



2025:DHC:9660



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 15411/2024, CM APPL. 64605/2024 & CM APPL.
2522/2025

PUSHKAR RAJ & ANR.

.....Petitioners

Through: Mr. Sanjay Poddar, Sr. Adv. with Mr.
Jivesh Tiwari and Mr. Akash Vajpai,
Adv.

versus

JAWAHARLAL NEHRU UNIVERSITY & ORS.Respondents

Through: Mr. Abhik Chimni, Ms. Pranjal Abral,
Mr. Gurupal Singh, Mr. Rishabh
Gupta and Mr. Ayan Dasgupta, Adv.
for R-4 to 6
Mr. Vasanth Rajasekaran, SC with
Mr. Karan Prakash, Mr. Harsvardhan,
Mr. Om Bali and Ms. Deepshikha,
Adv. for JNU

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

JUDGEMENT**03.11.2025**

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1. The present petition has been filed under Article 226 of the Constitution of India, 1950 (**"Constitution"**), *inter alia*, seeking to quash Clause 5 (j) of the General Instructions issued for the Internal Committee Elections 2024-25, Jawaharlal Nehru University (**"JNU"**), by respondent no. 3, i.e., Presiding Officer of the Internal Committee. The petitioners further seek quashing of the election results dated 05th November, 2024, whereby, respondent nos. 4 to 6 have been declared as the elected candidates of the



Internal Committee (**“IC”**), and seek directions to respondent no. 1 to conduct fresh elections of the IC as per the Rules and Regulations for Election of Student Representatives to IC (**“Elections Rules”**) dated 28th October, 2024.

2. Facts, as canvassed in the petition, are as follows:

2.1 The petitioners are students of respondent no. 1 – Jawaharlal Nehru University (**“JNU”**). Petitioner no. 1 is an Undergraduate student, who contested the elections of the IC, 2024-2025 from the Undergraduate constituency, whereas, the petitioner no. 2 is a research scholar.

2.2 By way of a Resolution dated 18th September, 2017, respondent no. 1 issued the ‘Rules and Procedures of the Internal Complaints Committee’ (**“Rules for IC”**), under the University Grants Commission (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015 (**“UGC Regulations”**), and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Rule 4 of the said Rules for IC provides for the establishment and composition of the Internal Complaints Committee (**“ICC”**) to redress complaints of sexual harassment in Higher Educational Institutes. Clause (c) of Rule 4 particularly provides that the ICC shall include three students, enrolled at the Undergraduate, Postgraduate, and Research Scholar levels respectively, elected through a transparent democratic procedure.

2.3 Respondent no. 1-JNU notified the elections of the ICC on 22nd August, 2024. The Executive Council of respondent no. 1 issued a Resolution dated 14th October, 2024, to change the name of the ICC to IC.

2.4 Respondent no. 3 issued a Corrigendum dated 28th October, 2024,



thereby, earmarking the seat in Postgraduate and Research Scholar constituencies for female students, and the seat in the Undergraduate constituency for male students in the IC. Additionally, respondent no. 3 issued Election Rules on 28th October, 2024, whereunder, Clause 6 states that students of the respective constituencies can cast his/her vote to his/her constituency only. In other words, Undergraduate, Postgraduate and Research Scholars are the three different constituencies for the purpose of IC elections, and students of each constituency could vote for candidates from their own constituency only.

2.5 Furthermore, respondent no. 3 released a revised schedule of the elections to IC. As per the said schedule, the elections were scheduled for 05th November, 2024. Students could file nominations from 23rd October, 2024 to 29th October, 2024, and the final list of candidates was to be displayed on 29th October, 2024. The contestants were permitted to campaign from 30th October, 2024, till 03rd November, 2024, while 04th November, 2024 was declared to be a ‘no campaigning day’.

2.6 Subsequently, a Committee meeting was scheduled on 01st November, 2024, to initiate and supervise the process of conduct of elections to the IC through the Office of Dean of Students, JNU. The Minutes of the Meeting dated 01st November, 2024, stated that the Committee had resolved to allow each voter to cast vote for all three constituencies.

2.7 On the basis of the said Minutes of the Meeting, respondent no. 3 issued the General Instructions dated 01st November, 2024. Clause 5(j) of the said General Instructions provided that each voter is entitled to cast his/her vote for all the three constituencies.

2.8 Aggrieved by the said General Instructions, the petitioners have filed



the present petition.

3. On behalf of the petitioners, it is submitted as follows:

3.1 The doctrine of ‘no rule change after the game begins’ safeguards the democratic process and ensures that elections are conducted with stability, fairness, and transparency. Thus, once the election process has been notified, the rules governing the elections cannot be changed, to ensure free and fair conduct of elections.

3.2 An Election Officer is expected to conduct the elections only in terms of the rules and regulations notified before the commencement of the elections, and has no jurisdiction to change the same midway. Such a conduct of the Election Officer amounts to misconduct and interference in the election process.

3.3 Every candidate has a legitimate expectation that once the date of elections has been notified, the rules of elections will not be changed in a manner that adversely affects his/her interest. As per the Election Rules dated 28th October, 2024, voters could cast vote only for their own constituencies. However, Clause 5(j) of the General Instructions, issued on 01st November, 2024, allowed cross-constituency voting. Thus, while the petitioner no. 1 was only required to canvass his elections among the total of 1685 Undergraduate students, the General Instructions increased the voter base. The petitioner no. 1, thus, had to canvass his elections among the students of Postgraduate and Research Scholar level, coming to a total of 5,902 students.

3.4 The General Instructions were only issued on 01st November, 2024, thereby, allowing only 3 days to the candidates to campaign for the elections before the increased voter base. Thus, the actions of respondent nos. 1 to 3



of manipulating the elections result by altering the composition of the voters at the last moment, after finalization of the nomination papers, is arbitrary and discriminatory, and has caused material prejudice to the petitioners.

3.5 The reliance placed by the respondents on the University Grants Commission's ("UGC") Handbook titled, "SAKSHAM Measures for Ensuring the Safety of Women and Programmes for Gender Sensitization on Campuses" ("**Saksham Guidelines**") to justify cross-constituency voting is misconceived. The Saksham Guidelines nowhere state that the rules of the IC can be changed once the date of elections has been notified. Moreover, the suggestions given in the SAKSHAM Guidelines are not binding in nature.

3.6 The Saksham Guidelines had not been incorporated when the elections were notified on 22nd August, 2024, and the Elections Rules were released on 28th October, 2024. Clause 1 of the Election Rules provide for elections of one student representatives each from the three separate and distinct constituencies created for Undergraduate, Postgraduate and Research Scholars. Clause 6 of the said Election Rules, require students of respective constituencies to cast his/her vote to his/her constituency only. Furthermore, Clause 8(b) of the same Election Rules provides that a student can file nomination only for his/her respective constituency, and Clause 8(d) requires that the proposer and seconder must be from the same constituency as the candidate. Thus, the Election Rules require separate and distinct constituencies so that students of each constituency get proper representation. The list of the final candidates was also finalized on the basis of separate and distinct constituencies.



3.7 The Rules for IC, issued by way of the Resolution dated 18th September, 2017, have been notified in exercise of statutory power. Though the said Rules for IC have adopted the Saksham Guidelines in part, they have not adopted the Saksham Guidelines in its entirety, particularly, with regard to the elections of IC.

3.8 The Saksham Guidelines are inapplicable to the present matter as they stipulate a totally different mode of elections, where the three student representatives are elected through a two-tier process. First, a representative to the Gender Sensitising Committee is elected by each class in the college/unit. Subsequently, the members of the Gender Sensitising Committee then elect three representatives to the IC from amongst themselves. Thus, the respondent no. 3 cannot be permitted to selectively adopt a part of the Saksham Guidelines, which is not legally binding, in an arbitrary and *malafide* manner.

3.9 The recommendation of the Committee to allow all voters to cast vote across constituencies, fails to address the concerns of inclusivity and equity in electoral process, and the Election Rules restricting voters to their respective constituencies would not create artificial silos.

3.10 The submission in the Minutes of the Meeting that this was the first IC elections is also misleading, as election to the IC of JNU have also been held in the past.

3.11 The respondents have failed to place on record any document to substantiate that the decision of the Committee was not unilateral, and that it emerged from a consultative and deliberative process, with stakeholder input from students, faculties and administrators.



3.12 Thus, where the election rules are changed midway, the election process and the change, is arbitrary and discriminatory and the Courts must step in and set the clock back by ordering fresh elections.

4. *Per contra*, on behalf of respondent nos. 1 to 3, the following submissions have been put forth:

4.1 The only legislative guidance governing the elections of student members to the IC is the Rules for IC issued on 18th September, 2017. As per Clause 4(c) of the said Rules for IC, three student members are to be elected to the IC from the Undergraduate, Postgraduate and Research Scholar levels, respectively, and the elections were to be conducted in a transparent and democratic manner.

4.2 However, the Rules for IC do not prescribe any rigid voting format, nor do they prohibit cross-constituency voting. Thus, where the legislative framework is silent on the particular mode of elections to be followed, the respondent nos. 1 to 3 are free to determine the procedural details, as long as they are transparent and democratic.

4.3 The respondent no. 3 had issued the Election Rules, whereunder, Clause 6 stated that students of each respective constituencies could cast his/her vote to that particular constituency only. Thereafter, respondent no. 3 issued the General Instructions, whereunder, Clause 5(j) provides that voters are entitled to cast vote for all three constituencies. This decision to revise the rules governing the elections of student representatives to the IC was not taken arbitrarily, but was based on the recommendations of a duly constituted and competent Committee.

4.4 The Committee was entrusted with the responsibility of overseeing the election process and ensuring compliance with the statutory framework



governing such election. The objective of the Committee was to increase the democratic and participatory nature of the voting process. To achieve this objective, the Committee undertook a comprehensive review of the factual matrix, the existing regulatory framework, and the prevailing circumstances surrounding the elections. The Committee analyzed the prior election practices to identify gaps or deficiencies in representation and voter participation, examined the relevant legal and regulatory provisions, and analyzed the voting data and demographic representation within JNU, to ensure that the revised rules under the General Instructions would reflect a democratic and participatory process.

4.5 The Committee noted that the Saksham Guidelines stipulated each voter in a category to cast as many votes as there are seats, one in favour of each candidate from that category. The Committee also noted that the student distribution in JNU was skewed, with 1,685 students at the Undergraduate level, 3,223 students at the Postgraduate level, and 2,679 students at the Research Scholar level.

4.6 Thus, the Committee decided that the original rule restricting voters to their respective constituencies would create artificial silos within the electorate. Therefore, the Committee unanimously recommended a cross-constituency voting mechanism to enhance the democratic character of the elections, eliminate any perceived or actual inequities arising from differential voting rights across constituencies, and promote a holistic pan-university approach to representation.

4.7 Thus, Clause 5 (j) of the General Instructions, which allows voters to cast vote for all three constituencies, addresses the concerns of inclusivity and equity in the electoral process, and aligns with the objective of



transparent and democratic elections under the Rules for IC.

4.8 The said decision of the Committee was not unilateral, but rather emerged from a consultative and deliberative process involving, inputs from students, faculty and administrators, consideration of best practices in other universities, and balancing the rights of voters and candidates to ensure that no party is prejudiced by the proposed changes.

4.9 The General Instructions, based on the recommendations of the Committee, were duly notified on 01st November, 2024, which is four days prior to the date of election, i.e., 05th November, 2024, providing sufficient time to all stakeholders for adapting, understanding and campaigning.

4.10 The petitioners have failed to demonstrate any material prejudice suffered by them as a result of the change in rules, any illegality in the conduct of the elections, and any procedural violation in the issuance or implementation of the General Instructions.

4.11 The revised rules allowing cross-constituency voting do not infringe upon the voting rights of the voters, as every eligible voter was afforded an equal opportunity to exercise their franchise under the General Instructions, and no individual or group has been disenfranchised as a result of the change. Cross-constituency voting has enhanced participation, inclusivity and representation.

4.12 The rights of the contestants to participate also remains unaffected as all the contestants, including petitioner no. 1, were given equal opportunities to campaign and contest in accordance with the General Instructions. The General Instructions were applied on all the candidates in a uniform manner, and every candidate contested under the same Rule. Therefore, no material prejudice or special hardship has been caused to the petitioners. Thus, the



petitioners' dissatisfaction from the election results is subjective disagreement, rather than objective harm.

4.13 The decision of the respondent nos. 1 to 3 carries a presumption of validity, having been made in pursuance of the recommendations of a duly constituted Committee. It is well settled that Courts must exercise judicial restraint in interfering with policy decisions taken by competent authorities, particularly, where such decisions are based on expert recommendations.

4.14 The elections in question are for student representation in an IC, and not for high stake political contests. Thus, under the principle of proportionality, it would be wholly disproportionate to vitiate the elections, and imperil the decisions of the IC over nearly a year.

5. On behalf of respondent nos. 4 to 6, the following submissions have been made:

5.1 By allowing cross-constituency voting, the General Instructions have only increased the total number of voters per constituency and further, made the number of voters in all the three constituencies, equal. This increase is not arbitrary, and the number of eligible voters in all constituencies, are now same. Thus, the General Instructions bring all candidates on a level playing field, and the same are equally advantageous /disadvantageous for all the electoral candidates. Therefore, the change in the rule places equals equally, and no candidate has gained any undue advantage over the other.

5.2 Petitioners have failed to provide any concrete proof to show that the cross-constituency voting resulted in manipulation of election result, procedural violation, illegality or material prejudice. Thus, the dissatisfaction of the petitioners with the election result is subjective injury, and not objective harm.



5.3 Candidates have a legitimate expectation that the rules and guidelines should not be arbitrary. However, there can be no legitimate expectation that the rules shall remain stagnant, particularly, when the change in rule is equally applicable on all candidates.

5.4 The General Instructions were issued pursuant to the recommendation of the Committee, after due deliberation and the same is in consonance with the Saksham Guidelines. The Saksham Guidelines provide that each voter in a category can cast as many votes as there are seats, one each in favour of different candidates from his/her category, that is, student, teacher, non-teaching staff. Thus, the recommendations of the Committee were aligned with the framework of the UGC.

5.5 The petitioners have misplaced reliance on the case of ***Union Territory of Ladakh and others Versus Jammu and Kashmir National Conference and Another, 2023 SCC OnLine SC 1140***, as it is a well-settled position of law that once the election process starts, the Court should refrain from interfering in the election. The petitioners have failed to disclose how the action of respondent nos. 1 to 3 in revising the Rules, is unjust and disturbed the level playing field.

6. I have heard learned counsels for the parties, and have perused the record.

7. At the outset, it is to be noted that a perusal of the order sheets reveals that the present petition first came up for hearing before the Court on 05th November, 2024. The Court noted that since the elections in question was scheduled for that day, i.e., 05th November, 2024, and the voting had commenced at 9 A.M, the elections would be subject to the outcome of the present writ petition.



8. Thereafter, on 18th December, 2024, the Court impleaded the candidates elected in the said elections as respondents, and permitted the petitioners to file an amended writ petition. The amended writ petition was filed by the petitioners on 23rd December, 2024.

9. The petitioners have approached this Court seeking to quash Clause 5 (j) of the General instructions dated 01st November, 2024, by which the university permitted every student to cast one vote in each of the three constituencies, i.e., undergraduate, post graduate and research scholar, for the purpose of electing student representatives to the IC under The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“POSH”) Framework. The petitioners have further prayed for quashing of the election results dated 05th November, 2024, whereby, respondent nos. 4 to 6 were declared elected.

10. It is to be noted that the statutory foundation for the elections in question, lies in the UGC Regulations framed under the UGC Act, 1956. Pursuant thereto, JNU framed its own Rules for IC.

11. Rule 4 (1) (c) of the aforesaid Rules for IC specifically provides that three students namely, one undergraduate, one postgraduate and one research scholar, would form part of the IC when the matter involved students, to be chosen through a transparent and democratic procedure. Rule 4 of the Rules for IC dated 18th September, 2017, reads as under:

“xxx xxx xxx

4. Grievance redressal mechanism—

*(1) Every Executive Authority shall constitute an Internal Complaints Committee (ICC) with an inbuilt mechanism for gender sensitization against sexual harassment. **The ICC shall have the following composition:-***



(a) A Presiding Officer who shall be a woman faculty member employed at a senior level (not below a Professor in case of a university, and not below an Associate Professor or Reader in case of a college) at the educational institution, nominated by the Executive Authority;

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section 2(o);

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organization;”

(b) two faculty members and two non-teaching employees, preferably committed to the cause of women or who have had experience in social work or have legal knowledge, nominated by the Executive Authority;

(c) **Three students, if the matter involves students, who shall be enrolled at the undergraduate, master’s, and research scholar levels respectively, elected through transparent democratic procedure.**

(d) One member from amongst non-government organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, nominated by the Executive Authority.

(2) At least one-half of the total members of the ICC shall be women.

(3) Persons in senior administrative positions in the HEI, such as Vice- Chancellor, Pro Vice-Chancellors, Rectors, Registrar, Deans, Heads of Departments, etc., shall not be members of ICCs in order to ensure autonomy of their functioning.

(4) The term of office of the members of the ICC shall be for a period of three years. HEIs may also employ a system whereby one –third of the members of the ICC may change every year.

(5) The Member appointed amongst the non-governmental organizations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the Executive Authority as may be prescribed.

(6) Where the Presiding Officer or any member of the Internal Committee:

(a) contravenes the provisions of section 16 of the Act; or



(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest, such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.”

xxx xxx xxx”

(Emphasis Supplied)

12. The aforesaid Rule clearly stipulates that if the matter pertaining to sexual harassment involves students, then besides other members as stipulated in the Rules, the IC shall also include three students, each from the undergraduate, masters and research scholar level, respectively. The criteria for choosing the said student representatives as members of the IC, is election through a transparent and democratic procedure.

13. The university issued a Notification on 22nd August, 2024, thereby, scheduling elections to induct student members into the IC. The Election Rules dated 28th October, 2024, for election of student representatives to the IC stipulated that students of respective constituency i.e., undergraduate, postgraduate and research scholar, could cast their vote to their respective constituency only. Meaning thereby, an undergraduate student could vote only for election of representative from the undergraduate level, and could not cast vote for election of the student representatives from the postgraduate and research scholar level. Likewise, postgraduate and research scholar students could vote only for electing the student representative from their respective postgraduate and research scholar level only, and not from



other constituencies. The said Election Rules are reproduced hereunder:

RULES AND REGULATIONS FOR ELECTION OF STUDENT REPRESENTATIVES TO IC

1. As per clause 4.1 (c) vide Resol. No.5.3/EC/18 09.2017 election of three student representatives each from the following three constituencies will be conducted.

- | | |
|---------------------|--------------------------|
| a. Under Graduate | - B.A./B.Tech./B.Sc. |
| b. Post Graduate | - M.A./M.Tech./M.Sc./MBA |
| c. Research Scholar | - Ph.D. |

Note: Only one candidate from one constituency shall be elected.

2. The office bearers of JNUSU/Counsellors shall not be eligible for contesting IC Election.
3. The student member of IC shall also not be eligible to contest JNUSU elections.
4. Out of the three students representative to IC, at least two are reserved for female candidates and one is reserved for male. Further, on the basis of rotation, the Committee decided that Post Graduate and Ph.D. constituencies are earmarked for female candidates and Under Graduate constituency is earmarked for male for the year 2024-25.
5. The term of elected members shall be one academic year only.
6. Students of respective constituency as mentioned in point no.1 can cast his/her vote to his/her constituency only.
7. A student member once elected to IC shall not be eligible for re-election to IC.
8. The Committee decided the following rules for contesting IC election.
 - a. Candidates shall submit their nominations in the prescribed format available at Dean of Students Office.
 - b. A student can file nomination only for his/her respective constituency.
 - c. Only a bonafide student of JNU pursuing regular course of study is eligible to contest IC election.
 - d. Proposer, seconder and the candidate must be from the same constituency.
 - e. One member can either propose or second only one candidate for office bearers.
9. Candidates contesting for IC election shall abide by the rules, regulations and instructions issued by the Presiding Officer/ Dean of Students.
10. Decisions of the Presiding Officer, Election Committee in all matters pertaining to elections shall be final and binding.
11. All students shall carry their valid JNU identity cards at the time of casting their votes. If JNU identity card is not available, student is required to carry latest registration folio with Aadhar card.
12. Voting shall take place at Convention Centre, JNU from 9:00 am to 5:00 pm on 05.11.2024.
13. All queries & complaints with respect of IC election shall be addressed to the Presiding Officer, IC Election Committee.
14. The votes shall be casted by postal-ballot papers.
15. A candidate can nominate maximum of three authorized nominee for polling/counting; however only one nominee for the candidate is permitted inside polling booth/counting station.
16. A candidate/authorized nominee of the candidate shall be present at the polling booth at least one hour before the scheduled time of voting i.e. 8:00 am on 05.11.2024.
17. If a candidate or his/her nominee fails to be present at the time of polling/counting; polling/counting will not be paused or delayed and shall carry on as per the schedule.



14. Subsequently, the schedule of elections was notified on 28th October, 2024, in the following manner:

29.10.2024	FINAL LIST OF CANDIDATES.
30.10.2024 to 03.11.2024	CAMPAIGNING DAYS
04.11.2024	NO CAMPAIGN DAY
05.11.2024	POLLING

15. Shortly thereafter, on 01st November, 2024, a meeting of the Committee constituted to initiate and supervise the conduct of elections, was convened. The Committee noted that the Saksham Guidelines indicated that each voter in a category may cast as many votes as there are seats, one in favour of each candidate from that category. The Committee also noted the disparity in the JNU's student distribution, wherein, it noted that there were 1,685 undergraduate students, 3,223 postgraduate students and 2,679 research scholars. Thus, to ensure a holistic and pan-university representation, the Committee unanimously recommended that all students be permitted to vote in all the three constituencies. The Minutes of the Meeting held on 01st November, 2024, is extracted hereunder:



**JAWAHARLAL NEHRU UNIVERSITY
INTER-HALL ADMINISTRATION**

Minutes of the meeting

Date: 01/11/2024

Meeting of the Committee constituted to initiate and supervise the process of conduct of election for three student representatives to the Internal Committee (IC) through the Office of Dean of Students held on 01st November 2024 in the Committee Room, IHA/JNU at 12:30 hrs. Following members were present:

1. Prof. Piyush Pratap Singh, ADOS-III	Chairperson
2. Dr. Arvind Yelery, CEAS/SIS	Member
3. Dr. Poonguzhali N., SCSS	Member
4. Dr. Vijender Singh, SS&IS	Member
5. Dr. Shiva Kanaujia Sukula, Dy. Librarian	Member (On leave)
6. Dr. Preeti, CPS/SSS	Member
7. Dr. Suman Beniwal, CRS/SLL&CS	Member
8. Dr. Nasib Ali, CIL/SLL&CS	Member
9. Dr. Sajjan Singh, AR, IHA	Member Secretary

The Chairperson welcomed all members of the Committee in the meeting. The Chairperson apprised all members that the final list of candidates has been finalized & campaigning has been started by the candidates and sought inputs from the members for smooth conduct of the elections.

The Committee was apprised that as per the directions of the University Grants Commission (UGC) vide D.O. letter No. F.91-3/2014(GS) dated 06/06/2017, the Jawaharlal Nehru University established Internal Committee (*formerly known as Internal Complaints Committee*) as per the article 3(h) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

During the discussion, it was noted that Ministry of Women and Child Development, GOI, in its handbook on Sexual Harassment of Women at Workplace for Employers / Institutions / Organisations/Internal Complaints Committee / Local Complaints Committee (Prevention, Prohibition and Redressal) Act, 2013 published on November 2015 is silent on the voting system, however UGC in its handbook "SAKSHAM – Measures for Ensuring the Safety of Women and Programmes for Gender Sensitization on Campuses" at Appendix One (i.e., Procedure for the constitution of the committees issued guidelines for conducting of elections etc.), para 2(b) (i.e. Mode of Election) clearly stipulates the following:

"each voter in a category can cast as many as votes as there are seats, one each in favour of different candidates from his/her category - Student, Teacher, Non Teaching Staff."

It was observed by the Committee that the same practice was adopted by the University in conducting of GSCASH elections as well. It was also noted that the IC consists of 09 members (01 Presiding Officer, 02 faculty representatives, 02 staff representatives, 03 student



representatives and 01 NGO representative). As per the practice adopted by the IC of JNU, any of the three elected student representatives can be present during the hearing/proceedings of the case irrespective of the category of the student along with the other members of IC.

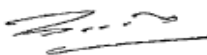
Further, as on date there are 7587 eligible voters (1685_UG, 3223_PG & 2679 Ph.D.) in JNU and to have a holistic & pan university representation, the Committee is of the unanimous view that the earlier notification may be revised appropriately allowing all voters to cast votes for all three constituencies as this will ensure implementation of full democratic process and shall not affect rights of any student.

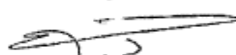
The Committee also noted that voting in the IC election is going to be held for the first time since establishment of Internal Committee in the University. Hence, the Committee deliberated the matter in detail and after going through the above facts, the Committee resolved to allow each voter to cast vote for all three constituencies.

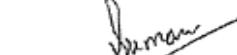
The Chairperson requested the Member Secretary to form teams for various polling counters, setting up of counters, procure stationery/print ballot papers, collect ballot boxes etc. The Chairperson also requested the Member Secretary to communicate with Dean, SSS for providing space and to request Director (Security) for providing sufficient Security personnel on the election day.

The Member Secretary apprised the Committee that a Circular dated 30 October 2024 has already been issued by the Presiding Officer regarding deployment of all Staff members of IHA and Caretakers of all hostels for conducting the election.

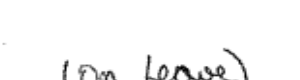
The Meeting ended with vote of thanks to the Chair.

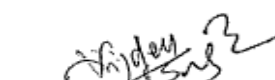

(Dr. Sajjan Singh)

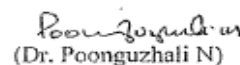

(Dr. Nasib Ali)

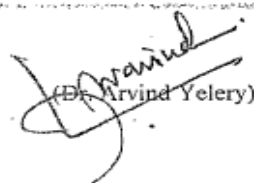

(Dr. Suman Beniwal)


(Dr. Preeti)


(Dr. Shiva Kanaujia Sukula)


(Dr. Vijender Singh)


(Dr. Poonguzhali N)


(Dr. Arvind Yelery)


(Prof. Piyush Pratap Singh)

16. Pursuant to the recommendations of the said Committee, the General Instructions dated 01st November, 2024, were issued, Clause 5(j) of which expressly permitted each student to cast one vote in all three constituencies, i.e., undergraduate, postgraduate and research scholar. The said General Instructions were published four days prior to the polling date of 05th November, 2024.



17. The decision of respondent no. 3 to introduce Clause 5 (j) of the General Instructions dated 01st November, 2024, and thereby allowing students to vote for all the three constituencies, cannot be held to be arbitrary or discriminatory in any manner. Rather, the cross constituency voting mechanism enhanced the democratic character of the elections, considering the skewed student distribution in the JNU, wherein, there were 1,685 students at the undergraduate level, 3,223 students at the postgraduate level and 2,679 students at the level of research scholars. Such cross voting across constituencies ensured inclusivity and equity in the electoral process, and eliminated any perceived or actual inequities arising from differential voting rights across constituencies.

18. Thus, cross constituency voting ensured a holistic pan-university approach to representation, especially, considering the fact that the student representatives were to be part of the IC wherever the complaint involved a student, irrespective of the fact whether such complainant student was an undergraduate student, postgraduate student or a research scholar. Therefore, logically, the students across all the constituencies had a right to choose and elect their student representatives, who would represent the students in the IC.

19. Increasing the voting base wherein the students were allowed to vote for all the three constituencies, cannot be considered as amounting to change in the Rules of the game, as contended by the petitioners. The purpose of change in the Rule was to increase the participation of the students in the democratic process of electing all the three student representatives, and no error is found in the decision made by the respondents. The respondents have not changed the Rules of election, or the criteria of eligibility of the



candidates contesting the elections. The respondents by way of the subsequent General Instructions have only increased the voting base, wherein, students across all the three constituencies were granted opportunity to vote for the election of student representatives of all the three constituencies, and not restrict them to cast their vote merely for election of the student representative from their constituency. There is logic to the same as the student representatives were to be part of the IC whenever the issue involved was a complaint made by a student, irrespective of the constituency to which such complainant student belonged.

20. Similarly, in a case, titled as ***V. Lavanya and Others Versus State of Tamil Nadu and Others, (2017) 1 SCC 322***, where the government widened the ambit of selection so as to enable more and more candidates to take part in the election process, the Supreme Court held that the same will not amount to change in the criteria for selection, after the selection process commenced. In the said case, more candidates belonging to the reserved category were allowed to compete by granting relaxation of marks after the selection process had commenced. The Court held that the same would not amount to change in the Rules of the game, as it was not a case where the basic eligibility criteria had been altered in the midst of the selection process. Thus, it was held as follows:

“xxx xxx xxx

31. Per contra, the State has contended that granting relaxation of marks to SCs/STs/OBCs and others will not amount to change in the rules of the games. By relaxation of marks more candidates belonging to reserved category are allowed to compete. The appellants cannot contend that their rights have been taken away; no prejudice has been caused to them as the selection criteria has not been altered with respect to them.

32. The appellants appeared in TET conducted on 17-8-2013 and 18-



8-2013. The respondents were to select the suitable candidates. As per the selection criteria laid down in GOMs No. 252 the candidates have to secure minimum 60% in TET so as to qualify the said exam. The weightage of the marks secured in TET was 60% and that of academic qualification was 40%. It is true that the candidates who passed TET were called to attend certificate verification on 23-1-2014 and 24-1-2014; but the selection process has not been completed. Later on, GOMs No. 25 dated 6-2-2014 was issued granting relaxation of 5% marks to SC, ST, Backward Classes, Physically Handicapped, Denotified Communities, etc. The purpose of relaxation was to increase the participation of candidates belonging to Backward Classes in State's pool of teachers. The State Government merely widened the ambit of TET so as to reach out to those candidates belonging to the deprived section of the society who were not able to compete, in spite of possessing good academic records and qualifications. The change brought about in the selection criteria is the Government's prerogative. In terms of their extant reservation policy, the State Government is free to take actions suitable to the socio-economic conditions prevalent in the State, especially with regard to selection of candidates belonging to reserved category to be employed in State service. Merely, because the Government has widened the ambit of selection, so as to enable more and more candidates to take part in the selection process, the right of candidates who were already in the process cannot be said to have been adversely affected. It is in the interest of reserved category of candidates that more candidates take part in the selection process and best and most efficient of them get selected. This will not amount to change in the criteria for selection after the selection process commenced.

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34. The Government has not changed the rules of selection so far as the present appellants are concerned. Weightage of marks obtained in TET as well as that of academic qualification is still the same. The entire selection process conforms to the equitable standards laid down by the State Government in line with the principles enshrined in the Constitution and the extant reservation policy of the State. It is not the case where basic eligibility criteria has been altered in the midst of the selection process. Conducting TET and calling for certificate verification thereafter is an exercise which the State Government is obliged to conduct every year as per the Guidelines issued by NCTE. By calling for CV along with certificates of other requisite academic qualifications, a candidate's overall eligibility is ascertained and then he/she is recruited. Such an exercise by which



qualified teachers in the State are segregated and correspondingly certified to that effect cannot be equated to finalisation of select list which comes at a much later stage. **No prejudice has been caused to the appellants, since the marks obtained by the appellants in TET are to remain valid for a period of seven years, based on which they can compete for the future vacancies. Merely because the appellants were called for certificate verification, it cannot be contended that they have acquired a legal right to the post. Impugned GOMs No. 25 did not take away the rights of the appellants from being considered on their own merits as pointed out by the Madras Bench. We entirely agree with the views taken by the Madras Bench that “by merely allowing more persons to compete, the petitioners cannot contend that their accrued right has been taken away”.**

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36. The State Government cannot be faulted for altering the selection criteria by relaxing 5% marks in favour of reserved category candidates. In *Tej Prakash [Tej Prakash Pathak v. Rajasthan High Court, (2013) 4 SCC 540 : (2013) 2 SCC (L&S) 353]* the alteration in procedure in effect led to elimination of selected candidates, still the Court refrained from finding fault with such an alteration, as it was done in public interest. **In the present case, the relaxation afforded to the reserved category candidates has in no way eliminated the appellants from the selection process; rather a fair opportunity has been provided to other candidates who can legitimately compete with the appellants herein.**

xxx xxx xxx”

(Emphasis Supplied)

21. Reading of the aforesaid judgment of the Supreme Court clearly manifests that the Supreme Court laid down in categorical terms that if basic eligibility criteria was not changed and a candidate was not disqualified, then widening the pool cannot be considered as change in the ‘Rules of the Game’. Likewise, in the present case, expanding the voter base would not fall in the realm of change in the Rules after the election process had begun.

22. It is to be noted that by way of the General Instructions dated 01st November, 2024, for the IC elections, each voter was able to cast his/her



votes in all the three constituencies, viz. undergraduate, postgraduate and research scholar level. Thus, the said General Instructions increased the total number of voters per constituency, and further made the number of voters in all the three constituencies, equal. This increase in the number of voters cannot be considered to be arbitrary, as the number of eligible voters in all the constituencies became same.

23. Thus, on account of the General Instructions, all the candidates have been brought on a level playing field, and the same is equally advantageous/disadvantageous for all the electoral candidates, as the said instructions are equally applicable to them.

24. Further, this Court also rejects the contention of the petitioners that the election results have been manipulated because of Clause 5(j) of the General Instructions, which allowed each voter to cast his/her vote in all constituencies. The petitioners have failed to establish any illegality in the conduct of the elections under the revised framework or any material prejudice having been suffered by them as a direct consequence of the change in the Rules.

25. The petitioners have failed to disclose how the action of the respondent-university in revising the rule by issuing the General Instructions, was unjust or as to how it disturbed the level playing field. This Court notes that the General Instructions were issued four days prior to polling, leaving three clear days out of a total of six, for campaigning. Hence, the alleged difficulty of canvassing across constituencies is unfounded.

26. It is to be noted that as per the framework of the elections under the Rules for IC for election of student representatives in the IC, the only



requirement is that the elections shall be transparent and democratic. There is nothing on record to dispute that the elections conducted were transparent and democratic. The Rules for IC do not prescribe any rigid voting format or prohibit cross-constituency participation. As noted above, the General Instructions allowing voting by the students across constituencies, expanded the participation across categories, enhanced the inclusivity, strengthened the democratic character of the process, and made the number of voters in all the three constituencies, equal. Thus, the equals have been placed equally, and no candidate has gained any undue advantage over the other due to change of the Rule. The petitioners have failed to disclose as to how the action of the respondent-university in revising the Rule by issuing the General Instructions disturbed the level playing field.

27. The present case is not one where the equals have been placed unequally, thus, resulting in discrimination. By virtue of the General Instructions each voter could cast his/her vote in all the three constituencies, thereby, ensuring that all the three constituencies had equal number of voters. Thus, for all the candidates contesting election per constituency, the total number of eligible voters, remain the same. Since the General Instructions brings all the candidates at a level playing field, the General Instructions are not discriminatory, but are rather equally advantageous /disadvantageous for all the electoral candidates.

28. Reference in this regard may be made to the judgment in the case of ***Prem Chand Somchand Shah and Another Versus Union of India and Anr., (1991) 2 SCC 48***, wherein, while holding that if persons similarly situated are treated alike in matters of privilege or liability, then there is equality amongst equals, the Supreme Court has held as follows:



“xxx xxx xxx

8. As regards the right to equality guaranteed under Article 14 the position is well settled that the said right ensures equality amongst equals and its aim is to protect persons similarly placed against discriminatory treatment. It means that all persons similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed. Conversely discrimination may result if persons dissimilarly situate are treated equally. Even amongst persons similarly situate differential treatment would be permissible between one class and the other. In that event it is necessary that the differential treatment should be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and that differentia must have a rational relation to the object sought to be achieved by the statute in question.

xxx xxx xxx”

(Emphasis Supplied)

29. Further, the petitioners have not provided any evidence as to how the General Instructions altered the vote share, which in turn, resulted in the manipulation of the outcome of the election.

30. The law is settled in this regard that the Courts refrain from interfering or invalidating an election, once conducted or initiated, on the basis of speculative or unsubstantiated allegations, in order to safeguard the sanctity of the democratic process. Thus, the judiciary should not interfere in elections, unless absolutely necessary. In the present matter, no such necessity has arisen as the elections have been conducted in a transparent, fair, and democratic manner.

31. Election disputes require clear, cogent and credible evidence of illegality or impropriety, to warrant interference by the Court. Mere dissatisfaction with decisions or perceived grievances, without substantiating actual prejudice, cannot be the basis for interfering with the elections. Courts have consistently emphasized the need to respect electoral processes and outcomes, unless there is clear and demonstrable illegality.



32. The General Instructions have not infringed upon the voting rights of any voter within the university, as each voter was afforded the opportunity to equally exercise their franchise under the revised framework under the General Instructions, and no individual has been disenfranchised. On the contrary, the General Instructions have enhanced participation by enabling voters to cast their votes across constituencies, thereby, promoting greater inclusivity and representation.

33. The petitioners' assertion that the change in rule had adversely impacted the contesting candidates, is totally baseless. All candidates, including the petitioners, were given equal opportunities to campaign and contest, in accordance with the General Instructions. The framework remained fair, inclusive and transparent, ensuring that no candidate was unfairly advantaged or disadvantaged. The petitioners have failed to show how their rights as candidates have been impaired in any material way.

34. The petitioners have not demonstrated any material prejudice caused to them by the alleged change in rule. The petitioners' failure to establish any direct or tangible impact on their rights renders their challenge untenable.

35. Law in this regard is well-settled that courts must exercise judicial restraint in interfering with policy decisions taken by administrative authorities, and should refrain from substituting their judgment for that of the competent authorities, unless the decision is demonstrably arbitrary or violative of constitutional principles. In the present case, the decision of the respondent-university cannot be said to be arbitrary or unlawful.

36. Delving on the scope of Judicial Review of administrative decisions, while holding that Courts ought to interfere only if such administrative



decisions suffer from illegality, irrationality or procedural impropriety, the Supreme Court in the case of ***Municipal Council, Neemuch versus Mahadeo Real Estate and Others***, (2019) 10 SCC 738, has held as follows:

“xxxx xxx xxx

13. In the present case, the learned Judges of the Division Bench have arrived at a finding that such a sanction was, in fact, granted. We will examine the correctness of the said finding of fact at a subsequent stage. However, before doing that, **we propose to examine the scope of the powers of the High Court of judicial review of an administrative action.** Though, there are a catena of judgments of this Court on the said issue, the law laid down by this Court in *Tata Cellular v. Union of India* [*Tata Cellular v. Union of India*, (1994) 6 SCC 651] lays down the basic principles which still hold the field. Para 77 of the said judgment reads thus : (SCC pp. 677-78)

“77. **The duty of the court is to confine itself to the question of legality. Its concern should be:**

- 1. Whether a decision-making authority exceeded its powers?**
- 2. Committed an error of law,**
- 3. committed a breach of the rules of natural justice,**
- 4. reached a decision which no reasonable tribunal would have reached or,**
- 5. abused its powers.**

Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:

(i) Illegality: This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.

(ii) Irrationality, namely, *Wednesbury* unreasonableness.

(iii) Procedural impropriety.

The above are only the broad grounds but it does not rule out addition of further grounds in course of time. As a matter of fact, in *R. v. Secy. of State for Home Department, ex p Brind* [*R. v. Secy. of State for Home Department, ex p Brind*, (1991) 1 AC 696 : (1991) 2 WLR 588 (HL)] , Lord Diplock refers specifically to one development, namely, the possible recognition of the principle of proportionality. **In all**



these cases, the test to be adopted is that the court should, 'consider whether something has gone wrong of a nature and degree which requires its intervention'.

14. It could thus be seen that the scope of judicial review of an administrative action is very limited. Unless the Court comes to a conclusion that the decision-maker has not understood the law correctly that regulates his decision-making power or when it is found that the decision of the decision-maker is vitiated by irrationality and that too on the principle of "Wednesbury unreasonableness" or unless it is found that there has been a procedural impropriety in the decision-making process, it would not be permissible for the High Court to interfere in the decision-making process. It is also equally well settled that it is not permissible for the Court to examine the validity of the decision but this Court can examine only the correctness of the decision-making process.

15. This Court recently in W.B. Central School Service Commission v. Abdul Halim [W.B. Central School Service Commission v. Abdul Halim, (2019) 18 SCC 39 : 2019 SCC OnLine SC 902] had again an occasion to consider the scope of interference under Article 226 in an administrative action:

"31. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by error apparent on the face of the record is whether the error is self-evident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale [Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale, AIR 1960 SC 137] . If the provision of a statutory rule is reasonably capable of two or more constructions and one construction has been adopted, the decision would not be open to interference by the writ court. It is only an obvious misinterpretation of a relevant statutory provision, or ignorance or disregard thereof, or a decision founded on reasons which are clearly wrong in law, which can be corrected by the writ court by issuance of writ of certiorari.

32. The sweep of power under Article 226 may be wide enough to quash unreasonable orders. If a decision is so arbitrary and capricious that no reasonable person could have ever arrived at it, the same is liable to be struck down by a writ court. If the decision cannot rationally be supported by the materials on record, the same may be regarded as perverse.



33. However, the power of the Court to examine the reasonableness of an order of the authorities does not enable the Court to look into the sufficiency of the grounds in support of a decision to examine the merits of the decision, sitting as if in appeal over the decision. The test is not what the Court considers reasonable or unreasonable but a decision which the Court thinks that no reasonable person could have taken, which has led to manifest injustice. The writ court does not interfere, because a decision is not perfect.

16. It could thus be seen that an interference by the High Court would be warranted only when the decision impugned is vitiated by an apparent error of law i.e. when the error is apparent on the face of the record and is self-evident. The High Court would be empowered to exercise the powers when it finds that the decision impugned is so arbitrary and capricious that no reasonable person would have ever arrived at. It has been reiterated that the test is not what the Court considers reasonable or unreasonable but a decision which the Court thinks that no reasonable person could have taken. Not only this but such a decision must have led to manifest injustice.

xxx xxx xxx”

(Emphasis Supplied)

37. The judgments as relied upon, on behalf of the petitioners, do not apply to the facts and circumstances of the present case in view of the detailed discussion hereinabove.

38. In view of the aforesaid, no merit is found in the present writ petition. Accordingly, the present writ petition, along with the pending applications, is dismissed.

**MINI PUSHKARNA
(JUDGE)**

NOVEMBER 03, 2025/ak