

SYNOPSIS AND LIST OF DATES

The present Writ Petition is filed under Article 32 of the Constitution of India by the Petitioner, who is a Judicial Officer holding the post of Principal District Judge, and 7th Senior Most in the list of District Judges who are in Super Time Scale (STS) Cadre of the Higher Judicial Services (HJS) of the State, against arbitrary and illegal Final Report submitted by the Respondent No 2 i.e. The Gender Sensitization and Internal Complaint Committee [GSICC for short] and consequential issue of show cause notice by the Respondent No 1 in proceeding towards conduct of a denovo disciplinary inquiry against the petitioner regarding allegation of sexual harassment at work place.

It is pertinent to mention that petitioner has an unblemished career spanning over 32 years with sterling record of service. The petitioner is due to superannuate at the end of the year, 2020 and he is at the fag end of his service. Further, the entire action is visited with arbitrariness, malafide and in complete violation of the principles of natural justice by holding enquiry and or recording statements behind the back of the petitioner at different stages without participation of the petitioner.

All these actions have been done at a time when the petitioner is in the zone of consideration for being considered for elevation. The action has apparently been kept pending for last more than two years with a view to harm the career prospects of the petitioner at a time when he is in the zone of consideration.

This is a classic case where the facts are speaking for themselves as to how the Gender Sensitisation Internal Complaint Committee (“GSICC” for short), completely negated the provisions of Section 10 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, (hereinafter referred to as “**the Act**” for short) by rejecting the Application for conciliation submitted by the complainant i.e. Complainant.

The GSICC acted as if it is a Court of Law by rejecting the said application where as, it is mandated in law that it shall record a settlement once a conciliation application is submitted by the complainant. The GSICC/ICC (Internal Complaint Committee) being creation of a statute is bound by the provisions of the Act and it cannot traverse beyond as if it is a Court of law.

It is well settled in law that even a Tribunal created by law is not a court but it is bound by the law by which created it. [Re L.Chandrakumar Vs Union of India &Ors 1997(3) SCC 261].

STATUTORY FRAME WORK

Sections 10 and 11 of the Act prescribes two distinct procedures for resolution of a complaint of any alleged sexual harassment, which are as follows:

“10. Conciliation.—(1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation:

Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where settlement has been arrived at under sub-section (1), **the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer** or the District Officer to take action as specified in the recommendation.

(3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section (1), **no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.**”

11. Inquiry into complaint.— (1) **Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry** into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

(2) Notwithstanding anything contained in section 509 of the Indian Penal Code (45 of 1860), the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

(3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents; and
- (c) any other matter which may be prescribed.

(4) The inquiry under sub-section (1) shall be completed within a period of ninety days.” [Emphasis added].

Therefore, the Act envisages the following two different types of procedure:

RESOLUTION PROCEDURE THROUGH CONCILIATION

- (i) Once the complaint is received, before initiating the inquiry, the Internal Committee may take steps to conciliate the complaint between the complainant and the respondent. This is only if requested by the aggrieved woman.
- ii) It is submitted that conciliation in itself doesn't necessarily mean acceptance of complaint by the respondent. It is a practical mechanism through which issues are resolved or misunderstandings cleared.
- iii) In case a settlement is arrived at, the Internal Committee records & reports the same to the employer for taking appropriate action.
- iv) The Internal Committee provides copies of the settlement to complainant and respondent. Once the action is implemented, no further inquiry is conducted.

**RESOLUTION PROCEDURE THROUGH FORMAL
INQUIRY**

It is submitted that failing conciliation, the Internal Committee initiates inquiry in the following cases:

- i) No conciliation is requested by aggrieved woman.
- ii) Conciliation has not resulted in any settlement.
- iii) Complainant informs the Internal Committee that any term or condition of the settlement arrived through conciliation, has not been complied with by respondent.
- iv) Any such inquiry if held, is completed within 90 days from the date on which the inquiry is commenced and the report is submitted to the employer within 10 days of completion of inquiry. The inquiry procedure ensures absolute fairness to all parties.

Therefore, there is no power or authority vested with the GSICC in the present case to proceed with the enquiry since the enabling provision to conduct the enquiry under Section 11 of the Act *ibid*, is circumscribed by the opening words **“Subject to the provisions of Section 10.....”**

In addition, under Regulation 10 of the Gender Sensitisation And Sexual Harassment Of Women At The High

Court of Madhya Pradesh And Its Subordinate Courts (Prevention, Prohibition And Redressal) Regulations, 2015 ["Regulations of 2015" for short], the ISC of the GSICC shall submit the Inquiry Report along with complete record to GSICC within a period of ten days from the date of completion thereof and a copy of the report shall also be furnished to concerned parties, and where it forms an opinion that the allegation against the respondent has not been proved, it shall make a recommendation accordingly to the GSICC, and upon consideration of the material on record and the Inquiry Report of its ISC, if more than two-thirds of the members of the GSICC differ from the opinion/conclusion as drawn, the GSICC shall after hearing the aggrieved woman and Respondent in person, record its reasons to so differ and take consequent action.

It is therefore, submitted that there is no power vested with the GSICC to conduct the inquiry in the present case once a conciliation application is submitted by the complainant. The GSICC has also no power to form its own opinion on the conciliation application.

In the present case, the GSICC not only submitted its Final Report dated 30.04.2020 contrary to law recommending action against the petitioner, but it went ahead a step further and did not hesitate to strongly recommend that action be taken against the Complainant for not willing to proceed with the inquiry.

The dismissal of Conciliation application by the GSICC and consequently submission of final report, by the GSICC itself both are simply unsustainable in law.

The ISC of the GSICC instead of giving its finding on conciliation referred the matter to the GSICC. The GSICC began the inquiry under section 11 of the Act, which in law it is forbidden to do so, by keeping the conciliation application pending for a long period of five months. The GSICC was in fact mandated in law to record the conciliation settlement under section 10 of the Act. This manifest violation of mandatory legal provisions merit interference by this Hon'ble court and recommendation of initiation of fresh disciplinary inquiry proceeding in the final report prepared by the GSICC has to be set aside being unsustainable in law.

It is further submitted that the services of the petitioner are also governed by 'Madhya Pradesh Higher Judicial Service (Recruitment and Conditions of Service) Rules, 2017, Madhya Pradesh Civil Services (Conduct) Rules, 1965 and Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966 [for short the MPCS (CCA) Rules].

A proviso inserted after sub rule 2 in Rule 14 of the MPCS (CCA) Rules vide Gazette of M.P., Bhopal dated 17.3.2005, reads as under-

"Provided that where there is a complaint of sexual harassment within the meaning of sub-rule (3) of Rule 22 of the Madhya Pradesh Civil Services (Conduct) Rules, 1965, the complaints committee established in each Department or Office for inquiring into such complaints, shall be deemed to be the inquiring authority appointed by the disciplinary authority for the purpose of these rules and the complaints committee shall hold if separate procedure has not been prescribed for the complaints committee for holding the inquiry into the complaints of sexual harassment, the inquiry as far as practicable in accordance with the procedure laid down in these rules".

There are detailed provisions in the Act, the rules and the regulations, 2015 for manner of inquiry into the complaint, preparation of the inquiry report in accordance with the provisions of the Act. Moreover, in view of the above mentioned proviso inserted in MPCs (CCA) Rules, the GSICC itself is an inquiring authority appointed by the disciplinary authority for the purpose of inquiry into a complaint of sexual harassment.

The GSICC had inquired the complaint in detail. During the inquiry nothing came on record against the petitioner. **Even the GSICC concluded in its Final Report that charges of sexual harassment have not found proved against the petitioner.** Thus, the action of the GSICC making its recommendation for initiation of Disciplinary Inquiry Proceedings, against the petitioner is self-contradictory and it is well beyond the powers conferred on it under the act, the rules, the Regulations 2015 and the service law applicable to the petitioner.

Section 18 of the Act, and Rule 11 of the Rules provides for an appeal. Any person aggrieved from the recommendations made under section 13, 14 and 17 or non-implementation of such recommendations may prefer an appeal to the appellate authority. The recommendation of the GSICC for initiation of Disciplinary Inquiry Proceedings, against the petitioner does not come under the purview of the above mentioned provisions of law. Thus, the Final Report dated 30.04.2019 of the GSICC is not appealable. Similarly, in the Regulations 2015, there is no provision for appeal. However, Regulation No.12 of the said

Regulations, provides for representation. The petitioner had already submitted reply/representation dated 17.12.2019 before Hon'ble the Administrative Committee (HJS) of Hon'ble the High Court.

The Final Report dated 30.04.2019 of the GSICC and Reply/Representation dated 17.12.2019 of the petitioner are still pending before Hon'ble the Administrative Committee (HJS) of Hon'ble the High Court, which comprises of six senior most Hon'ble Judges of the Hon'ble High Court including the Hon'ble Chief Justice.

VIOLATION OF PRINCIPLES OF NATURAL JUSTICE

Not only that the report of the GSICC is unsustainable in law for reasons aforesaid, it is also in gross violation of the principles of natural justice. It is submitted that Section 11 of the Act read with Rule 7 (4) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 [hereinafter referred to as the Rules for short] and Regulation 10 of 2015 Regulations mandate that the principles of natural justice ought to be followed into the inquiry of the complaint by the Internal Committee. The above mentioned sub rule is quoted herein under, for ready reference :-

Rule 7 (4)-"The Complaints Committee shall make inquiry into the complaint in accordance with the principles of natural justice".

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In the present case, it is submitted that principles of natural justice have been violated with impunity throughout both by the GSICC and also prior to that in the conduct of the inquiries. That the action is also unreasonable and arbitrary for the simple reason that the foundation of the action in holding a preliminary enquiry against the petitioner, as also the subsequent action of the GSICC in recording partial statement of the complainant both were done behind his back and in complete violation of “audi alteram partem” rule i.e. that no person can be condemned unheard or in other words that ‘Justice should not only been done but seen to be done’.

It would not be out of place to mention here that principles of natural justice have been given greater legitimacy by section 11 of the Act, 2013 that provides for the opportunity to be heard and to make representation against findings to both parties, as well as by sub rule 4 of Rule 7 of the Rules framed there under expressly lays down that an inquiry must be conducted in accordance with the principles of natural justice. The foundational judgment of this Hon’ble court in the case of E. P. Royappa vs State Of Tamil Nadu & Anr cited reported in 1974 SCR (2) 348 emphasize the indispensability of fairness and absence of arbitrariness in conduct of enquiry. This principle has been reiterated in series of decisions subsequently and has evolved into well established rule of law. Needless to submit that natural justice and fair play in decision making are deeply rooted in rule of law and have been held to be fundamental, the purpose being to prevent miscarriage of justice. [Re Maneka Gandhi Vs Union of India and Ors (1978 (2) SCR 621)].

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In the case of the petitioner, in the entire process the mandatory provisions of law applicable in the matter and the principles of natural justice and fair play have been given a complete go by.

The Petitioner is therefore, left, with no option but to approach this Hon'ble Court challenging the recommendation of the GSICC, to initiate denovo disciplinary enquiry proceedings against the Petitioner, made in its final report, submitted under section 11 of the Act and Regulation 11 of the Regulations, 2015 and consequential follow up action to initiate disciplinary enquiry against the Petitioner.

The Writ Petition therefore, raises interalia fundamental questions regarding guarantee of service tenure, guarantee of personal liberty and reputation in service, right to lead dignified life with status and guarantee against unwanted, unreasonable and arbitrary action of holding repeated investigation by four different enquiries, on the same issue, against a senior member of Higher Judicial Service, in complete violation of Article 14, 15, 19 and 21 of the Constitution of India as would be clear from the facts set out herein after.

FACTS OF CASE IN BRIEF

The facts of the case briefly stated are set out in succeeding paragraphs.

A complaint dated 07.03.2018 was submitted by a lady Judicial Officer of the Subordinate Judicial Service against the petitioner alleging sexual harassment at work place.

First, an enquiry was conducted by a District Judge. This inquiry into the complaint of alleged sexual harassment was itself illegal, as per the mandatory provisions of the Act 2013, the Rules and the Regulations, 2015. In fact this position has been acknowledged by the GSICC in its proceedings.

Further fact finding enquiry was also illegal since when the fact finding enquiry was ordered there was already a Standing Complaint Committee No 26 for dealing with matters relating to sexual harassment of women at workplace. This Standing Committee No 26 had been notified by the Hon'ble The Chief Justice of the High Court.

Most importantly, the petitioner was not even examined as a witness and or given any opportunity to present himself to vindicate his stand. The Ld District Judge took ex-parte statement of three witnesses behind the back of the Petitioner against all canons of principles of natural justice and submitted a report dated 20.03.2018 by collecting evidence/documents, on her own, indicting the petitioner.

Second, acting on the report of such illegally held fact finding inquiry, the Standing Committee No 26 was later ordered to go into the veracity of the allegations. This Committee No 26 was presided over by a sitting Hon'ble Judge of the High Court. This Committee No 26 asked the Petitioner to submit his reply which was duly complied. Even the constitution of this Standing Committee was illegal in as much as an Assistant Registrar and another employee of the High Court were made Members of the

Committee to inquire into the conduct of a sitting Principal District Judge. This was grossly illegal and unfair that junior employees of the High Court were directed to investigate allegations against a senior member of the Higher Judicial Service.

The Committee took the reply of the Petitioner. To the best of knowledge of the Petitioner nothing was heard thereafter from this Committee No 26.

The **Third enquiry** in the series was thereafter ordered on 18.06.2018 by constituting Committee No. 27 i.e. The GSICC comprising of Five Hon'ble Members which included Two Hon'ble Judges, Two Ld. Senior Advocates and a Social worker.

The Registrar General of the High Court acting on the report of the illegal fact finding report of the Ld. District Judge i.e. the First inquiry, intimated the petitioner vide letter dated 07.08.2018 that since the Ld. District Judge has already submitted her report and found the allegation against the Petitioner proved, he was called upon to submit reply to the GSICC as to why action may not be taken against him.

This action of the Registrar General was illegal per se in as much as the GSICC having been constituted, he had no authority to deal with the matter. The action of the Registrar General was thus predetermined and pre-emptive in nature to make the entire exercise of referring the matter to GSICC a mere empty formality to go through with the motion.

The GSICC on its part resolved that there is no need to inquire into the matter afresh under Regulation 9 of Regulations of 2015 *ibid*. Therefore, the GSICC called upon the petitioner to submit his reply clearly stating interalia:-

“.....The Committee is therefore of the opinion that a show cause notice along with the copy of the Preliminary Enquiry Report be issued to Shri Shambhoo Singh Raghuvanshi, the then District and Sessions Judge, Damoh as to why action may not be taken against him for the misconduct found proved in the Preliminary Enquiry.” [emphasis added].

Two different authorities thus acting in tandem made the entire exercise of conducting an impartial and transparent enquiry a mere sham and decided on the basis of illegal ex-parte preliminary inquiry conducted by a Ld District Judge that the alleged misconduct already stood proved and nothing needs to be looked into any further.

The petitioner submitted applications requesting for supply of certain documents /pen drive submitted by the complainant and also sought fresh enquiry by the GSICC itself into the matter. While his request for supply of documents was acceded to, his request for supply of data contained in a pen drive submitted by the complainant before the Ld District Judge and forming part of the preliminary report was not accepted. Left with no option, the petitioner filed his reply along with documents. The petitioner had, also filed an application for afresh inquiry into the complaint by the GSICC itself by discarding ex-parte inquiry report of the Ld District Judge, which was judgmental in nature and also the Show Cause Notice issued to the petitioner by the Registrar

General. The petitioner had also submitted additional legal submissions in support of the above application. The GSICC however agreed for inquiry to be conducted by an Internal Sub Committee [ISC of the GSICC for short].

A Three Member Internal Sub Committee drawn out of Five Members of the GSICC thus got constituted on 23.10.2018. The ISC of the GSICC comprised of Two Ld. Senior Advocates as members and one external member. Accordingly, the ISC of the GSICC called upon the complainant to appear before it on various dates, the complainant appeared, but on the very first date she submitted an Application for Conciliation under 10 of the Act. The complainant also submitted categorically before the ISC of the GSICC that she does not want conduct of inquiry in view of her application for conciliation /settlement.

The ISC of the GSICC however, abandoned its duty to consider the settlement application in terms of Sec 10 of the Act *ibid*, by stating that it has to be dealt with by the GSICC and placed the matter before the GSICC and the complainant was given up without taking her settlement.

When the matter was considered by the GSICC on various dates, the complainant appeared and consistently prayed for decision on her settlement application stating clearly that she wants closure of the matter. The complainant was also not willing to make any statement but she was forced to appear before the Hon'ble Chairperson of the GSICC at Indore behind the back of the Petitioner.

Thus, complainant in all made 06 (six) appearances before the ISC of the GSICC, the Chairperson of the GSICC and the GSICC itself. These appearances of the complainant yielded no results on her pending Conciliation application, but, she was pressurized to give her statement as a whole, which she refused.

Later, the GSICC rejected her request for conciliation on an erroneous interpretation that her application for conciliation has been submitted after the enquiry was ordered and not before as mandated under the Act of 2013 by taking cognizance of the enquiry conducted by Ld District Judge as the start point of the enquiry. The GSICC at the same time however concluded that "***it is not possible in the given circumstance to examine into the veracity of the complaint... and therefore, it will not be justify (sic just) to proceed with the inquiry any further***"

[emphasis added].

Subsequently, in an volta face action it submitted a final report dated 30.04.2019 asking for initiation of disciplinary enquiry against the petitioner.

Further, in the last 07 (seven) lines of Final Report dt.30.04.2019 the GSICC concluded - "The conduct of the respondent, therefore, cannot be said to be appropriate for maintaining the dignity of the post of District Judge. It is not authorized under the Service Rules to remain in touch or contact with the Subordinate Officers on WhatsApp or other Social Media, and such lapses indicate that the respondent has committed misconduct of unbecoming of a Senior Judicial Officer."

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The above conclusion recorded by the GSICC in its final report dated 30.04.2019 is not only erroneous but suffers from falsity, as there is no provision in the Service Rules applicable to the petitioner that would constitute a misconduct regarding contacts on social media. Such an expression renders the above report of the GSICC in-actionable.

In none of the four inquiry proceedings, which resulted in the two reports dated 20.03.2018 and 30.04.2019 and the proceedings dated 23.04.2019 of the GSICC which resulted in the dismissal of the Conciliation Application, the petitioner was given any opportunity to cross examine the witnesses. Accordingly, for all such reasons the two inquiry reports and proceedings disallowing the Conciliation are bad being violative of the mandatory provisions of the law governing the field and the principals of natural justice, and thus have to be set aside.

Based on such flawed and unsustainable final report, the petitioner was called upon to show cause by Respondent No 1 as to why disciplinary enquiry be not initiated against him. The petitioner submitted his detailed Reply/Representation under Regulation 12 of Regulations of 2015 dated 17.12.2019 setting out the series of illegalities perpetrated on him right from the beginning and sought closure of the matter.

The successive inquiries that have been conducted so far, in a period spanning into two years, that too when the complainant has categorically and repeatedly informed the GSICC and its ISC that she does not want to proceed with the complaint and produce any evidence, smacks of malafide in law,

arbitrariness and unreasonableness. Therefore, no further inquiry into the complaint could have been conducted by the GSICC or its ISC.

In fact, the GSICC comprising of five Hon'ble members including two Hon'ble Judges of the High Court accepting her statement interalia resolved unanimously at one point of time vide resolution dated 23.04.2019 that :-

“.....It is not possible in the given circumstances to examine into the veracity of the complaint and therefore, it will not be justify (sic just) to proceed with the inquiry any further....”

[emphasis supplied]

Subsequently, in an volta face action and without any further inquiry or input, the GSICC has recommended behind the back of the Petitioner action for initiation of denovo disciplinary action completely contrary to law and facts by putting the complainant under serious threat and pressure for not coming forward to depose by browbeating her with the threat of disciplinary action against her, which is on record.

The manner and the way in which the enquiries repeatedly [four in number] were instituted against the petitioner leading to submission of the final report and consequential action for initiation of disciplinary action, smacks interalia of arbitrariness, bias and harassment of a honest judicial officer, who is in the zone of consideration in the matter of his further career progression. In fact, the petitioner was called upon very recently to submit judicial record of his judgements which indicate that his case may be under consideration. But as same time the sword

of disciplinary enquiry has been kept hanging over his head in a manner unknown to law.

The Petitioner will be superannuating by the end of this year 2020. The complaint is pending since more than two years. The long unblemished judicial carrier of the petitioner in on the verge of spoilage and ruination. In the above mentioned scenario petitioner is left with no option but to approach this Hon'ble Court by filing this Writ Petition (Civil) under article 32 of the Constitution of India.

16.9.1987	After joining the Madhya Pradesh Judicial Services on 16.09.1987 the Petitioner was promoted as Civil Judge Class I/ Chief Judicial Magistrate, Additional District & Sessions Judge and District Judge. Petitioner secured all promotions and scales in judicial service and higher judicial service of the State in time, the petitioner had also worked on deputations with the O/o the Welfare Commissioner Bhopal Gas Victims, Lokayukt of Madhya Pradesh and in the Registry of the Hon'ble High Court. After, securing Super Time Scale (STS) in the cadre of Higher Judicial Services (HJS) the petitioner had served as District Judge for the Districts Harda, Khandwa and Damoh. Presently, the petitioner is serving as Principal District Judge, Sheopur(M.P.). His ACR record throughout is sterling to say the least.
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21.7.2008	That the Complainant joined as Civil Judge Class – II in the Madhya Pradesh Judicial Services.
14.3.2016	That on 14.03.2016 the Complainant was posted as Civil Judge Class –II Khandwa.
23.6.2017	That on 23.06.2017 the Petitioner was posted as District Judge Khandwa.
06.2.2018	It is pertinent to mention that as on 06.02.2018, a committee No.26 which was constituted by the Hon'ble High Court for dealing with the matters relating to Sexual Harassment of Women at Work Place, was already in existence.
07.3.2018	That on 07.03.2018, without any evidence in support, a baseless complaint was sent against the Petitioner, by the Complainant to the Respondent No.1. The complaint containing allegations of sexual harassment was deliberately sent in a jumbled manner, sans specifics and chronology of the alleged sexual harassment. The complaint was deliberately sent to Respondent No.1, instead of committee No.26 for dealing with the matters relating to Sexual Harassment of Women at Work Place, which was already in existence.
08.3.2018	That, despite the fact that already Committee No.26- was in existence as on 08.03.2018 i.e. on the date of complaint in a deliberated and mischievous proposal of the then Principal Registrar (Vig.), later on the

	<p>said complaint was sent to District Judge Dewas, in the garb of fact finding inquiry into the complaint. However, there is no provision under the relevant Act, Rules, Regulations or Service Rules applicable to the parties for inquiry into the complaint of alleged sexual harassment, by a District Judge.</p>
20.3.2018	<p>That the then District Judge, Dewas (M.P.) conducted an ex-parte Fact Finding Inquiry in to the complaint, behind the back of the petitioner. During a short period of ten days i.e. from 10.03.2018 to 20.03.2018, Ld. District Judge called the complainant, twice and her two interested and hearsay witnesses, and obtained certain documents. The two interested witnesses were called before the Ld. District Judge, after recording their ex-parte statements, an ex-parte Fact Finding Inquiry report was submitted to the Respondent No.1. The petitioner was not at all associated or called in this enquiry.</p>
21.3.2018	<p>That on 21.03.2018 the petitioner was transferred from the post of District Judge Khandwa to the post of District Judge Damoh, Madhya Pradesh.</p>
02.4.2018	<p>That on 02.04.2018 the Complainant was transferred from the post of Civil Judge Class – II Khandwa to Civil Judge Class – II District Betul, M.P.</p>

15.5.2018	That the aforesaid ex-parte Fact Finding Inquiry Report dated 20.03.2018, which was manipulated as well as judgmental in nature was placed before the Hon'ble Administrative Committee HJS, for consideration, wherein it was resolved to send the matter for inquiry by the Committee No.26 for dealing with matters relating to sexual harassment of women at work place, which was already in existence and pursuant thereto a Notice dated 15.05.2018 was sent to the Petitioner by the Secretary, Complaint Committee No.26.
18.6.2018	That in response to the aforesaid Notice dated 15.05.2018, the Petitioner gave a detailed reply dated 18.06.2018 with supporting documents (1st reply).
18.6.2018	That on the same day i.e, 18.06.2018 a New Committee No.27 - Gender Sensitization and Internal Complaints Committee (“ GSICC ”) for the High Court, was constituted by Hon’ble The Chief Justice of the Hon’ble High Court.
07.8.2018	The entire matter was sent by the Principal Registrar (Vig.) to the GSICC and pursuant thereto again a 2 nd Show Cause Notice dated 07.08.2018 was issued by the Respondent No.1 to the Petitioner. It is important to note that the Respondent No.1 was not part of the GSICC but still he issued the notice which itself was illegal.

04.9.2018	<p>That since the Ld. District Judge, Dewas was not competent to make inquiry in to the complaint of Sexual Harassment at work place, therefore, the Petitioner moved an application before the GSICC for inquiry into the complaint, by the GSICC and its Internal Sub Committee (ISC), after discarding ex-parte report of the District Judge and the Show Cause Notice issued by the Respondent No.1, on the basis of said inquiry report, since the ex-parte inquiry conducted by the Ld. District Judge was void ab initio, unauthorized, sans jurisdiction and illegal.</p>
04.9.2018	<p>That left with no option the Petitioner had also filed his reply dated 04.09.2018, along with documents to the aforesaid 2nd show cause notice dated 07.08.2018 and also to the illegal ex-parte Fact Finding Inquiry Report dated 20.03.2018 of the Ld. District Judge, before the GSICC, which was issued on the premise of report submitted by the Ld District Judge, Dewas. The Ld. District Judge in the said report had utterly failed to refer the documents obtained from the complainant, on 17.03.2018 and exhibiting them in a chronological order. The documents were also marked and exhibited in a haphazard manner.</p>
25.9.2018	<p>That on 25.09.2018 the Petitioner submitted Addl. Legal Submission in support of Application dated 04.09.2018, for afresh inquiry.</p>

26.9.2018	That taking in to consideration the reply and the additional legal submissions filed by the Petitioner, on the very next day i.e. 26.09.2018, the GSICC was pleased to resolve to constitute its own Internal Complaint Committee (herein after referred to as the “ISC of GSICC”) to enquire in to the complaint afresh.
23.10.18	That thereafter on 23.10.2018, in terms of the Minutes of Meetings of GSICC dated 26.09.2018, the members of ISC of the GSICC were nominated and further requested to take necessary action. That thereafter 3 rd Inquiry into the matter was conducted by the ISC of GSICC from 23.10.2018 to 29.11.2018.
24.11.18	That on 24.11.2018 on her very first appearance before the ISC of GSICC, the Complainant filed an Application for Conciliation u/s 10 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
29.11.18	That on 29.11.2018 the ISC of GSICC referred the aforesaid Application for Conciliation moved by the Complainant u/s 10 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, to the GSICC for further consideration and action.
7.12.2018	That thereafter on 07.12.2018, after the matter was referred by the ISC of GSICC to the GSICC, the

	<p>GSICC took the view that, since the inquiry has already been initiated therefore, the conciliation application filed by the Complainant prima facie was not maintainable u/s 10 of the Act. However, the settlement as prayed by the Complainant can be examined under Regulation No.7 of the Gender Sensitization and Sexual harassment of Women at the High Court. Under the Court of Madhya Pradesh and Subordinate Courts (Prevention, Prohibition and Redressal) Regulations, 2015. It was also resolved to examine the said Application under the aforesaid Regulation and the Statement to the effect may also be recorded and for that purpose the Complainant was called on 08.01.2019.</p>
08.1.2019	<p>That in view of the aforesaid, the Complainant appeared before the GSICC for recording of her statement on application for conciliation however, instead of recording her statement qua her Application, the GSICC completely took a u-turn and asked her several irrelevant leading question and thereby pressurizing her to record her statement as a whole, which is on the face of it contrary to Section 10 of the Act. and instead recorded her partial statement.</p>
25.1.2019	<p>That thereafter on 25.01.2019 the Complainant again appeared before the GSICC and she was directed to appear before the chairperson of the GSICC at Indore on 15.02.2019.</p>

19.2.2019	That thereafter on 19.02.2019 the Complainant appeared before the Hon'ble Chairperson of the GSICC at Indore and she was again persuaded for recording her statement. This was done behind the back of the petitioner at Indore and also only the Chairperson was present. None of the other Members of the GSICC were present. It appears that initially she was willing to withdraw the complaint but later on after some deliberations by the chairperson of the GSICC, she became ready to record her statement.
28.2.2019	That thereafter on 28.02.2019 the Statement of Complainant was again recorded by the GSICC wherein leading questions were asked to her and she was further threatened of Disciplinary Enquiry by the Hon'ble High Court.
06.3.2019	That thereafter, on the basis of a single line sentence made by the Complainant in her statement, in response to the leading question, 3 rd Show Cause Notice was issued to the Petitioner by the GSICC on 06.03.2019.
19.3.2019	That the Petitioner replied to the aforesaid 3 rd Show Cause Notice dated 06.03.2019.
03.4.2019	That the statement of the Petitioner was recorded before the GSICC.

18.4.2019	That on 09.04.2019 the Complainant was asked to file her response to the 3 rd reply filed by the Petitioner, which was replied by her on 18.04.2019 and again requested to close the matter after allowing her pending conciliation application.
23.4.2019	That vide order dated 23.04.2019 without going in to the facts and circumstances of the case and contrary to Section 10 of the Act of 2013, the GSICC rejected conciliation application filed by the Complainant and further resolved that since the Complainant does not want to give any statement therefore, it is not possible to examine into the veracity of the complaint and also resolved that it will not be justified to proceed with the inquiry any further.
30.4.2019	<p>That however in a volta face action on 30.04.2019 the without going in to the facts and circumstances of the case and contrary to Section 10 of the Act of 2013, wherein there is no power vested with the GSICC, it rejected the said conciliation application and also recommended disciplinary action against the petitioner and also strongly recommended that action against the Complainant be taken for withholding the evidence. The said report of the GSICC is self-contradictory on three counts, namely;</p> <p>i. <i>Firstly</i>, That after taking in to consideration the reply and application dated 04.09.2018</p>

and the additional legal submissions dated 25.09.2018 filed by the Petitioner, the GSICC constituted its ISC on 26.09.2018, by discarding ex-parte inquiry report dated 20.03.2018 of Ld. District Judge Dewas and issued with the 2nd Show Cause Notice by the Respondent No.1 based on the same report. The reply dated 04.09.2018 was filed by the petitioner along with the above mentioned application and legal submissions, as he was left with no option to file the same, simultaneously. While, the GSICC discarded the report dated 20.03.2018 of the Ld. District Judge, the reply dated 04.09.2018 limited and circumscribe to the said report was also deemed to be discarded, by way of necessary implication. However, the GSICC illegally quoted certain portion from the said reply and took them as admissions of the petitioner. It is noteworthy to mention here that the GSICC in paragraph number 10 of the Final Report itself has referred the reply of the petitioner as a response to the 2nd Show Cause Notice. The explanation/ response of the petitioner could not and should not be treated as admission.

ii. **Secondly**, the GSICC on 23.04.2019 concluded that "*it is not possible in the given circumstance to examine into the veracity of the complaint... and therefore, it will not be*

justify (sic just) to proceed with the inquiry any further"[**emphasis added**]. Subsequently, in an volta face action it submitted a final report dated 30.04.2019 asking for initiation of disciplinary enquiry against the petitioner,

- iii. **Thirdly**, the GSICC in paragraph number 9 of the said Final Report concluded that "...basically there is nothing available on record to hold that any of the charges levelled by the complainant against the respondent are made out....."[**emphasis added**]. Thereafter, the GSICC made certain observations on the basis of, already discarded Fact Finding Inquiry Report dated 20.03.2018 and without any material. These observations suffers from bias of subject matter and are against the principals of natural justice. That the paragraph number 11 of the said report, in which initiation of disciplinary action against the petitioner has been recommended by the GSICC, starts with -"**In view of these findings**", however the Final Report of the GSICC sans findings, but, it contains only narration of facts and is illegal being against the mandatory provisions of the Act, the Rules and the Regulations. Further the Final Report of the GSICC is not self contained as there is no narration of the inquiry conducted by the previous committee no. 26 dealing with

	<p>matters relating of sexual harassment of women at workplace, from 18.04.2018 to 18.06.2018. The report further more suffers from falsity.</p>
29.11.2019	<p>That on 29.11.2019, as a consequential action the Registrar (Vig) Hon'ble High Court, issued a Show Cause Notice to the Petitioner in view of the resolution passed by the Administrative Committee HJS in its meetings held on 19.11.2019.</p>
17.12.2019	<p>That thereafter on 17.12.2019 the Petitioner replied to the aforesaid Show Cause Notice dated 29.11.2019 issued by the Registrar (Vig.) Hon'ble High Court.</p>
02.03.2020	<p>That since the matter is pending before the Administrative Committee, HJS, the Petitioner filed RTI application and requested for copies of Proceedings, Minutes, etc, passed by the Hon'ble Administrative Committee HJS. However, the said application was rejected subsequently.</p>
19.3.2020	<p>That thereafter on 19.03.2020 the Petitioner was transferred from Principal District Judge Damoh, Madhya Pradesh to Principal District Judge Designate Sheopur, District Sheopur (M.P.). The above mid-term transfer of the petitioner was against the Transfer Policy/ Guidelines of hon'ble the High Court of Madhya Pradesh. However, owing to Coronavirus (COVID-19) outbreak and</p>

	<p>lock down period the above mentioned transfer order of the petitioner and transfer orders of other judicial officers were cancelled. However, the same was issued again on 21.05.2020 and the petitioner now stands transferred to Sheopur. .</p>
08.5.2020	<p>That in the meantime the PR cum PPS to the Hon'ble the Chief Justice of Madhya Pradesh High Court called up the Office of District Judge, Damoh, (M.P), on 06.05.2020, and asked the Petitioner to send copies of 5 Judgments/Orders on Civil side and 5 Judgments/Orders on Criminal side. The petitioner had sent copies of judgments/orders passed by him, on 08-05-2020, for the kind perusal of the Hon'ble the Committee/Collegium of the High Court. This was apparently because the petitioner is in the zone of consideration.</p>
15.06.2020	<p>That on 15.06.2020 the Petitioner joined as Principal District Judge, Sheopur.</p>
15.06.2020	<p>Hence, the present writ petition.</p>

IN THE SUPREME COURT OF INDIA

(CIVIL ORIGINAL JURISDICTION)

WRIT PETITION (CIVIL) NO. OF 2020

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

SHAMBHOO SINGH RAGHUVANSHI,
 THE THEN DISTRICT JUDGE, KHANDWA, (M.P.)
 PRESENTLY POSTED AS
 PRINCIPAL DISTRICT JUDGE,
 SHEOPUR DISTRICT SHEOPUR (M.P.)
 EMAIL- sstjudge@gmail.com
 PRESENT ADDRESS -
 PRINCIPAL DISTRICT JUDGE, BUNGLOW
 SHEOPUR, DISTRICT SHEOPUR (M.P.) PIN- 476337

..... PETITIONER

Versus

1. The HIGH COURT OF MADHYA PRADESH
 AT JABALPUR, (M.P.)
 THROUGH ITS REGISTRAR GENERAL
 EMAIL - mphc@nic.in
 Address -
 53, DENNING RD, SOUTH CIVIL LINES,
 JABALPUR MADHYA PRADESH - 482001
... RESPONDENT NO. 1

 2. THE MADHYA PRADESH HIGH COURT
 AND ITS SUBORDINATE COURTS GENDER
 SENSITISATION
 AND INTERNAL COMPLAINTS COMMITTEE
 (GSICC)
 THROUGH ITS SECRETARY/REGISTRAR (ADMN.)
 e-mail - regadmin@mphc.in
 ADDRESS -
 53, DENNING RD, SOUTH CIVIL LINES,
 JABALPUR MADHYA PRADESH – 482001
... RESPONDENT No. 2
-RESPONDENTS**

A WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR ISSUE OF A WRIT OF CERTIORARI AND OR SUCH OTHER FURTHER WRIT, ORDER OR DIRECTION IN THE NATURE OF CERTIRARI CALLING FOR RECORDS LEADING TO SUBMISSION OF PRELIMINARY ENQUIRY DATED 20.03.2018 SUBMITTED BY LD DISTRICT JUDGE DEWAS, FINAL REPORT DATED 30.04.2019 BY THE GSICC AND CONSEQUENTIAL SHOW CAUSE NOTICE DATED 29.11.2019 ISSUED BY THE REGISTRAR VIGILANCE OF THE HIGH COURT AND QUASHING THE SAME AND FOR ISSUE OF A WRIT OF MANDAMUS AND OR SUCH OTHER FURTHER WRIT, ORDER OR DIRECTION IN THE NATURE OF MANDAMUS DIRECTING THAT A SETTLEMENT SHALL BE RECORDED ON THE CONCILIATION APPLICATION SUBMITTED BY THE COMPLAINANT BEFORE THE GSICC IN ACCORDANCE WITH LAW WITH FURTHER DIRECTION THAT THE PETITIOENR SHALL BE RELIEVED OF ALL CONSEQUENCES

To,

THE HON'BLE CHIEF JUSTICE OF INDIA AND HIS
COMPANION JUDGES OF THE HON'BLE SUPREME
COURT OF INDIA

THE HUMBLE PETITION OF THEPETITIONER ABOVE-
NAMED

MOST RESPECTFULLY SHOWETH: -

1. That the present petition is filed under Article 32 of the Constitution of India for the enforcement of Fundamental Rights guaranteed under Articles 14, 15, and 21 of the Constitution of India. The petitioner by way of the present Writ Petition is seeking quashing of the Final report dated 30.04.2019 submitted by the GSICC and consequential show cause notice dated 29.11.2019 issued by the Respondent No 1 and for issue of a writ of Mandamus directing that the settlement shall be recorded on the conciliation application submitted by Complainant before the GSICC in accordance with law with a further direction that the petitioner shall be relieved of all the consequences and shall be entitled to all consequences and benefits.

2. THE CASE IN BRIEF

That the factual matrix given rise to the present writ petition are as follows:-

i. The petitioner joined the Madhya Pradesh Judicial Services on 16.09.1987. In due course of time the Petitioner was promoted as Civil Judge Class I/ Chief Judicial Magistrate, Additional District & Sessions Judge and District Judge. The Petitioner secured all promotions and scales in judicial service and higher judicial service of the State in time. The Petitioner had also worked on deputations with the O/o the Welfare Commissioner Bhopal Gas Victims, Lokayukt of Madhya Pradesh and in the Registry of the Hon'ble High Court. After, securing Super Time Scale (STS) in the cadre of Higher Judicial Services (HJS) the Petitioner had served as District Judge for the Districts Harda, Khandwa and Damoh. Presently, the Petitioner is serving as Principal District Judge, Sheopur. It would not be out of place to

mention here that the 32 years long judicial carrier of the Petitioner remained sterling till date. A true copy of the compilation of the Petitioner's ACR's as available on the Official Website of the Hon'ble High Court of Madhya Pradesh is annexed herewith and marked as **ANNEXURE P-1. (Pg. No. 41 - 43)**

- ii. That on 21.07.2008 the Complainant joined as Civil Judge Class –II in the Madhya Pradesh Judicial Services.
- iii. That on 14.03.2016 the Complainant was posted as Civil Judge Class –II Khandwa.
- iv. That on 23.06.2017 the Petitioner was posted as District Judge Khandwa.
- v. It is pertinent to mention that as on 06.02.2018, a committee No.26 which was constituted by the Hon'ble High Court for dealing with the matters relating to Sexual Harassment of Women at Work Place, was already in existence. A true copy of the updated list of Hon'ble Administrative Committees as on 06.02.2018 is annexed herewith and marked as **ANNEXURE P-2. (Pg. No. 42 - 62)**
- vi. That on 07.03.2018, without any evidence in support a baseless complaint was sent against the Petitioner, by the Complainant to the Respondent No.1. The complaint containing allegations of sexual harassment was deliberately sent in a jumbled up manner, sans specifics and chronology of the alleged sexual harassment. The

complaint was deliberately sent to Respondent No.1, instead of Committee No.26 for dealing with the matters relating to Sexual Harassment of Women at Work Place, which was already in existence. A true translated copy of the Complaint dated 07.03.2018 is annexed herewith and marked as **ANNEXURE P-3. (Pg. No. 63 - 65)**

- vii.** That, despite the fact that already Committee No.26- for dealing with the matters relating to Sexual Harassment of Women at Work Place was in existence as on 08.03.2018 i.e. on the date of complaint, but in a **deliberate and mischievous proposal** of the then Principal Registrar (Vig.), the said complaint was sent to District Judge Dewas, in the garb of fact finding inquiry into the complaint without there being any provision under the relevant Act, Rules, Regulations or Service Rules applicable to the parties for inquiry into the complaint of alleged sexual harassment, by a District Judge.
- viii.** That the then District Judge Dewas (M.P.) conducted an Ex-parte Fact Finding Inquiry in to the complaint, behind the back of the petitioner. During a short period of ten days i.e. from 10.03.2018 to 20.03.2018, the Ld. District Judge called the complainant, twice and her two interested and hearsay witnesses, and obtained certain documents. The two interested witnesses were called before the Ld. District Judge, after recording their ex-parte statements, an ex-parte Fact Finding Inquiry report was submitted to the Respondent No.1. The petitioner was not at all called or his statement recorded.

- ix.** That on 21.03.2018 the petitioner was transferred from the post of District Judge Khandwa to the post of District Judge Damoh, Madhya Pradesh.
- x.** That on 02.04.2018 the Complainant was transferred from the post of Civil Judge Class – II Khandwa to Civil Judge Class – II DistrictBetul, M.P.
- xi.** That thereafter the aforesaid ex-parte Fact Finding Inquiry Report dated 20.03.2018, which was manipulated as well as judgmental in nature was placed before the Hon'ble Administrative Committee HJS, for consideration, wherein it was resolved to send the matter for inquiry by the Committee No.26 for dealing with matters relating to sexual harassment of women at work place, Pursuant thereto a Notice dated 15.05.2018 was sent to the Petitioner by the Secretary Complaint Committee No.26. A true copy of the Notice dated 15.05.2018 sent by the Secretary Complaint Committee No.26 is annexed herewith and marked as **ANNEXURE P-4. (Pg. No. 66)**
- xii.** That in response to the aforesaid Notice dated 15.05.2018, the Petitioner gave a detailed reply dated 18.06.2018 with supporting documents (**1st reply**).A true translated copy of the reply dated 18.06.2018 sent by the Petitioner to the notice dated 15.05.2018 issued by the Secretary Complaint Committee No.26 is annexed herewith and marked as **ANNEXURE P-5. (Pg. No. 67 - 114)**
- xiii.** That on the same day i.e, 18.06.2018 a New Committee No.27 - Gender Sensitization and Internal Complaints

Committee (“GSICC”) for the High Court, was constituted by Hon’ble The Chief Justice of the High Court. A true copy of the updated list of Hon’ble Administrative Committees as on 18.06.2018 is annexed herewith and marked as **ANNEXURE P-6. (Pg. No. 115 - 135)**

xiv. That in view of the newly constituted Committee i.e. GSICC, the entire matter was sent by the Principal Registrar (Vig.) to the GSICC. Pursuant thereto, a 2nd Show Cause Notice dated 07.08.2018 was issued by the Respondent No.1 to the Petitioner. It is important to note that although the Respondent No.1 was not part of the GSICC still he issued the said notice which itself was illegal. A true copy of the Notice dated 07.08.2018 issued by the Respondent No.1 is annexed herewith and marked as **ANNEXURE P-7. (Pg. No. 136 - 137)**

xv. That since the Ld. District Judge, Dewas was not competent to make inquiry in to the complaint of Sexual Harassment at work place, therefore, the Petitioner moved an application before the GSICC for inquiry into the complaint, by the GSICC and its Internal Sub Committee (ISC), after discarding the Ex-parte report of the District Judge and the 1stShow Cause Notice issued by the Respondent No.1, on the basis of said inquiry report, since the ex-parte inquiry conducted by the Ld. District Judge was void ab initio, unauthorized, sans jurisdiction and illegal. A true copy of the Application dated 04.09.2018 filed by the Petitioner is annexed herewith and marked as **ANNEXURE P-8. (Pg. No. 138 - 145)**

- xvi.** That left with no option the Petitioner had also filed his reply dated 04.09.2018, along with documents to the aforesaid 2nd show cause notice dated 07.08.2018 and also to the illegal Ex-parte Fact Finding Inquiry Report dated 20.03.2018 of the Ld. District Judge, before the GSICC. The Ld. District Judge in the said report had utterly failed to refer the documents obtained from the complainant on 17.03.2018 and exhibiting them a chronological order. The documents were also marked and exhibited in a misleading and haphazard manner with a view to indict the petitioner. A true translated copy of the reply dated 04.09.2018 filed by the Petitioner to the 2nd show cause notice dated 07.08.2018 is annexed herewith and marked as **ANNEXURE P-9. (Pg. No. 146 - 194)**
- xvii.** That on 25.09.2018 the Petitioner submitted an Addl. Legal Submission in support of Application dated 04.09.2018, for afresh inquiry. A true copy of the Addl. Legal Submission dated 25.09.2018 filed by the Petitioner before the GSICC is annexed herewith and marked as **ANNEXURE P-10. (Pg. No. 195 - 197)**
- xviii.** That taking in to consideration the reply and the additional legal submissions filed by the Petitioner, on the very next day i.e. 26.09.2018, the GSICC was pleased to resolve to constitute its own Internal Complaint Committee (herein after referred to as the “ISC of GSICC”) to enquire in to the complaint afresh. A true copy of the Minutes of Meeting dated 26.09.2018 of GSICC is annexed herewith and marked as **ANNEXURE P-11. (Pg. No. 198 - 199)**

- xix.** That thereafter on 23.10.2018, in terms of the Minutes of Meetings of GSICC dated 26.09.2018, the members of ISC of the GSICC were nominated and further requested to take necessary action. That thereafter 3rd Inquiry into the matter was conducted by the ISC of GSICC from 23.10.2018 to 29.11.2018. A true copy of the order dated 23.10.2018 passed by the secretary of the GSICC is annexed herewith and marked as **ANNEXURE P-12. (Pg. No. 200 - 201)**
- xx.** That on 24.11.2018 on her very first appearance before the ISC of GSICC, the Complainant filed an Application for Conciliation u/s 10 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. A true copy of the Application filed by the Complainant before the ISC of GSICC is annexed herewith and marked as **ANNEXURE P-13. (Pg. No. 202 - 203)**
- xxi.** That on 29.11.2018 the ISC of GSICC referred the aforesaid Application for Conciliation moved by the Complainant u/s 10 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, to the GSICC for further consideration and action. A true copy of the Note Sheet dated 29.11.2018 of the ISC of GSICC is annexed herewith and marked as **ANNEXURE P-14. (Pg. No. 204 - 205)**
- xxii.** That thereafter on 07.12.2018, after the matter was referred by the ISC of GSICC to the GSICC, the GSICC took the view that, since the inquiry has already been initiated therefore, the conciliation application filed by the Complainant prima facie was not maintainable u/s 10 of the

Act. However, the settlement as prayed by the Complainant can be examined under Regulation No.7 of the Gender Sensitization and Sexual harassment of Women at the High Court under the Court of Madhya Pradesh and Subordinate Courts (Prevention, Prohibition and Redressal) Regulations, 2015. It was also resolved to examine the said Application under the aforesaid Regulation and the Statement to the effect may also be recorded and for that purpose the Complainant was called on 08.01.2019. A true copy of Minutes of Meetings of GSICC dated 07.12.2018 is annexed herewith and marked as **ANNEXURE P-15.** **(Pg. No. 206 - 208)**

xxiii. That in view of the aforesaid, the Complainant appeared before the GSICC for recording of her statement on application for conciliation however, instead of recording her statement qua her Application, the GSICC completely took a u-turn and asked her several irrelevant leading questions and thereby pressurizing her to record her statement as a whole, which is on the face of it contrary to the Section 10 of the Act. A true translated copy of the Statement dated 08.01.2019 made by the Complainant before the GSICC is annexed herewith and marked as **ANNEXURE P-16. (Pg. No. 209)** A true copy of the Minutes of Meetings/Note Sheet dated 08.01.2019 of the GSICC is annexed herewith and marked as **ANNEXURE P-17. (Pg. No. 210 - 211)**

xxiv. That thereafter on 25.01.2019 the Complainant again appeared before the GSICC and she was directed to appear before the chairperson of the GSICC at Indore on

15.02.2019. A true copy of the Minutes of Meetings/Note Sheet dated 25.01.2019 of the GSICC is annexed herewith and marked as **ANNEXURE P-18. (Pg. No. 212 - 214)**

xxv. That thereafter on 19.02.2019 the Complainant appeared before the Hon'ble Chairperson of the GSICC at Indore and she was again persuaded for recording her statement. This was done behind the back of the petitioner at Indore and also only the Chairperson was present. None of the other Members of the GSICC were present. It is worth mentioning that initially she was willing to withdraw the complaint but later on after some deliberations by the chairperson of the GSICC, she became ready to record her statement. A true copy of the Minutes of Meetings/Note Sheet dated 19.02.2019 of the Hon'ble Chairperson is annexed herewith and marked as **ANNEXURE P-19. (Pg. No. 215)**

xxvi. That thereafter on 28.02.2020 the Statement of Complainant was again recorded by the GSICC wherein leading questions were asked to her and she was further threatened with Disciplinary Enquiry by the Hon'ble High Court. A true copy of the Statement dated 28.02.2019 made by the Complainant before the GSICC is annexed herewith and marked as **ANNEXURE P-20. (Pg. No. 216 - 217)**

xxvii. That thereafter, on the basis of a single line sentence made by the Complainant in her statement, in response to a leading question, 3rd Show Cause Notice was issued to the Petitioner by the GSICC on 06.03.2019. A true copy of the

Show Cause Notice dated 06.03.2019 is annexed and marked as ANNEXURE P-21. (Pg. No. 218)

xxviii. That the Petitioner replied the aforesaid 3rd Show Cause Notice dated 06.03.2019. A true copy of the reply dated 19.03.2019 (3rd reply) filed by the Petitioner (along with documents) before the GSICC is annexed herewith and marked as ANNEXURE P-22. (Pg. No. 219 - 246)

xxix. That the statement of the Petitioner was recorded before the GSICC. A true translated copy of the Petitioner's statement dated 03.04.2019 recorded before the GSICC is annexed herewith and marked as ANNEUXRE P-23. (Pg. No. 247 - 250)

xxx. That on 09.04.2019 the Complainant was asked to file her response to the 3rd reply filed by the Petitioner, which was replied by her on 18.04.2019 and again requested to close the matter after allowing her pending conciliation application. A true copy of the reply dated 18.04.2019 filed by the Complainant before the GSICC is annexed herewith and marked as ANNEUXRE P-24. (Pg. No. 251 - 252)

xxxi. That vide order dated 23.04.2019 without going in to the facts and circumstances of the case and contrary to Section 10 of the Act of 2013, the GSICC rejected the conciliation application filed by the Complainant and further resolved that since the Complainant does not want to give any statement therefore, it is not possible to examine into the veracity of the complaint and also resolved that it will not be justified to proceed with the inquiry any further. A true

copy of the Minutes of Meetings/Note Sheet dated 23.04.2019 of the GSICC is annexed herewith and marked as **ANNEXURE P-25. (Pg. No. 253 - 256)**

xxxii. That however in a volta face action on 30.04.2019 without going in to the facts and circumstances of the case and contrary to Section 10 of the Act of 2013, wherein there is no power vested with the GSICC to proceed with the enquiry, it rejected the said conciliation application and also recommended disciplinary action against the petitioner and also strongly recommended that action against the Complainant be taken for withholding the evidence. The said report of the GSICC is self-contradictory on three counts, namely;

- i. **Firstly**, that after taking in to consideration the reply and application dated 04.09.2018 and the additional legal submissions dated 25.09.2018 filed by the Petitioner, the GSICC constituted its ISC on 26.09.2018, by discarding ex-parte inquiry report dated 20.03.2018 of Ld. District Judge Dewas and issued the 2nd Show Cause Notice by the Respondent No.1 based on the same report. The reply dated 04.09.2018 was filed by the petitioner along with the above mentioned application and legal submissions, as he was left with no option. Simultaneously, while the GSICC discarded the report dated 20.03.2018 of the Ld. District Judge, the reply dated 04.09.2018 limited and circumscribe to the said report was also deemed to be discarded, by way of necessary implication. However, the GSICC illegally quoted

certain portions from the said reply and took them as admissions of the petitioner. It is noteworthy to mention here that the GSICC in paragraph number 10 of the Final Report itself has referred the reply of the petitioner as a response to the 2nd Show Cause Notice. The explanation/ response of the petitioner could not and should not be treated as admission.

- ii. **Secondly**, the GSICC on 23.04.2019 concluded that "*it is not possible in the given circumstance to examine into the veracity of the complaint... and therefore, it will not be justify (sic just) to proceed with the inquiry any further*"**[emphasis added]**. Subsequently, in an volta face action it submitted a final report dated 30.04.2019 asking for initiation of disciplinary enquiry against the petitioner,
- iii. **Thirdly**, the GSICC in paragraph number 9 of the said Final Report concluded that "...basically there is nothing available on record to hold that any of the charges levelled by the complainant against the respondent are made out....."**[emphasis added]**. Thereafter, the GSICC made certain observations on the basis of, already discarded Fact Finding Inquiry Report dated 20.03.2018 and without any material. These observations suffers from bias of subject matter and are against the principals of natural justice. That the paragraph number 11 of the said report, in which initiation of disciplinary action against the petitioner has been recommended by the

GSICC, starts with -"In view of these findings", however the Final Report of the GSICC sans findings, but, it contains only narration of facts and is illegal being against the mandatory provisions of the Act, the Rules and the Regulations. Further the Final Report of the GSICC is not self- contained as there is no narration of the inquiry conducted by the previous Committee no. 26 dealing with matters relating of sexual harassment of women at workplace, from 18.04.2018 to 18.06.2018. The report further more suffers from falsity.

A true translated copy of the Final Report dated 30.04.2019 passed by the Gender Sensitization and Internal Committee for the High Court and Subordinate Courts is annexed herewith and marked as **ANNEXURE P-26. (Pg. No. 257 - 274)**

xxxiii. That on 29.11.2019, as a consequential action, the Registrar (Vig) Hon'ble High Court, issued a Show Cause Notice to the Petitioner in view of the resolution passed by the Administrative Committee HJS in its meetings held on 19.11.2019 along with the Final Report 30.04.2019 passed by the Gender Sensitization and Internal Committee. It is pertinent to mention that at this stage, no other documents were supplied to the Petitioner related to various inquiries but the same were obtained by him through RTI. A true copy of the Show Cause Notice dated 29.11.2019 passed by the Registrar (Vig) of the Hon'ble High Court is annexed herewith and marked as **ANNEXURE P-27. (Pg. No. 275)**

- xxxiv.** That thereafter on 17.12.2019 the Petitioner replied to the aforesaid Show Cause Notice dated 29.11.2019 issued by the Registrar (Vig.) Hon'ble High Court. A true copy of the reply dated 17.12.2019 submitted by the Petitioner to the Registrar (Vig.) Hon'ble High Court is annexed herewith and marked as **ANNEXURE P-28. (Pg. No. 276 - 314)**
- xxxv.** That since the matter is pending before the Administrative Committee, HJS, the Petitioner filed RTI application and requested for copies of Proceedings, Minutes, etc, passed by the Hon'ble Administrative Committee HJS. A true copy of the RTI application dated 02.03.2020 filed by the Petitioner is annexed herewith and marked as **ANNEXURE P-29. (Pg. No. 315 - 316).** The above application of the petitioner was rejected on 13.03.2020 by the concerned authority on the ground that as per information received from the concerned section of the High Court, the complaint is under process and has not been finalized. Hence, at this stage, disclosure of desired information may impede the process. A true copy of the Rejection Order dated 13.03.2020 of RTI application, passed by Registrar [J-1] & Public Information Officer is annexed herewith and marked as **ANNEXURE P-30. (Page 317 – 318)**
- xxxvi.** That thereafter on 19.03.2020 the Petitioner was transferred from Principal District Judge Damoh, Madhya Pradesh to Principal district Judge Designate Sheopur, District Sheopur (M.P.). The above mid-term transfer of the petitioner was against the Transfer Policy/ Guidelines of Hon'ble the High Court of Madhya Pradesh. However,

owing to Coronavirus (COVID-19) outbreak and lock down period the above mentioned transfer order of the petitioner and transfer orders of other judicial officers have been canceled. However, the same was issued again on 21.05.2020 and petitioner has now joined at Sheopur.

xxxvii. That the PR cum PPS to Hon'ble the Chief Justice of Madhya Pradesh, on 06.05.2020, asked the Petitioner to send copies of 5 Judgments/Orders on Civil side and 5 Judgments on Criminal side. The petitioner had sent copies of judgments/orders passed by him on 08-05-2020 for the kind perusal of Hon'ble the Committee/Collegium of the High Court. A true copy of the letter dt. 08.05.2020 of the office of District Judge Damoh (M.P.), sent by the petitioner is annexed herewith and marked as **ANNEXURE P-31. (Page 319).** It is thus apparently clear that the petitioner is in the zone of consideration for further progression in his career, but the sword of disciplinary enquiry has been kept hanging over with a view to eschew him from a fair and just consideration.

xxxviii. Hence, the petitioner has no other option but to approach this Hon'ble Court with the present Writ Petition.

Questions of Law:

- A. Is it not that the action of the Respondents No 1 and 2 are not sustainable in law and facts?
- B. Is it not that the Final Report submitted by the Respondent No 2 is ex-facie illegal, arbitrary and not sustainable in law?

- C. Is it not that the GSICC was bound by the mandate of law contained in Section 10 of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013?
- D. Is it not that the GISCC committed a grave and serious error by rejecting the conciliation application date 24.11.2018 submitted by the Complainant ?
- E. Is it not that the GSICC was bound to record a settlement in terms of the conciliation application submitted dated 24.11.2018 by Complainant in view of specific mandate of Section 10 (2) of the Act of 2013?
- F. Is it not that the GSICC is not a court of law and hence it does not have the power to reject a conciliation application?
- G. Is it not that the GSICC acted as if it is a Court of Law by rejecting the said application where as it is mandated in law that it shall record a settlement once a conciliation application is submitted by the complainant?
- H. Is it not that the GSICC/ICC being creation of a statute is bound by the provisions of the Act and it cannot traverse beyond it as if it is a Court of law?

- I. Is it not that there is no power or authority vested with the GSICC to proceed with the enquiry since the enabling provision to conduct the enquiry under Section 11 of the Act *ibid*, is circumscribed by the opening words “Subject to the provisions of Section 10.....”?
- J. Is it not that the preliminary enquiry conducted by Id Distric Judge, Dewas, is illegal and impermissible in law?
- K. Is it not that the said preliminary *ex-parte* enquiry report dated 20.03.2018 is not sustainable being in utter violation of principles of natural justice?
- L. Is it not that successive conduct of enquiries against the petitioner on the directions of Respondent No 1 is impermissible in law?
- M. Is not that the Final Report dated 30.04.2019 submitted by the GSICC is hit by *audi alteram partem* rule for recording the deliberations conducted by Chairman behind the back of Petitioner at Indore?
- N. Is it not that the report of the GSICC is self-contradictory in as much as once it has resolved and concluded that there is no need to examine the veracity of the complaint and that it is just not to proceed with the enquiry, can it turn around and submit a final report recommending action against the petitioner?
- O. Is it not that the final report submitted by GSICC is full of contradictions, perversity, and hence it is not sustainable?

- P. Is it not that the show cause notice dated 29.11.2019 is bad in law and unsustainable?
- Q. Is it not that the entire manner in which the Respondent No.1 directed repeated enquiries against the petitioner is arbitrary, illegal and not in accordance with rule of law?
- R. Is it not that the petitioner is sought to be victimised in the matter of his honour, self respect and career advancement by keeping the illegal enquiry prolonged over two years and that too when petitioner is in zone of consideration.

4. GROUNDS:

That the petitioner prefers the present writ petition for the following amongst other Grounds, which are taken without prejudice to each other :

- A. Because the final Report submitted by the Respondent No 2 and acted action by the Respondent No 1 in proceeding towards conduct of a disciplinary enquiry against the petitioner regarding allegation of sexual harassment at work place is not sustainable in law and facts.
- B. Because the final report of the GSICC is completely negated by the provisions of Section 10 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

- C. Because the rejection of the Application for conciliation submitted by the complainant i.e. Complainant is not supported by law and it is erroneous on facts and in law.
- D. Because the GSICC acted as if it is a Court of Law by rejecting the said application where as it is mandated under law that it shall record a settlement once a conciliation application is submitted by the complainant.
- E. Because the GSICC/ICC being creation of a statute is bound by the provisions of the Act and it cannot traverse beyond it as if it is a Court of law.
- F. Because it is well settled that even a Tribunal created by law is not a court and it is bound by the law by which it is created as held in L.Chandrakumar Vs Union of India &Ors 1997(3) SCC 261.
- G. Because there is no power or authority vested with the GSICC to proceed with the enquiry since the enabling provision to conduct the enquiry under Section 11 of the Act *ibid*, is circumscribed by the opening words “Subject to the provisions of Section 10.....”
- H. Because Sections 10 and section 11 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 read as under:-

“10. Conciliation.—(1) The Internal Committee or, as the case may be, the Local Committee, may, **before initiating an inquiry under section 11 and at the**

request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation:

Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where settlement has been arrived at under sub-section (1), **the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer** or the District Officer to take action as specified in the recommendation.

(3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section (1), **no further inquiry shall be conducted by the Internal Committee** or the Local Committee, as the case may be.”

11. Inquiry into complaint.— (1) **Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry** into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the police, within a

period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

(2) Notwithstanding anything contained in section 509 of the Indian Penal Code (45 of 1860), the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

(3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court the Code of Civil

Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents; and

(c) any other matter which may be prescribed.

(4) The inquiry under sub-section (1) shall be completed within a period of ninety days.” [Emphasis added]

- I. Because the GSICC/ICC has no power to conduct the enquiry much less even a power to form its own opinion on such an application.
- J. Because the Final Report dated 30.04.2020 is contrary to law recommending action against the petitioner and it is also wrong in recommending that action be taken against the Complainant for not willing to proceed with the enquiry.
- K. Because the petitioner has an unblemished career spanning over 32 years with sterling record of service and he is at the fag end of his service.
- L. Because the enquiry has been directed at a time when the petitioner is in the zone of consideration for higher progression in service apparently with a view to bar him from a fair and just consideration and keep the sword of

enquiry hanging over his head in order to exclude him from consideration.

- M. Because the action of respondent No 1 in holding on to the action of ordering successive investigation(s) over last two years and that too when the complainant has categorically and repeatedly informed the GSICC/ICC that she does not want to proceed with the inquiry and produce any evidence.
- N. Because the GSICC comprising of five Hon'ble members including two Hon'ble Judges of the High Court accepting her statement interalia resolved unanimously at one point of time vide resolution dated 23.04.2019 that :-

“.....It is not possible in the given circumstances to examine into the veracity of the complaint and therefore, it will not be justify (sic just) to proceed with the inquiry any further....”

[emphasized supplied]

- O. Because subsequently, in an volta face action and without any further inquiry or input, the GSICC has recommended behind the back of the Petitioner action for initiation of disciplinary action completely contrary to law and facts.
- P. Because the GSICC put the complainant under serious threat and pressure for not coming forward to depose by browbeating her with the threat of disciplinary action against her, which is on record.

- Q. Because the manner and the way in which the enquiries repeatedly [four in number] were instituted against the petitioner leading to submission of the final report and consequential action for initiation of disciplinary action smacks interalia of arbitrariness, bias and harassment of a honest judicial officer.
- R. Because the action is also unreasonable and arbitrary for the simple reason that the foundation of the action in holding a preliminary enquiry against the petitioner, as also the subsequent action of the GSICC in recording partial statement of the complainant both were done behind his back and in complete violation of “audi alteram partem”.
- S. Because no person can be condemned unheard or in other words that ‘Justice should not only been done but seen to be done’.
- T. Because the Writ Petition raises interalia fundamental questions regarding guarantee of service tenure, gurantee of personal liberty and reputation in service, right to lead dignified life with status and guarantee against unwanted, unreasonable and arbitrary action of holding repeated investigation by four different enquiries on the same issue against a member of Higher Judicial Service.
- U. Because the entire action is in complete violation of Articles 14, 15, 19 and 21 of the Constitution of India.

- V. Because for the enquiry conducted by a District Judge on the pretext of a fact finding enquiry, there was no rule or regulation under which the said fact finding enquiry could have been ordered by the Registrar General of the Hon'ble High Court.
- W. Because the this fact finding enquiry was also illegal since when the fact finding enquiry was ordered there was already a Standing Complaint Committee No 26 for dealing with matters relating to sexual harassment of women at workplace.
- X. Because this Standing Committee No 26 had been notified by the Hon'ble The Chief Justice of the High Court.
- Y. Because the petitioner was not even examined as a witness and or given any opportunity to present himself to vindicate his stand before the Ld District Judge, who took ex-parte the statement of three witnesses behind the back of the Petitioner against all canons of principles of natural justice and submitted a report dated 20.03.2018 by collecting evidence/documents on her own indicting the petitioner.
- Z. Because subsequently, Committee No. 27 i.e. The GSICC comprising of Five Hon'ble Members which included Two Hon'ble Judges, Two Ld. Senior Advocates and a Social worker was constituted illegally.
- AA. Because Respondent No 1 acting on the report of the illegal fact finding report of the Ld. District Judge i.e. the First

enquiry, intimated the petitioner vide letter dated 07.08.2018 that since the Ld. District Judge has already submitted her report and found the allegation against the Petitioner proved, he was called upon to submit reply to the GSICC as to why action may not be taken against him.

BB. Because this action of the Registrar General was illegal perse in as much as the GSICC having been constituted, he had no authority to deal with the matter.

CC. Because the action of the Registrar General was thus predetermined and pre-emptive in nature to make the entire exercise of referring the matter to GSICC a mere empty formality to go through with the motion.

DD. Because the GSICC on its part resolved that there is no need to inquire into the matter afresh under Regulation 9 of Regulations of 2015 *ibid*. Therefore, the GSICC called upon the petitioner to submit his reply clearly stating interalia:-

“.....The Committee is therefore of the opinion that a show cause notice along with the copy of the Preliminary Enquiry Report be issued to Shri Shambhoo Singh Raghuvanshi, the then District and Sessions Judge, Damoh as to why action may not be taken against him for the misconduct found proved in the Preliminary Enquiry.” [emphasis added].

EE. Because two different authorities thus acting in tandem made the entire exercise of conducting an impartial and transparent enquiry a mere sham and decided on the basis of ex-parte preliminary enquiry conducted by a Ld District

Judge that the alleged misconduct already stood proved and nothing needs to be looked into any further.

- FF. Because the ISC of the GSICC called upon the complainant to appear before it on various dates, the complainant appeared but on the very first date she submitted an Application for Conciliation under 10 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- GG. Because the complainant also submitted categorically before the ISC/GSICC that she does not want conduct of enquiry in view of her application for conciliation /settlement.
- HH. Because when the matter was considered by the GSICC on various dates the complainant appeared and prayed for decision on her settlement application stating clearly that she wants closure of the matter.
- II. Because the complainant was also not willing to make any statement but she was forced to appear before the Hon'ble Chairperson of the GSICC at Indore behind the back of the Petitioner.
- JJ. Because the GSICC rejected her request for conciliation on an erroneous interpretation that her application for conciliation has been submitted after the enquiry was ordered and not before as mandated under the Act of 2013 by taking cognizance of the enquiry conducted by Ld District Judge as the start point of the enquiry.

- KK. Because the rejection order was contrary to Section 10 of Act of 2013.
- LL. Because on one hand the GSICC took cognizance of the enquiry report of the District Judge then in final report said that it is not taking cognizance of it.
- MM. Because the GSICC at the same time however concluded that "*it is not possible in the given circumstance to examine into the veracity of the complaint... and therefore, it will not be justify (sic just) to proceed with the inquiry any further*"
- NN. Because subsequently, in an volta face action it submitted a final report dated 30.04.2019 asking for initiation of disciplinary enquiry against the petitioner.
- OO. Because based on such flawed and unsustainable final report, the petitioner was called upon to show cause by the High Court as to why disciplinary enquiry be not initiated against him.
- PP. Because in the entire process, the principles of natural justice and fair play have been given a complete go by.
- QQ. Because natural justice and fair play in decision making are deeply rooted in rule of law and have been held to be fundamental, the purpose being to prevent miscarriage of justice as held in Maneka Gandhi Vs Union of India and Ors (1978 (2) SCR 621.

- RR. Because the entire Final Report dated 30.04.2019 passed by the GSICC failed to pass the Judicial test as the same is based on surmises and conjectures and it is perverse.
- SS. Because from perusal of the Final Report dated 30.04.2019 it is prima facie seen that on the one side the GSICC quoted the submissions of the parties and on the other hand without giving any specific finding, all of a sudden jumps on the final conclusion and while erroneously rejecting the Complainant application, held the both the Petitioner and the Complainant liable to be proceeded against.
- TT. Because petitioner has an unblemished career spanning over 32 years with sterling record of service and he is at the fag end of his services.
- UU. Because it is more than apparent now that repeated enquiries were directed at a time when the names are likely to be considered and the matter has apparently been kept hanging for last about two years solely with a view to eschew the petitioner from a fair consideration for higher status and progression in service.
- VV. Because this Hon'ble Court in the case of A. K. Kraipak & Ors. vs. Union of India & Ors. AIR 1970 SC 150, held as follows:-

"The concept of natural justice has undergone a great deal of change in recent years. In the past it was thought that it included just two rules, namely (1) no one shall be a judge in his own cause (Nemo debet esse iudex propria causa), and (2) no decision shall be given against a party without affording him a reasonable hearing (audi alteram partem). Very soon thereafter a third rule was envisaged and that is that quasi-judicial enquiries must be held in good faith, without bias

and not arbitrarily or unreasonably. But in the course of years many more subsidiary rules came to be added to the rules of natural justice".

WW. Because in the case of Kumaon Mandal Vikas Nigam Ltd. vs. Girja Shankar Pant, AIR 2001 SC 24, this Court held:-

"The doctrine (natural justice) is now termed as a synonym of fairness in the concept of justice and stands as the most accepted methodology of a governmental action".

XX. Because this Hon'ble Court in the case of Canara Bank vs. V. K. Awasthy 2005 (6) SCC 321, observed as follows:-

".....Natural justice is another name for common-sense justice. Rules of natural justice are not codified canons. But they are principles ingrained into the conscience of man. Natural justice is the administration of justice in a common-sense liberal way. Justice is based substantially on natural ideals and human values.....".

YY. Because in the present case, it is submitted that principles of natural justice have been violated, by the GSICC in the conduct of the inquiries. That the action is also unreasonable and arbitrary for the simple reason that the foundation of the action in holding a preliminary enquiry against the petitioner, as also the subsequent action of the GSICC in recording partial statement of the complainant both were done behind his back and in complete violation of "audi alteram partem" rule i.e. that no person can be condemned unheard or in other words that 'Justice should not only been done but seen to be done'.

ZZ. Because it would not be out of place to mention here that principles of natural justice have been given greater

legitimacy by section 11 of the Act, 2013 that provides for the opportunity to be heard and to make representation against findings to both parties, as well by sub rule 4 of Rule 7 of the Rules framed there under expressly lay down that an inquiry must be conducted in accordance with the principles of natural justice. The foundational judgment of this Hon'ble court in the case of E. P. Royappa vs State Of Tamil Nadu &Anr reporter in 1974 SCR (2) 348 emphasizes the indispensability of fairness and absence of arbitrariness in the matter of conduct of enquiry.

- AAA. Because in the entire process, the mandatory provisions of law applicable in the matter and the principles of natural justice and fair play have been given a complete go by. Needless to submit that natural justice and fair play in decision making are deeply rooted in rule of law and have been held to be fundamental, the purpose being to prevent miscarriage of justice.
- BBB. Because the petitioner is sought to be victimized by holding on to prolonged enquiry for more than two years and keep the sword hanging over his head apparently to use it at the time when his case comes up for consideration for advancement in his career.
- CCC. Because such action is impermissible as held by this Hon'ble court in Bani Singh' case.
- DDD. Because the petitioner is entitled to be treated with dignity, self respectand is entitled to honour and social standing in society.

5. That the present petitioner has not filed any other petition in any High Court or before this Hon'ble Court on the subject matter of the present petition.
6. That the petitioner has no other alternative or efficacious remedy except to approach this Hon'ble Court under Article 32 of the Constitution of India.
7. The petitioner seeks permission to exempt the attested / affirmed affidavit, hard / photocopies of paper books (3+1) of Writ Petition and deficit court fee (if any) in the prevailing circumstances as the matter is urgent and need urgent hearing. The petitioner is also agree for hearing of the present writ petition through video conferencing.

PRAYERS

In view of the facts & circumstances stated above, it is most respectfully prayed that this Hon'ble court may be pleased to: -

- a. Issue an appropriate writ order or direction in the nature of certiorari and or such other or further writ, order or direction calling for the entire records relating to the fact finding enquiry report dated 20.03.2018 conducted by Ld District Judge, Dewas, Final Report dated 30.04.2019 submitted by the Respondent No 2 and consequential show cause notice dated 29.11.2019 issued by Principal Registrar (Vig.) High Court of Madhya Pradesh, Jabalpur, and quash the Report dated 20.03.2018, Final Report dated 30.04.2019 submitted by the Respondent No 2 and consequential show cause notice dated 29.11.2019 issued by Principal Registrar (Vig.) High Court of Madhya

Pradesh, Jabalpur same being illegal and without sanction of law;

- b. Issue an appropriate writ order or direction in the nature of Mandamus or such other writ , order or direction that a settlement shall be recorded on the conciliation application dated 24.11.2018 submitted by the Respondent No 3 in accordance with law:
- c. Issue an appropriate writ order or direction in the nature of Mandamus directing Respondent No 1 that the petitioner shall be relived of all the consequences arising from issue of illegal show cause notice dated 29.11.2019 with further direction that he shall be entitled to all such benefits and consequences in accordance with law;
- d. Issue or pass any writ, direction or order, which this Hon'ble court may deem fit and proper under the facts and circumstances of the case.

Settled By:-
R BALASUBRAMANIAN
Senior Advocate

DRAWN & FILED BY:

PLACE : NEW DELHI
DATED: 15/06 /2020

[SACHIN SHARMA]
Advocate for the Petitioner(s)