning to Gwalior when he called the complainant on 28th June, 2014 to enquire about her staff problem, she sought a personal audience and the respondent judge told her to meet him on 29th June, 2014. On the said date, complainant went to meet the respondent judge at his official bungalow alongwith her husband at about 10:30 a.m. According to the respondent judge, the complainant during the said meeting stated about her peon problem to which he responded by asking the complainant not to worry and stating that he will look into her problems. The respondent judge further stated that such kind of problems are not unusual and that he had also faced similar problems in the past. He told her that she has a bright future and advised her not to worry about these petty issues. The respondent judge has further stated that after hearing him, the complainant was very happy at that moment and she touched his feet and took his wishes and left with her husband. Considering the rival version of both the parties, we are of the view that the version of the respondent judge appears to be more natural and probable. The colour that the complainant sought to paint the meeting on 29th June, 2014 does not address to reason.

22. So far as the administration in the district judiciary is concerned, it is the district judge who is at the helm of affairs. District Judge has to perform the administrative work in addition to the judicial work; by and large, judges get very little time to attend to the administration. The administration is taken care by the ministerial officers like Superintendent, Head Clerk and the Court Manager. By and large the district judge acts upon the note put up by the superintendent, head clerk and the court manager.

23. The alleged problems of non-allotment of peon in a leave vacancy and deputing her stenographer to other court are quite common administrative problems right from the subordinate to the higher judiciary and they are routine administrative issues. There are guidelines/circulars for governance of the administration; however in practice they may or may not be strictly followed. It depends upon the effective control of the administration by the district judges. In spite of such control over the administration, there may be some shortcomings. So far as the class IV employees are concerned, most of the judicial officers face some or the other problem, which does not amount to

victimization of the officer. The allegations levelled by the complainant regarding her staff problem is restricted to the level of district administration and cannot in any way be attributed to the respondent judge. In our view, it is a matter of routine that some adjustments are made here and there due to deficient staff or non-availability of staff. We are of the view that it is not appropriate to equate the same to harassment by the respondent judge through the district judge. One instance of peon and stenographer problem faced by the complainant cannot in any manner be said to have victimized the complainant. More so, definitely it cannot be attributed to respondent judge.

E. ALLEGED INTENSE SURVEILLANCE BY FREQUENT INSPECTION

24. The complainant has alleged that she was subjected to intense form of surveillance and harassment in her professional work and that the respondent judge had directed District Judge, Mr. Kamal Singh Thakur and District Judge (Inspection) Mr. Rajeev Sharma to subject the complainant to severe surveillance. It is alleged that Mr. Kamal Singh Thakur and Rajeev Sharma started visiting complainant's court quite often, usually just a few minutes before or after the lunch time, with the intention of somehow finding fault in her work and preparing a malefic report that she was not sitting in court during the working hours. Mr. Kamal Singh Thakur and Mr. Rajeev Sharma also used to send their staff members to unnecessarily barge into her court-room even during the restricted 'In-Camera' proceedings.

25. *Per Contra*, the respondent judge categorically denied the allegation of the complainant that she was being victimized for failing to submit to his immoral expectations. He stated that Mr. Kamal Singh Thakur was the District Judge of Gwalior and he never visited the court of the complainant and if at all anything of this sort would have happened, a formal complaint must have had been lodged against him. Further, he stated that he had never instructed Mr. Rajeev Sharma to make frequent inspections of the court of the complainant and that any inspection done by Mr. Rajeev Sharma must have been in the discharge of his official work.

26. Mr. Rajeev Sharma [**JIC W.No.3**] has also supported the version of the respondent and stated that the inspection done by him in Gwalior District Court and other courts was only in discharge of his regular official work. He further stated that the

respondent had never directed him to make frequent inspections of the court of the complainant with the oblique motive of harassing her or torturing her. In his deposition before this committee, Mr. Rajeev Sharma has stated that his duties in general as District Judge (Inspection) were:- (i) to conduct monthly inspections and surprise visits in order to assess the punctuality of the judicial officers; (ii) to conduct inquiries as entrusted by the High Court. He stated that he used to inspect the courts within his jurisdiction and in normal course he visited the court at 11:00 a.m., 2:35 p.m. and 4:30 p.m. and he only peeps in through the door without entering into the court room only to ensure whether the officer is sitting in the court or not. In case, he finds that the judge is not sitting on the dais, he enquires from the staff members of the concerned court about the judge's presence in chamber and after such visits, he prepares the report and submits it to the Registrar General of the Madhya Pradesh High Court. He also stated that apart from carrying physical inspections of the courts, he also calls for five judicial files attended by every judicial officer, each in civil and criminal cases (excluding District Judges who are senior to him) to ascertain whether charges in criminal cases and issues in civil cases have been properly framed; whether evidence has been properly recorded; whether interim applications have been properly considered and whether any unnecessary adjournments have been granted.

27. Mr. Rajeev Sharma, District Judge (Inspection) stated that he conducted the inspections/surprise visits of various courts, as per the guidelines issued by the Madhya Pradesh High Court. Mr. Sharma was confronted with Rules 703 and 704 of Madhya Pradesh Rules and Orders (Criminal) and questioned that it is his responsibility as a District Judge (Inspection) to conduct inspection in terms of Rules 703 and 704 of M. P. Rules and Orders (Criminal). Mr. Rajeev Sharma has stated that Rules 703 and 704 M.P. Rules and Orders (Criminal) Chapter XXX are intended for compliance by the District Judge during his inspection. Mr. Sharma also stated that there are separate guidelines framed on similar line with the said Rules, to be followed by District Judge (Inspection).

28. The norms and guidelines to be followed by the District Judge (Vigilance) have been marked as **Ex.JIC/43**. Inspection Note should be recorded exhaustively in descriptive manner as per directions contained in the Rules and Orders (Civil) Rules,

566, 569 and Rules and Orders (Criminal) Rules 703 to 711. A bare reading of the Norms and Guidelines reveals that the District Judge (Vigilance) should inspect all the courts falling within their jurisdiction atleast once in a year and minimum 20 to 25 courts should be inspected in a month and information with regard to the same shall be sent to the Registrar (Vigilance) in the first week of each succeeding month, should also make a surprise inspection of every court atleast once in a year at random without giving prior notice to the concerning judge of the court on any working day.

29. Mr. Rajeev Sharma stated that between 24.02.2014 to 12.08.2014, he had conducted many inspections in Gwalior Zone (as per Ex.JIC/5). He further stated that in total he had made nine surprise inspections of the district court at Gwalior and four out of nine were conducted after complainant's transfer from the district Gwalior. Ex. JIC/5 is the inspection Table prepared by Mr. Rajeev Sharma. From Ex.JIC/5, it is seen that Mr. Rajeev Sharma after joining duties as District Judge (Inspection) carried out following inspections at Gwalior:

Sr. No.	Date	District	Time
1.	24.03.2014	Gwalior	After lunch
2.	04.04.2014	Gwalior	2:40 p.m.
3.	30.04.2014	Gwalior	3:30 p.m.
4.	21.05.2014	Gwalior	10:40 a.m.
5.	13.07.2014	Gwalior	2:40 p.m.
6.	27.07.2014	Gwalior	4:45 p.m.
7.	04.08.2014	Gwalior	11:20 a.m.
8.	06.08.2014	Gwalior	4:45 p.m.

30. By perusal of **Ex.JIC/5**, it is seen that between 24.02.2014 to 12.08.2014, Mr. Rajeev Sharma had made many inspections in the Gwalior Zone which includes eight inspections made in Gwalior District. Be it noted that it is not as if Mr. Rajeev Sharma inspected only the court in Gwalior and that too the complainant's court alone. By perusal of **Ex.JIC/5**, we are of the view that the inspections conducted by Mr. Rajeev Sharma in Gwalior which also includes the complaint's court, was in regular discharge of official work by Mr. Rajeev Sharma. The allegations of the complainant that Mr. Rajeev Sharma conducted inspection in her court at the behest of Justice Gangele, lacks substance. A perusal of all the documents available on record and the evidence of Mr. Rajeev Sharma shows that as a District Judge (Inspection) he made five surprise

visits to the Gwalior District Court Complex between March, 2014 to July, 2014 including the court of the complainant. **JIC W.No.3**, Rajeev Sharma stated that during all his five visits, he always found the complainant punctual in the court and that he never had an occasion to find out the nature of the work that the complainant was attending to during the above period.

31. Mr. Rajeev Sharma was repeatedly confronted with **Ex.JIC/5** regarding the context in which it was prepared. Two member committee comprising of Justice Waghmare and Justice Ajit Singh, was constituted by the Chief Justice of Madhya Pradesh High Court to enquire into the allegations made by the complainant against the respondent judge. Mr. Rajeev Sharma had received the summons from the said two member committee in or about 12/13.08.2014. Mr. Rajeev Sharma stated that when he appeared in-person and gave statement before the two member committee constituted by Madhya Pradesh High Court, on his own he prepared **Ex.JIC/5** and submitted before the committee for reference. Mr. Rajiv Sharma has also stated that **Ex.JIC/5** was not addressed to anyone including the two member committee nor does it contain the date. Allegations levelled against Mr. Rajeev Sharma are that by conducting inspection, he subjected the complainant to hostile work environment. That being so, it is quite natural that to explain his conduct of inspecting various courts, Mr. Rajeev Sharma had prepared **Ex.JIC/5** containing the details regarding his inspections in the Gwalior Zone which includes the inspections of District Court at Gwalior. Merely because **Ex. JIC/5** was not addressed to someone or that it was only prepared by Mr. Rajeev Sharma, the same cannot be doubted.

32. It has also come on record that on 07.07.2014, Mr. Rajeev Sharma had sought the entire record of bail applications decided over the past six months by the three ADJs at Gwalior including that of the complainant. The bail applications were called for by Mr. Rajeev Sharma on 07.07.2014, just one day before the transfer of the complainant. On 02.08.2014, he sent the report (Ex.JIC/4) to the Principal Registrar (Vigilance) stating that he had examined the bail applications of three ADJS viz., 65 bail applications decided by Mr. P.K. Sharma, 144 bail applications decided by Mr. P.K. Agrawal and 165 bail applications decided by the complainant. In his report, Mr. Rajeev Sharma stated

that while the orders passed on the bail applications by the other two judicial officers i.e. Mr. P.K. Sharma and Mr. P.K. Agrawal 'are proper', some of the bail orders passed by the complainant 'did not seem proper' and Mr. Sharma also mentioned the details of the cases and recorded his reasons for his opinion. Mr. Rajeev Sharma was cross-examined on this aspect and he agreed that the report [Ex.JIC/4] was adverse. However, it is not as if only the bail applications dealt with the complainant were called for by Mr. Rajeev Sharma for appraisal; but bail applications disposed of by other officers like P.K. Sharma and P.K. Agrawal were also called for appraisal. Mr. Sharma submitted his report [Ex.JIC/4] on 02.08.2014 after the complainant had resigned from the post of ADJ. However, Mr. Sharma added that his report was based on the appraisal of records which he called for prior to complainant's resignation. Since the report [Ex.JIC/4] was submitted to the High Court on 02.08.2014 long after the resignation of the complainant, it is not necessary for us to go into this report nor into the alleged motive attributed to the said report.

33. On behalf of the complainant, the learned Senior Counsel argued that the inspection record submitted by Mr. Rajeev Sharma is false and cannot be relied upon, as the concerned table states that inspections were conducted by him on 5th and 12th April, 2014 being Saturdays and 13th July, 2014 being a Sunday. The counsel argued that Mr. Rajeev Sharma could not have carried inspections on the Saturdays and Sundays as they were weekly offs. On behalf of the complainant, it was further contended that the inspection record as well as the adverse report prepared by Mr. Rajeev Sharma with reference to the disposal of bail applications by the complainant, was nothing but an attempt on his part to disgrace the reputation of the complainant's work. Of course, 13th July, 2014 was Sunday and it is not known why Mr. Rajeev Sharma inspected the courts on 13.07.2014. On behalf of the respondent, it was stated that the date 13.07.2014 must have been a typographical error. In **Ex.JIC/7** Surprise Inspection Report, Mr. Rajeev Sharma has stated the names of certain judicial officers sitting on the dais and some other judicial officers not sitting on the dais including the complainant were on leave. Much light was not thrown on this aspect whether 13.07.2014 was declared a working day and as to why Mr. Rajeev Sharma inspected

the courts on 13.07.2014. We are not inclined to go further into this aspect as nothing substantial turns from this report; nor does this discredit the version of Rajeev Sharma.

34. Justice Gangele had made calls to Rajeev Sharma, District Judge (Inspection) at 10:26:09 hrs and again at 17:49:44 on 29.06.2014. The complainant alongwith her husband had gone to the house to meet the respondent judge at his residence at about 10.00 a.m. on 29.06.2014. In our view, the calls made by the respondent judge to Mr. Rajeev Sharma on 29.06.2014 may be a coincidence. Justice Gangele being the portfolio judge of the Gwalior district and also the administrative judge of the Gwalior Bench might have had many reasons to call the district judge (Inspection). It is too difficult for us to link the said calls made by the respondent judge to Mr. Rajeev Sharma with the cause of the complainant.

35. Under Article 235 of the Constitution of India, High Court exercises supervisory control over the subordinate courts. The scope and ambit of supervisory control vested in the High Courts under Article 235 of the Constitution of India covers the entire spectrum of administrative control and is not confined merely to general superintendence or to arranging the day-to-day work of the subordinate courts. The inspection/surprise visits by District Judge (Inspection) which in addition to the regular annual inspection conducted by the concerned District Judge is to ensure that the subordinate judiciary functions efficiently. The control over the subordinate judiciary vested in the High Court under Article 235 of the Constitution of India, is exclusive in nature, comprehensive in extent and effective in operation. The inspection conducted by District Judge (Inspection) is in furtherance of this supervisory control vested in the High Court.

36. Surprise inspections in district courts as well as appraisal of work of the judges of district judiciary is a normal routine practice which is intended to enhance the quality of work in the subordinate judiciary and help ensure that discipline and excellence is maintained in the performance of judiciary. As stated by Mr. Rajeev Sharma, District Judge (Inspection) sends his report directly to the High Court. Further, District Judge (Inspection) is under the direct control of the Chief Justice and the Chief Justice writes the ACR of District Judge (Inspection). The inspection/surprise visits by Mr. Rajeev

Sharma was in the course of his official work. In our view, the inspection/surprise visits conducted by Mr. Rajeev Sharma was in discharge of his regular official work. No motive could be attributed to his official work of inspection nor can it be said that he acted at the behest of Justice Gangele in inspecting the complainant's court. The respondent cannot be linked with the inspection of courts done by Mr. Rajeev Sharma and irregularity occasioned by him in preparing the report of inspection. The allegation that Mr. Rajeev Sharma was acting at the behest of Justice Gangele is far-fetched and not acceptable.

F. CONCLUSION

37. As discussed above, all the three allegations made by the complainant concerning staff harassment form part of routine district administration/exercise of supervisory power by the High Court under Article 235 of the Constitution of India. The allegation that the respondent judge was misusing his position by using the subordinate judiciary to victimize the complainant in discharge of her duties as judicial officer, is not proved. Charge No.3 is not proved.

ACKNOWLEDGMENT :

Before recording our conclusion on the Charges, it remains to acknowledge the role of the Counsel for the Committee and Counsel appearing for both sides. We express our deep appreciation for Mr. Sanjay Jain, the learned Additional Solicitor General appointed under Section 3(9) of the Judges Inquiry Act and who has been permitted to act as an Amicus since the complainant has been represented by the counsel. We also record our appreciation for Mr. Arjun Mitra and Ms. Pallavi Shaili, Advocates assisting Mr. Sanjay Jain. We also express our appreciation for the cooperation rendered by Ms. Indira Jaisingh, learned Senior Counsel and her team members viz., Ms. Radhika Saxena, Mr. Satish Sangwan, Mr. Vineet Ajmani and Mr. Rohit Ghosh, Advocates. We also express our appreciation for the co-operation rendered by Mr. Sidharth Luthra, learned Senior Counsel for the respondent judge and his team members Mr. Anupam Prasad, Mr. Aditya Wadhwa, Mr. Nikhil Pillai and Mr. Gautam Khazhanchi, Advocates. We also record our appreciation for Mr. Akhil Sibal and his assisting counsel Ms. Shruti Shrivastava who were earlier representing the respondent judge. We also express our appreciation to the assistance rendered by Mr. Umesh Kumar, Joint Secretary and Mr. M.L. Sampat Kumar, Deputy Director, Judges Inquiry Committee and the secretarial assistance throughout rendered by Ms. Kalyani Gupta, Assistant Registrar-Cum-Private Secretary to the Presiding Officer. This Inquiry Committee also wishes to acknowledge its thanks to the entire staff, translators, interpreters who were associated with the Inquiry. The Committee also wishes to acknowledge its grateful thanks to the staff attached to the Presiding Officer, in particular, Mr. R.K. Dhawan, Assistant Registrar-cum-Private Secretary, Ms. Radha Sharma and Mr. Mukesh Kumar, Senior Personal Assistant/Stenographers and all others who have rendered their valuable assistance in preparation of the report, compilation of the evidence, documents, pleadings and other material records.

Part-VI

CONCLUSION

Charges	Findings
<p>Charge I - Sexual Harassment</p> <p>Sexual harassment of a woman Additional District and Sessions Judge while being a sitting judge of the Gwalior Bench of the High Court of Madhya Pradesh.</p>	<ul style="list-style-type: none"> • Not proved. As set out in <i>Part II</i> of the Report.
<p>Charge II - Transfer</p> <p>Victimisation of the said Additional District and Sessions Judge for not submitting to his illegal and immoral demands, including, but not limited to, transferring her from Gwalior to Sidhi.</p>	<ul style="list-style-type: none"> • The coincidence of the call details records of the respondent judge and Justice Menon, in time and space, with transfer of the complainant and rejection of her representation is suggestive of the respondent judge's interference with the transfer and rejection of the representations of the complainant. Since the Charge No.1 is held 'not proved', this interference cannot be linked to Charge No.1 and consequentially it cannot be held that the interference of the respondent is on account of not submitting to his immoral demands. The interference of the respondent judge in transfer of the complainant may be an improper conduct. But the same will not amount to '<i>misbehaviour</i>' within the meaning of Article 124 (4) read with Article 217 of the Constitution of India. • Not proved - As set out in <i>Part III</i> of the Report. • Committee's observations on the unjust transfer of the complainant <i>vide para (66)</i> of Part-III.
<p>Charge III - Misuse of position using subordinate judiciary to victimize the complainant</p> <p>Misusing his position as the Administrative Judge of the High Court of Madhya Pradesh to use the subordinate judiciary to victimize the said Additional District and Sessions Judge.</p>	<ul style="list-style-type: none"> • Not proved. As set out in <i>Part IV</i> of the Report.

**Presiding Officer
(Justice R. Banumathi)
Judge, Supreme Court of India**

**Member
(Justice Manjula Chellur)
Chief Justice
Bombay High Court**

**Member
(K.K. Venugopal)
Senior Advocate,
Supreme Court of India**

Part-VII-Annexure

JIC Exhibits

Exhibits and Date	Details of Exhibits Marked
<u>JIC/1</u> 15.05.14	Correspondence bearing No. 188/Vig./4 addressed to the RG, M.P. High Court by Mr. Rajeev Sharma, JIC W.No.3. Marked through Mr. Rajeev Sharma, JIC W.No.3
<u>JIC/2</u> 07.07.14	Correspondence addressed to the District and Sessions Judge calling for bail applications of three judicial officers including the complainant. Marked through Mr. Rajeev Sharma, JIC W.No.3
<u>JIC/3</u> 08.07.14	Transfer order of the complainant communicated to District Judge (Inspection) Marked through Mr. Rajeev Sharma, JIC W.No.3
<u>JIC/4</u> 02.08.14	Report sent by Mr. Rajeev Sharma on bail applications of the complainant Marked through Mr. Rajeev Sharma, JIC W.No.3
<u>JIC/5</u> 01.08.14	Response of Mr. Rajeev Sharma to Representation-cum-demand for justice tendered by the complainant Marked through Mr. Rajeev Sharma, JIC W.No.3
<u>JIC/6</u> 24.03.14 to 15.09.14	Synopsis of Inspections made by Mr. Rajeev Sharma now produced by the High Court of M.P. Marked through Mr. Rajeev Sharma, JIC W.No.3
<u>JIC/7</u> 14.07.14	Letter No. 277/14 by Mr. Rajeev Sharma to RG, M.P. High Court Marked through Mr. Rajeev Sharma, JIC W.No.3
<u>JIC/8</u>	Statement of Call Records of Justice Gangele Mobile No. 9425322181 Call details referred to as JIC/8(A), JIC/8(B) and JIC/8(C) Marked through Mr. Rajeev Sharma, JIC W.No.3
<u>JIC/9</u> 02.07.14	Letter written by the complainant to District Nazir, Gwalior, M.P. Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/10</u> 09.05.14	Office note put up by Ms. Shefali Gomse, Court Manager. Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/11</u> 01.03.14 to 30.06.14	Leave details of all the judicial officers at Gwalior obtained under the RTI Act from Public Information Officer/Judicial Superintendent, District Court, Gwalior dated 11.5.2016. Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/12</u> May, 2014	Daily Attendance Register, District Court Gwalior obtained under RTI Act Marked through Mr. Kamal Singh Thakur, JIC W.No.4

<u>JIC/13</u> 05.05.14 to 14.05.14	Extract of Register of Allocation of work obtained under the RTI Act. Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/14</u> 03.07.14	A communication in Hindi sent to the High Court by JIC.W. 4 addressed to the RG, M.P. High Court seat at Jabalpur. Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/15</u> 01.04.14 to 15.07.14	Availability/Status of Peons in Gwalior District Court Complex during the period. Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/16</u> 23.06.14	Order relating to posting of peons Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/17</u> 12.05.14	Letter written by the complainant addressed to the District Judge complaining against Ms. Shefali Gomse, Court Manager Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/18</u> 20.05.14	Letter written by the complainant addressed to the District Judge requesting for a Bungalow Peon Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/19</u> 20.05.14 to 15.07.14	Annexure 12 filed in the complaint which is stated to be an extract of the telephone calls pertaining to the mobile numbers of JIC W NO. 5 and the complainant Marked through Mr. Ravi Jaiswal, JIC W.No.5
<u>JIC/20</u> June, 2014	Extract of Daily Attendance Register Class III employees of District Court Gwalior obtained under the RTI Act Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/21</u> July, 2014	Extract of Daily Attendance Register Class III employees of District Court Gwalior obtained under the RTI Act Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/22</u> 22.05.14	Order passed by JIC W.No.4 deputing a substitute Peon to the complainant for two hours on daily basis Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/23</u> 09.07.14	Representation of the complainant seeking extension for completion of her daughter's studies in Class XII to stay at Gwalior Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/24</u> 11.07.14	Representation of the complainant Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/25</u>	Recommending transfer of Ms. Savita Ogle on out of turn at her request on medical grounds Marked through Mr. Kamal Singh Thakur, JIC W.No.4

<u>JIC/26</u> 15.07.14	Resignation letter of the complainant Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>JIC/27</u> 07.07.14	Minutes of the Meeting of the Transfer Committee in which name of the complainant is found at S. No. 5 in Agenda No. 'G'. Marked through Mr. Justice Ved Prakash Sharma, JIC W.No.7
<u>JIC/28</u> 06.10.14	Functions/assignments of different Committees of the M.P. High Court, Jabalpur. Marked through Mr. Justice Ved Prakash Sharma, JIC W.No.7
<u>JIC/29</u> 07.07.14	Agenda of the Meeting of the Transfer Committee to deal with matters pertaining to transfer and posting of officers. Marked through Mr. Justice Ved Prakash Sharma, JIC W.No.7
<u>JIC/30</u> 23.06.14	Statement showing the pendency of cases along with court pendency Marked through Mr. Justice Ved Prakash Sharma, JIC W.No.7
<u>JIC/31</u> 11.07.14	Noting of JIC W.No.7 regarding representation of the complainant against her transfer to Sidhi. Marked through Mr. Justice Ved Prakash Sharma, JIC W.No.7
<u>JIC/32</u> 14.07.14	Noting of JIC W.No.7 regarding representation of the complainant against her transfer to Sidhi Marked through Mr. Justice Ved Prakash Sharma, JIC W.No.7
<u>JIC/33</u>	No document was marked.
<u>JIC/34</u> 16.07.14	Letter sent by the High Court forwarding the resignation letter of the complainant to the State Government Marked through Mr. Justice Ved Prakash Sharma, JIC W.No.7
<u>JIC/35</u> 17.07.14	Order of acceptance of the resignation letter of the complainant sent by the State Government Marked through Mr. Justice Ved Prakash Sharma, JIC W.No.7
<u>JIC/36</u> 17.07.14	Noting of the Assistant Registrar (Confidential Section) with regard to the fax copy of the resignation letter of the complainant (though a copy of the same is not available on record) Marked through Mr. Justice Ved Prakash Sharma, JIC W.No.7
<u>JIC/37</u> 04.08.14	Press Release by the RG, M.P. High Court Marked through Mr. Justice Ved Prakash Sharma, JIC W.No.7
<u>JIC/38</u> 12.01.12	Transfer Policy of the M.P. High Court Marked through Mr. Justice Ved Prakash Sharma, JIC W.No.7
<u>JIC/39</u> 13.10.14	Affidavit of JIC W. No. 9 filed before Supreme Court in writ proceedings. Marked through Mr. V.B. Singh, JIC W.No.9
<u>JIC/40</u> 29.06.14 to 14.07.14	Extract of call records of Mr. Justice Rajendra Menon, JIC W. No. 11 Marked through Justice Rajendra Menon, JIC W.No.11

<u>JIC/41</u> 28.04.14	Papers pertaining to transfer of Mr. Devendra Pal Singh Gaur, XI ADJ, Gwalior. Marked through Justice Rajendra Menon, JIC W.No.11
<u>JIC/42</u> 03.07.14	Note signed by Assistant Grade-3 counter signed by Assistant Registrar to RG, M.P. High Court. Marked through Justice Rajendra Menon, JIC W.No.11
<u>JIC/43</u> 18.08.98	Norms and guidelines laid down for the proper and effective working of District Judge (Vigilance). Marked through Justice Rajendra Menon, JIC W.No.11
<u>JIC/44</u> 20.5.14 to 20.7.14	Call Detail Records of Justice S.K. Gangele from BSNL, Madhya Pradesh Telephone Circle Marked through Justice Rajendra Menon, JIC W.No.11

Complainant's Exhibits

Exhibit and Date	Details of Documents Marked
<u>C/1</u> July, 2014	Web copy of the composition of various committees of the M.P. High Court Marked through Mr. Justice Ved Prakash Sharma, JIC W.No.7
<u>C/2</u> March, 2015	List of officers who were transferred during the exercise of Annual General Transfers Marked through Mr. Justice Ved Prakash Sharma, JIC W.No.7
<u>C/3</u> 26.08.14	Reply to the RTI Application sent by Public Information Officer, M.P. High Court Marked through Mr. Justice Ved Prakash Sharma, JIC W.No.7
<u>C/4</u>	No document was marked.
<u>C/5</u> 04.08.14	Letter of Justice Gangele addressed to the then Chief Justice of the M.P. High Court at Jabalpur Marked through Mr. Naveen Sharma, JIC W.No.8
<u>C/6</u> 10.07.14 to 17.07.14	Statement of call records between Mr. V.B. Singh, Registrar, M.P. High Court at Indore and Justice Gangele Marked through Mr. V.B. Singh, JIC W.No.9
<u>C/7</u> 11.07.14	Communication letter sent by M.P. High Court to District Judge, District Courts, Gwalior along with Covering Letter dated 14.07.2014 sent by District Judge, Gwalior to the complainant Marked through Mr. Asha Ram, JIC W.No.10
<u>C/8</u>	A photograph at page 125 of the Counter Affidavit Part I filed by the respondent-Judge. Marked through Mr. Justice S.K. Gangele, R.W.No.1

Respondent's Exhibits

Exhibit and Date	Details of Documents Marked
<u>Ex.R/1</u> 10.12.13	CD of the event of Ladies Sangeet Marked through Ms. Divya Chourasia, JIC W.No.1
<u>Ex.R/2</u> 04.09.14	Copy of the affidavit of Ms. Divya Chourasia filed in Writ Petition No. 792 of 2014 Marked through Ms. Divya Chourasia, JIC W.No.1
<u>Ex.R/3</u> 11.12.13	Part III CD of 25 th wedding anniversary of Justice Gangele Marked through Ms. Bhawna Singh, JIC W.No.2
<u>Ex.R/4</u> 05.10.15	First photograph filed along with the counter affidavit of Mr. Justice S.K. Gangele at Annexure A-11 Page 159 Volume I of the counter affidavit to identify Ms. Bhawna Singh, JIC W. No. 2. Marked through Mr. Sanjay Madan, C.W.No.3
<u>Ex.R/5</u> 05.10.15	First photograph filed along with the counter affidavit of Mr. Justice S.K. Gangele at Annexure Page 125 Volume I of the counter affidavit to identify Ms. Bhawna Singh, JIC W. No. 2. Marked through Ms. Sonal Madan, C.W.No.2
<u>Ex.R/6</u> 05.10.15	First photograph filed along with the counter affidavit of Mr. Justice S.K. Gangele at Annexure A-7 Page 117 Volume I of the counter affidavit to identify Ms. Bhawna Singh, JIC W. No. 2. Marked through Ms. Sonal Madan, C.W.No.2
<u>Ex.R/7</u> 10.04.13	ACR of the complainant for the year 2012 Marked through Mr. Justice S.K. Gangele, R.W.No.1
<u>Ex.R/8</u> 13.03.14	ACR of the complainant for the year 2013 Marked through Mr. Justice S.K. Gangele, R.W.No.1
<u>Ex.R/9</u> 25.07.11	Order of the Chief Justice nominating Justice S.K. Gangele as the Administrative Judge at Gwalior Bench Marked through Mr. Justice S.K. Gangele, R.W.No.1
<u>Ex.R/10</u> 16.07.14	Photocopy of a newspaper clipping in Nayiduniya [marked subject to proof] Marked through Mr. Justice S.K. Gangele, R.W.No.1
<u>Ex.R/11</u> 10.12.13	Eleven photographs of Ladies Sangeet [R/11A to R/11K] Marked through Mr. Justice S.K. Gangele, R.W.No.1
<u>Ex.R/12</u> 19.12.13	Bill and receipt issued by the Central Park Hotel[<u>R/12A & R/12B</u>] Marked through Mr. Justice S.K. Gangele, R.W.No.1
<u>Ex.R/13</u> 11.12.13	A copy of the invitation extended to the complainant for the 25 th Wedding Anniversary function Marked through Mr. Justice S.K. Gangele, R.W.No.1

<u>Ex.R/14</u> 11.12.13	Eleven photographs of the 25 th wedding anniversary function [R/14A to R/14K] Marked through Mr. Justice S.K. Gangele, R.W.No.1
<u>Ex.R/15</u> 20.06.14, 06.03.14, 01.09.14 and 06.10.14	List of composition of the Committees on 20 th January, 2014, 6 th March, 2014, 1 st September,2014 and 6 th October, 2014 are marked as R/15A, R/15B, R/15C and R/15D respectively Marked through Mr. Justice S.K. Gangele, R.W.No.1
<u>Ex.RW2/16</u> 05.05.17	Affidavit of Mr. Muniraj Kushwaha, Peon in Hindi. Marked through Mr. Muniraj Kushwaha, R.W.No.2
<u>Ex.RW2/16A</u> 05.05.17	Affidavit of Mr. Muniraj Kushwaha, Peon in English Marked through Mr. Muniraj Kushwaha, R.W.No.2
<u>Ex.RW3/17</u> 05.01.16	Affidavit of Mr. Manoj Jain, Videographer R.W. 3 Marked through Mr. Manoj Jain, R.W.No.3
<u>Ex.RW3/18</u> 29.06.16	Affidavit under Section 65B of the Evidence Act of Mr. Manoj Jain, Videographer R.W. 3 Marked through Mr. Manoj Jain, R.W.No.3
<u>Ex.RW4/19</u> 06.05.17	Affidavit filed by Ms. Sangeeta Gangele, wife of respondent-Judge R.W. No. 4 Marked through Ms. Sangeeta Gangele, R.W.No.4
<u>Ex.RW5/20</u> 06.07.17	Affidavit in Hindi of Mr. Sahdev Singh, PSO then posted with the respondent-Judge Marked through Mr. Sahdev Singh, R.W.No.5
<u>Ex.RW5/20A</u> 06.07.17	English translation of the above affidavit of Mr. Sahdev Singh, PSO Marked through Mr. Sahdev Singh, R.W.No.5
<u>Ex.RW5/21</u> 06.07.17	Affidavit in Hindi of Mr. Rajender Chourasia, then CJM posted at Gwalior Marked through Mr. Rajender Chourasia, R.W.No.6
<u>Ex.RW5/21A</u> 06.07.17	English translation of the above affidavit of Mr. Rajender Chourasia, then CJM posted at Gwalior Marked through Mr. Rajender Chourasia, R.W.No.6
<u>Ex.RW5/22</u> 06.07.17	Affidavit in Hindi of Mr. P.K. Sharma, then ADJ, Gwalior Marked through Mr. P.K. Sharma, R.W.No.7
<u>Ex.RW5/22A</u> 06.07.17	English translation of the above affidavit of Mr. P.K. Sharma, then ADJ, Gwalior Marked through Mr. P.K. Sharma, R.W.No.7
<u>Ex.RW1/23</u> 16.07.14	Original press clipping of the news item containing the resignation of the complainant published in the newspaper "Nayi Duniya" along with the receipt. Marked through Mr. Justice S.K. Gangele, R.W.No.1
<u>Ex.RW1/24</u> 28.06.14	Details of the roster of the Gwalior Bench and List of Committees of M.P. High Court obtained under RTI Act. Marked through Mr. Justice S.K. Gangele, R.W.No.1

<u>Ex.R/25</u> 29.06.12	Letter written by the complainant addressed to the District Judge, District Court Gwalior. Marked through the complainant, C.W.No.1
<u>Ex.R/25A</u> 29.06.12	English translation of the letter written by the complainant addressed to the District Judge, District Court Gwalior. Marked through the complainant, C.W.No.1
<u>Ex.R/26</u> 25.10.13	A complaint addressed to the Station House Officer, P.S. University. Marked through the complainant, C.W.No.1
<u>Ex.R/27</u> 10.06.14	Anonymous letter obtained by the respondent-Judge from the M.P. High Court under the RTI Act. Marked through the complainant, C.W.No.1
<u>Ex.R/27A</u> 10.06.14	English translation of anonymous letter obtained by the respondent-Judge from the M.P. High Court under the RTI Act. Marked through the complainant, C.W.No.1
<u>Ex.R/28</u> 28.06.14	Reply by Mr. Kamal Singh Thakur addressed to the Principal Registrar obtained by the respondent-Judge under the RTI Act. Marked through the complainant, C.W.No.1
<u>Ex.R/28A</u> 28.06.14	English Translation of Reply by Mr. Kamal Singh Thakur addressed to the Principal Registrar obtained by the respondent-Judge under RTI Act. Marked through the complainant, C.W.No.1

Unmarked Documents

Exhibits and Date	Details of Unmarked Documents
<u>D/1</u> 28.09.15	Affidavit of Ms. Bhawna Singh, JIC W.No.2 filed along with counter affidavit of respondent Marked through Ms. Bhawna Singh, JIC W.No.2
<u>D/2</u> 28.09.15	Affidavit of Mr. Kamal Singh Thakur, JIC W.No.4 filed along with the counter affidavit of respondent before this Committee Marked through Mr. Kamal Singh Thakur, JIC W.No.4
<u>D/3</u>	No document was marked.
<u>D/4</u>	No document was marked.
<u>D/5</u> 28.09.15	Affidavit sworn in by Mr. Naveen Sharma, JIC W. No.8 Marked through Mr. Naveen Sharma, JIC W.No.8
<u>D/6</u> 26.09.15	Affidavit filed by Mr. Asha Ram, JIC W. No. 10 along with Counter Affidavit filed by the respondent in the present proceedings Marked through Mr. Asha Ram, JIC W.No.10
<u>D/7</u> 02.07.15	Report of the In House Committee constituted by the Supreme Court Marked through Mr. Justice P.K. Jaiswal, JIC W.No.6

LIST OF WITNESSES

INDEX

Sl. No.	Name of the witness	Designation
1.	Ms. Divya Chourasia JIC W. No. 1	Wife of Mr. Rajender Chourasia then Chief Judicial Magistrate, Gwalior.
2.	Ms. Bhawna Singh JIC W. No. 2	Civil Judge Class-II, Gwalior
3.	Mr. Rajeev Sharma JIC W. No. 3	The then District Judge (Inspection), District Courts, Gwalior. Presently, Principal Judge, Family Court, Singrauli
4.	Mr. Kamal Singh Thakur JIC W. No. 4	The then Principal District Judge, District Courts, Gwalior. Presently, Judicial Member, M.P. Commercial Tax Appellate Board, Bhopal
5.	Mr. Ravi Jaiswal JIC W. No. 5	Senior Advocate
6.	Justice P.K. Jaiswal JIC W. No. 6	Judge, M.P. High Court
7.	Justice Ved Prakash Sharma JIC W. No. 7	The then Registrar General, M.P. High Court. Presently, Judge, M.P. High Court
8.	Mr. Naveen Sharma JIC W. No. 8	The then District Registrar, District Courts, Gwalior. Presently Civil Judge Class-I Senior Division at Sehore
9.	Mr. V.B. Singh JIC W. No. 9	Then PPS to Chief Justice of M.P. High Court. Presently, Registrar of Indore Bench of M.P. High Court
10.	Mr. Asha Ram JIC W. No. 10	Then Peon attached to Ms. ABC. Presently, Process Writer, District Courts, Gwalior
11.	Mr. Justice Rajendra Menon JIC W. No. 11	Then Judge, M.P. High Court Presently, The Chief Justice, Patna High Court
<u>Complainant's Witnesses</u>		
1.	Ms. Sangeeta Madan C.W. No. 1	Complainant herself

2.	Ms. Sonal Madan C.W. No. 2	Elder daughter of complainant
3.	Mr. Sanjay Madan C.W. No.3	Husband of complainant
4.	Mr. Justice Deepak Verma C.W. No. 4	Former Judge, Supreme Court
<u>Respondent's Witnesses</u>		
1.	Mr. Justice S.K. Gangele R.W. No. 1	Respondent Judge
2.	Mr. Muniraj Kushwaha R.W. No. 2	Then, Peon posted with respondent Presently, Peon at M.P. High Court, Gwalior
3.	Mr. Manoj Jain R.W. No. 3	Videographer engaged to videograph the 25 th wedding anniversary function held on 11.12.2013.
4.	Ms. Sangeeta Gangele R.W. No. 4	Wife of respondent-Judge
5.	Mr. Sahdev Singh R.W. No. 5	PSO posted with respondent Judge
6.	Mr. Rajender Chourasia R.W. No. 6	Then CJM, Gwalior Presently, Additional Welfare Commission, Bhopal
7.	Mr. Pawan Kumar Sharma R.W. No. 7	Then Additional District & Sessions Judge, Gwalior Presently, Principal Judge, Family Court, Shivpuri