

08th May, 2019

**PUCL Statement on the Report of the SC In-House Committee on Sexual Harassment:
A "Travesty of Justice!"**

PUCL is appalled by and strongly denounces the Report of the Supreme Court 'In-House Committee' which concluded that there was no substance in the allegations of sexual harassment made by a former woman employee of the SC against Justice Ranjan Gogoi, the incumbent Chief Justice of India, as a gross travesty of justice, flagrant violation of the principles of natural justice and rule of law. The findings of the 'In-House Committee' seriously and grievously wounds one of the primary constructs of the rule of law, that justice should not only be done, "*but seen to be done*". The decision not to make public the Report of the In-house Committee only compounds in the public eye, the apprehension that the entire judicial system in the highest court in the country did not act in a fair and judicious manner in handling the complaint of the woman employee dated 19.4.2019.

Most regrettably, the manner in which the entire incident, right from the time when the complaint of sexual harassment against the CJI, Ranjan Gogoi became public on 20th April, 2019 up to the Report of the 'In - House Committee' giving CJI Ranjan Gogoi a clean chit on 6th May, 2019, epitomizes an egregious breach and flagrant violation of all principles of natural justice, procedural fairness, fair play and rule of law. Not only did the CJI sit and preside over court hearing on 20th April, 2019 in a case in which he himself was accused of sexual improprieties, the order for the day does not bear his signature even though he was part of the Bench.

There has been widespread public disquiet, dismay and disconcert over the manner in which the entire enquiry into the allegations has been handled by the highest court in India. Even though it would ideally have been in the spirit of the law laid down by the SC itself in Visakha case and the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (commonly referred to as POSH Act) to have an independent probe by an External Committee consisting of retired SC judges, one was hoping that the In-House Committee would follow well established legal norms for conduct of such enquiries and conduct the enquiry with the sensitivity due in a case of such magnitude.

Unfortunately, the final straw which fatally affected public perception as to whether fair procedure was followed and the concomitant view that gross injustice was being done became public, when the complainant was denied her request to be helped by a counsel or a representative during the hearing. The fact that she was requesting this both on account of her health infirmity (deafness in ear, emotional nervousness and health issues) as also the intimidating atmosphere of facing three of the senior most judges of the SC did not seem to have been sensitively appreciated by the 'In-House Committee'. Equally importantly the In House Committee seems to have ignored the reality of the very obvious power imbalance in the entire proceedings, while peremptorily rejecting her request. This apart, the complainant was neither informed of the procedural guidelines to be followed by the Committee nor was even allowed to have a copy of her own testimony on the ground that the enquiry was confidential. Eventually these circumstances forced her to publicly announce her lack of confidence in the impartiality of the Committee and her withdrawal from the Committee hearing.

In the final analysis, the final order of the Committee, passed ex parte, has in effect, grievously injured and tarnished the image and record of the highest court in the land of delivering fair justice in a manner in which justice is both done and "seen to be delivered".

In all the din over the controversial manner of conduct of the Enquiry, sufficient public attention has not been paid to the grossly disproportionate and excessive punishment of dismissal from service imposed on the woman staff for what, in other circumstances, will be considered minor or non-serious offences not warranting dismissal from service. Unless the Report is given to the woman Complainant, she will never know what was the nature of evidence gathered by the 'In-House Committee' regarding the detailed allegations made by her of the type of administrative harassment faced by her, the allegedly arbitrary nature of the disciplinary enquiry and the biased role of the SC administration in the manner of conduct of disciplinary action, the consequent arrest and prosecution by Delhi police of her and disciplinary action against her husband and his brother and as to whether the Committee came to any findings on these charges. It is also not known which persons the Committee examined regarding the allegations she made in her complaint supported by detailed contemporaneous documentation and the findings of the Committee on these charges.

What is most disappointing is that the highest judiciary has responded in precisely the same patriarchal manner in which most institutions in India have been seen to respond when allegations of sexual harassment are made against the highest and mightiest in that institution – viz., to vilify the woman complainant, close ranks to alienate her, intimidate anyone else from supporting her and in all other ways ensure that fair, considerate and judicious enquiry is denied to women complainants.

It is sad that an historic opportunity has been squandered by the Supreme Court to demonstrate its commitment to ensure fairness, gender justice, rule of law and natural justice, even when the highest functionaries of the highest court of the land is involved.

PUCL demands that:

1. The Complainant should be given the Report of the In-House Committee as it concerns her complaint and she has a right to know the basis on which the allegations made by her were rejected, which right includes the right to know the persons examined and the evidence gathered on which basis the In House Committee came to the conclusion that her complaint was not established. The right of the complainant to be given a copy of the Report is also mandated under sec. 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act).
2. This apart, it is part of fair play and procedural justice as mandated by the POSH Act that she be provided a copy of the Report as it is reported that Justice Gogoi has been provided with a copy of the Report.
3. The Report of the In-house committee be placed before the Full Court of the Supreme Court for an informed decision.
4. The Complaint should be placed before an Independent External Committee, headed by a Woman, with experts on sexual harassment and who have handled sexual harassment cases, which could also include former Judges of the Supreme Court to enquire into the allegations of sexual harassment against the CJI, Justice Ranjan Gogoi, made in the complaint dated 19.4.2019.
5. The Full Court of the Supreme Court should immediately formulate a mechanism to set up an independent Internal Complaints Committee in the Supreme Court, and to formulate and make public the Guidelines outlining the Procedural Rights, Rules and safeguards for conducting such an Enquiry into Sexual harassment made against Judges of the Supreme Court, including the CJI, keeping in mind the Guidelines and Principles formulated in Visakha case and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.



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