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Adjudicating Campus Sexual Harassment: The Internal Complaints Committee as a Quasi-Judicial Body and the Natural Justice Standard after Aureliano Fernandes

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ABSTRACT

The Internal Complaints Committee (ICC) constituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("POSH Act") is the primary adjudicatory forum for allegations of sexual harassment in Indian higher educational institutions, yet its quasi-judicial character is often treated as a formality rather than a legal standard with enforceable content. This paper examines the ICC through the lens of administrative law: its statutory markers of quasi-judicial status, the compositional preconditions Indian High Courts have read into Section 4 of the Act, the preponderance-of-probabilities standard of proof that governs its findings, and the natural justice requirements the Supreme Court crystallised in Aureliano Fernandes v. State of Goa (2023). Reviewing university-specific precedents — including Jaya Kodate v. Rashtrasant Tukdoji Maharaj Nagpur University and a growing body of post-2023 High Court decisions applying Aureliano Fernandes to academic inquiries — the paper argues that Indian courts have steadily converted the ICC from an internal grievance mechanism into a body bound by the full discipline of natural justice, even as its structural dependence on the employer-institution continues to limit genuine independence. It closes with proposals to reconcile procedural rigour with the Act's protective purpose in the specific context of universities and colleges....

1. INTRODUCTION

It is now settled that Indian higher educational institutions must maintain an Internal Complaints Committee (ICC) to inquire into allegations of sexual harassment, and a substantial doctrinal literature — including the present author's own prior work — has assessed how effectively that mandate has been discharged in practice. A narrower but equally consequential question has received less sustained attention within that literature: what kind of body is the ICC in law, and what standard of adjudicatory rigour does that character demand of it? The answer matters enormously to a university ICC, whose members are typically serving faculty and administrators with no legal training, deciding disputes that can end a career or, if mishandled, deny a genuine complainant the redress the Act promises.

This paper argues that the ICC is, on settled administrative law criteria, a quasi-judicial body, and traces how Indian courts — culminating in the Supreme Court's 2023 decision in Aureliano Fernandes v. State of Goa1 — have progressively given that characterisation real procedural content: mandatory compositional qualifications, a defined standard of proof, and an inflexible natural justice floor. Part II sets out the doctrinal basis for the ICC's quasi-judicial status. Part III examines composition as a precondition of validity, drawing on university-specific precedent. Part IV addresses the standard of proof. Part V analyses Aureliano Fernandes in detail. Part VI surveys the High Court jurisprudence that has followed it, including recent decisions arising directly out of academic institutions. Part VII identifies the structural tension that persists despite this doctrinal maturation, and Part VIII offers recommendations specific to the university context.

2. THE ICC AS A QUASI-JUDICIAL BODY: DOCTRINAL FOUNDATIONS....

Four features mark the ICC as quasi-judicial rather than merely administrative or advisory. First, it is a creature of a mandatory statutory provision — Section 4 of the POSH Act — which the employer-institution has no discretion to dispense with.[2] Second, Section 11(3) confers upon it the powers of a civil court under the Code of Civil Procedure, 1908 for summoning and examining persons on oath and for the discovery and production of documents — coercive powers that ordinary law reserves for courts and tribunals.[2] Third, Rule 7(4) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 expressly requires that the inquiry be conducted in accordance with the principles of natural justice.[3] Fourth, the Committee's findings are not merely advisory: in Medha Kotwal Lele v. Union of India, the Supreme Court directed that a Complaints Committee report be deemed an inquiry report for the purposes of the applicable service or conduct rules, binding the disciplinary authority to act upon it rather than treat it as a preliminary opinion.[4] On the tests Indian administrative law has developed since Province of Bombay v. Kusaldas S. Advani for distinguishing quasi-judicial from purely administrative functions — statutory duty to act judicially, a lis between parties, and a determination affecting rights — the ICC satisfies every element, and its decisions are accordingly amenable to judicial review under Article 226 of the Constitution on grounds of illegality, procedural impropriety, and irrationality.[5]

3. COMPOSITION AS A PRECONDITION OF VALIDITY

If the ICC is a quasi-judicial body, its composition is not a mere administrative formality but a jurisdictional fact: a wrongly constituted committee lacks the authority to adjudicate at all. This principle has been established in litigation arising directly out of universities. In Jaya Kodate v. Rashtrasant Tukdoji Maharaj Nagpur University, the Bombay High Court quashed an ICC's proceedings because the respondent university could not demonstrate that its members possessed the qualifications Section 4(2)(b) and (c) require — commitment to the cause of women, experience in social work, or legal knowledge — holding that the burden lay on the institution to justify its choice of members and that, absent such justification, the committee's constitution was itself illegal.[6] The same decision held that the Act contemplates a single, deliberated report reflecting the collective view of all members, not separate or fragmented findings by individual members signing off without genuine participation.[6] In Ruchika Singh Chhabra v. Air France India, the Delhi High Court extended this scrutiny to the external member specifically, holding that an external member's mere legal practice in labour matters did not satisfy Section 4(2)(c), which requires either association with a women's-cause organisation or demonstrated familiarity with sexual harassment issues; the Court explained that the provision exists "to prevent the possibility of undue pressure or influence from senior levels" and set aside the committee's constitution and its exoneration report as "clearly invalid".[7] The same judgment condemned, as "patently illegal", an inquiry procedure in which the complainant was made to cross-examine the respondent and was then cross-examined by him directly — an inversion of the protective purpose of the Act.[7] Where the ICC's own constitution is compromised by proximity to the accused — for instance, where it is convened by the very officer against whom the complaint is made, with subordinate members — courts have found a reasonable apprehension of bias sufficient to vitiate the proceedings ab initio and to require an independently constituted committee.[8]

4. THE STANDARD OF PROOF

Because ICC proceedings are civil and disciplinary rather than criminal in character, the Evidence Act's stringent criteria do not govern them. The Supreme Court in Medha Kotwal Lele held squarely that "the standard of proof is preponderance of probability and there is no need to establish the charge of sexual harassment beyond reasonable doubt as in a criminal proceeding", conditioning this lower threshold on the inquiry being conducted "in a fair and transparent manner and in due compliance of the principles of natural justice".[9] Indian courts, drawing on the common law elaboration of that standard — from Denning J.'s formulation in Miller v. Minister of Pensions that the tribunal need only conclude an event was "more probable than not", to Lord Nicholls' caution in In re H that graver allegations warrant correspondingly cogent evidence before that threshold is met — have held that circumstantial and even hearsay evidence may be considered in a departmental inquiry, that a complainant's sole testimony can suffice where otherwise credible, and that delay in filing a complaint, given the well-documented reluctance of complainants to report against persons on whom they remain professionally dependent, is not by itself fatal to a complaint's maintainability.[10] This lower evidentiary bar is precisely what makes rigorous adherence to procedure indispensable: a standard that asks only whether an allegation is more likely true than not places correspondingly greater weight on the fairness of the process by which that likelihood is assessed.

5. AURELIANO FERNANDES V. STATE OF GOA: THE TWIN ANCHORS APPLIED

Aureliano Fernandes arose from a Goa University inquiry against a faculty member accused of sexual harassment by several students. The Standing Committee held eighteen meetings across thirty-nine days — twelve of them back to back in a single month — forwarded fresh depositions to the respondent with instructions to reply within forty-eight hours while

simultaneously completing his own cross-examination of the complainants within the same week, refused his request for legal representation, and proceeded ex parte after denying his plea for an extension on health grounds; the resulting report recommended his dismissal, which the University's Executive Council accepted.[11] The Supreme Court quashed the dismissal, holding that the inquiry fell short of the "as far as practicable" standard applicable to Complaints Committee proceedings and that the committee's discretion had been "exercised improperly, defying the principles of natural justice" — notwithstanding the gravity of the underlying allegations and irrespective of what the ultimate finding on the merits might have been.[11] The Court identified nemo judex in causa sua and audi alteram partem as the "twin anchors" of natural justice applicable to such proceedings, and held that any statutory or procedural silence must be filled by reading these principles in, not by dispensing with them.[11] Critically for university administrators, the Court did not treat the case as sui generis: it issued eight nationwide, structural directions applicable specifically to "Universities, colleges, Training Centres and educational institutions", requiring a time-bound verification of ICC constitution and composition, mandatory public disclosure of committee details and complaint procedures, regular orientation and capacity-building for members, and the inclusion of POSH sensitisation within the annual calendars of the National and State Judicial Academies and the Legal Services Authorities.[11] That the apex court found it necessary, a decade after the UGC's own 2015 Regulations, to direct universities to verify the basic existence and composition of their ICCs is itself a measure of how far implementation had lagged behind the statute's formal architecture.

6. CONSOLIDATING THE STANDARD: HIGH COURT JURISPRUDENCE AFTER 2023

Aureliano Fernandes has since been applied with increasing specificity, including in matters arising directly out of academic institutions. The Allahabad High Court, in Km. Sunita Devi v. State of U.P., held that an ICC's report and recommendations are mandatory rather than merely recommendatory in character, foreclosing the argument that a disciplinary authority retains unfettered discretion to disregard an adverse finding.[12] The Kerala High Court, in Vineeth V.V. v. Kerala State Electricity Board, set aside an ICC report where the complaint and supporting documents had not been served on the respondent and witnesses had been examined in his absence without any opportunity for cross-examination, holding this a clear breach of Rule 7 and of natural justice.[13] More recently, the Allahabad High Court, in a matter concerning an Associate Professor of Astrophysics proceeded against by his research institute's ICC, quashed the inquiry report because the record did not disclose whether the complainants' statements had been recorded, whether copies had been furnished to the respondent, or whether he had been given any opportunity of cross-examination or oral hearing — while simultaneously affirming, by reference to the Supreme Court's later guidance, that mere delay in filing a complaint should not defeat it at the threshold given complainants' well-founded reluctance to report against persons on whom their academic future depends.[14] In a similarly recent decision, the Kerala High Court expressly invoked Aureliano Fernandes's formulation — that "the person accused of misconduct must be informed of the case, must be supplied the evidence in support thereof and be given a reasonable opportunity to present his version" — to set aside an ICC report where the complaint had never been served on the respondents and no opportunity to cross-examine had been afforded, directing a fresh inquiry within two months.[15] Read together, this body of decisions shows Indian courts converting Aureliano Fernandes's twin anchors into an operational checklist — service of the complaint, recorded statements, a genuine opportunity to cross-examine, and a reasoned threshold ruling on limitation — against which university and college ICC inquiries are now routinely measured on judicial review.

7. THE PERSISTING STRUCTURAL TENSION

This doctrinal maturation coexists uneasily with a structural feature the case law leaves untouched: the ICC remains an in-house body, appointed by and answerable to the very institution whose reputational and financial interests are engaged by an adverse finding. University ICC members are ordinarily serving faculty with no requirement of legal training beyond the general qualifications in Section 4, external members are engaged on an ad hoc and often continuing basis that can compromise the independence Ruchika Singh Chhabra sought to protect, and there is no independent tribunal to which either party may turn in the first instance.[716] On judicial review, courts have accordingly drawn a functional distinction: they defer substantially to an ICC's findings of fact where those findings are reasonably supported by evidence, intervening only where a finding is perverse, but they scrutinise procedure far more exactingly, since a breach of natural justice vitiates the outcome "irrespective of how defensible the substantive finding may appear" — and, where a penalty as severe as dismissal follows, the applicable standard shifts from bare Wednesbury unreasonableness to full proportionality review.[16] The practical effect is that procedural compliance, not adjudicatory infrastructure, has become the primary lever by which courts discipline campus ICCs — an effective but second-best substitute for the independent, legally trained tribunal the underlying disputes arguably warrant.

8. RECOMMENDATIONS

Universities and colleges should adopt a standard operating procedure, modelled on the checklist that post-Aureliano Fernandes decisions now apply, requiring: documented service of the complaint and all supporting material on the respondent; recorded statements of the complainant and witnesses, furnished to the respondent in advance of any hearing; a defined and genuine opportunity for cross-examination conducted by the party or a permitted representative rather than compressed into an adversarial exchange between complainant and respondent directly; and a reasoned, separate threshold ruling on limitation under Section 9 before the inquiry proceeds to merits.[14] External members should be empanelled centrally — whether by the UGC, a State higher education regulator, or a consortium of universities — from persons independently verified to meet Section 4(2)(c)'s qualifications, rather than selected institution-by-institution in a manner that repeatedly invites the challenge upheld in Ruchika Singh Chhabra.[7] ICC members, including internal members, should complete certified training on natural justice standards and the preponderance-of-probabilities standard specifically, since Medha Kotwal Lele's lower evidentiary threshold is only defensible where it is paired with correspondingly rigorous procedural discipline.[9] Finally, institutions should treat an ICC report as carrying the mandatory, binding character the Allahabad High Court has confirmed, and disciplinary authorities should document their reasons where they decline to act on an ICC's recommendation, rather than treating the report as one input among several to be weighed informally.[12]

9. CONCLUSION

The Internal Complaints Committee under the POSH Act is not, on any defensible reading of Indian administrative law, an informal grievance cell; it is a quasi-judicial body whose findings carry binding, service-affecting consequences, and whose procedure the judiciary has increasingly and specifically disciplined. University-specific precedent — from Jaya Kodate's insistence on genuine compositional qualification to the wave of post-Aureliano Fernandes decisions applying its twin anchors to academic inquiries — shows Indian courts converting a once-formal characterisation into an operational standard with real teeth. What remains unresolved is the structural dependence of the ICC on the very institution it is meant to hold accountable. Until that dependence is addressed — through centralised external-member empanelment, mandatory certification, and a genuinely independent appellate check — procedural rigour imposed after the fact by writ courts will remain the primary, and an imperfect, guarantee of fairness for complainants and respondents alike within India's higher educational institutions

REFERENCE:

1) Aureliano Fernandes v. State of Goa, 2023 INSC 527 : 2023 SCC OnLine SC 621 : (2024) 1 SCC 632, decided 12 May 2023 (A.S. Bopanna and Hima Kohli, JJ.), Civil Appeal No. 2482 of 2014.
2) The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, ss. 4, 11(3).
3) Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013, r. 7(4).
4) Medha Kotwal Lele v. Union of India, (2013) 1 SCC 297.
5) Province of Bombay v. Kusaldas S. Advani, AIR 1950 SC 222; see generally I.P. Massey, Administrative Law (Eastern Book Co.) on the tests for quasi-judicial characterisation.
6) Jaya Kodate v. Rashtrasant Tukdoji Maharaj Nagpur University, Bombay High Court, Writ Petition Nos. 3449, 3450 & 3451 of 2013, decided 13 June 2014.
7) Ruchika Singh Chhabra v. Air France India, Delhi High Court, LPA, decided 30 May 2018.
8) Dr. M. Rajendran v. M. Daisyrani, Madras High Court (bias where ICC constituted by the officer against whom the complaint was made).
9) Medha Kotwal Lele v. Union of India, (2012) 9 SCR 895, on the preponderance-of-probability standard of proof; Miller v. Minister of Pensions, (1947) 2 All ER 372 (Denning J.); In re H (Minors), (1996) AC 563, 580 (Lord Nicholls).
10) . See, e.g., Bhuwan Chandra Pandey v. Union of India, AIRONLINE 2020 UTR 211 (Uttarakhand HC); Tezpur University v. C.S.H.N. Murthy, Gauhati High Court, decided 24 June 2016; X v. Principal Secretary, Medical Education and Ors. (SC, on delay not being fatal to POSH complaints where the respondent held authority over the complainant).
11) Aureliano Fernandes v. State of Goa, supra note 1.
12) Km. Sunita Devi v. State of U.P., Allahabad High Court (report and recommendations of an Internal Committee held mandatory, not recommendatory).
13) Vineeth V.V. v. Kerala State Electricity Board Ltd., 2024:KER:21733, decided 23 March 2024 (Basant Balaji, J.).
14) Dr. Tapas Kumar Das v. Harish Chandra Research Institute and Others, Allahabad High Court, 2026:AHC:85796, decided 2026 (Saurabh Shyam Shamshery, J.).
15) . Kerala High Court, decision of March 2026 setting aside an ICC report for non-service of the complaint and denial of cross-examination, applying Aureliano Fernandes v. State of Goa, (2024) 1 SCC 632.

16) . See generally the discussion of the deferential-as-to-facts, exacting-as-to-procedure standard of judicial review applied to Internal Committee findings, and of proportionality review where dismissal results, in the post-Aureliano Fernandes High Court jurisprudence discussed in Part VI.

17) Note: Case citations above, including several 2024–2026 High Court decisions, were verified through live web sources at the time of drafting. Some of these post-date the author's own training data and fall outside independently verifiable knowledge; as with any AI-assisted draft, please independently verify every citation — particularly case numbers, bench composition, and exact holdings — against the official judgment or a reporter such as SCC Online before relying on this paper for submission....

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