

18.07.2022
Item No. 12
Ct. No. 21
AKG

WPA 11530 of 2022
Dr. Bibekananda Mukherjee
Vs.
University of Kalyani & Ors.

Ms. Minuti Gomes,
Mr. Shibaji Kumar Das,
Ms. Rupsa Sreemani

...For the Petitioner

Mr. Moniruzzaman,
Ms. Dipika Banu

...For the I.C.C.

Mr. Amitava Chaudhuri,
Mrs. M. Chaudhuri,
Mr. N. Roy

...For the University

Petitioner seeks to challenge a proceeding initiated against him under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Though the primary ground taken in this petition is that the Internal Complaints Committee is a one-member-committee, during the submission, learned advocate appearing for the petitioner argues that there is no student member in the said committee in terms of the University Grants Commission (Prevention, prohibition & redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015.

The Internal Complaints Committee was directed to produce the records. The University and the Internal Complaints Committee are present.

Mr. Amitava Chaudhuri, learned advocate, and Mr. Moniruzzaman, learned advocate appearing for the University and the Committee respectively, jointly submit that since no students' union election was held for the last three years in most of the universities under the State, including Kalyani University, the committee was constituted without any student member.

It has been further submitted by them that the present committee consists of nine members and in the meeting, six members were present. According to them, it forms the quorum for the meeting, and therefore, the committee should be allowed to continue.

Clause 4 of the said Regulation of 2015 provides, *inter alia*, as follows:-

“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.”

(emphasis is supplied by me)

A plain reading of Clause 4(C) of the said regulation does not suggest that the said three students have to be a member of the “students’ council” of a State-aided University in terms of the notification dated June 7, 2017, issued under the West Bengal Universities and Colleges (Administration and Regulation) Act, 2017.

The Internal Complaints Committee cannot be formed without any student member in violation of the Regulations of 2015 on the plea that no election for the students’ council has been held in the University for the last three years and as such the members of the students’ council could not be included in the committee.

In such facts, it would be in the fitness of the things to direct that the University shall include three students of its choice from the undergraduate, master’s, and research scholar levels in the Internal Complaints Committee. Such inclusion should be made within a period of two weeks from date. After the committee is reconstituted, the proceeding against the petitioner shall start afresh by the said committee immediately.

It has been submitted by the learned advocate for the petitioner that some documents as prayed for by the petitioner have not been supplied to him by the present committee. The newly formed committee shall

provide the petitioner with the necessary documents to which he is entitled in accordance with law.

The steps so far taken by the present committee against the petitioner are set aside.

Accordingly, WPA 11530 of 2022 is disposed of.

Let urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Kausik Chanda, J.)