

GAHC010048492026



2026:GAU-AS:3698-DB

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/69/2026

ALOKE KUMAR GHOSHAL
S/O SRI JAGABANDHU GHOSHAL, R/O QUARTER NO F-26, IIT GUWAHATI
CAMPUS, IIT GUWAHATI, AMINGAON, NORTH GUWAHATI, DIST. KAMRUP
(R), GUWAHATI 39, ASSAM.

VERSUS

THE INDIAN INSTITUTE OF TECHNOLOGY (IIT)
AMINGAON, NORTH GUWAHATI, DIST. KAMRUP (R), GUWAHATI 39,
ASSAM TO BE REPRESENTED BY THE DIRECTOR.

2:THE DIRECTOR

INDIAN INSTITUTE OF TECHNOLOGY (IIT) AMINGAON
NORTH GUWAHATI
DIST. KAMRUP (R)
GUWAHATI 39
ASSAM.

3:THE DEAN OF FACULTY AFFAIRS

INDIAN INSTITUTE OF TECHNOLOGY (IIT)
AMINGAON
NORTH GUWAHATI
DIST. KAMRUP (R)
GUWAHATI 39
ASSAM.

4:THE REGISTRAR

INDIAN INSTITUTE OF TECHNOLOGY (IIT) AMINGAON
NORTH GUWAHATI

DIST. KAMRUP (R)
GUWAHATI 39
ASSAM.

5:THE CHAIRPERSON

INTERNAL COMMITTEE FOR PREVENTION OF SEXUAL HARASSMENT OF
WOMEN AT WORKPLACE
INDIAN INSTITUTE OF TECHNOLOGY (IIT)
AMINGAON
NORTH GUWAHATI
DIST. KAMRUP (R)
GUWAHATI 39
ASSAM

Advocate for the Petitioner : MR. D SAIKIA, MS. PADMINI BARUA,MR. B GOGOI

Advocate for the Respondent : SC, IIT,

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 13.03.2026
(K.R. Surana, J)

Heard Mr. D. Saikia, learned senior counsel, assisted by Mr. B. Gogoi, learned counsel for the appellant. Also heard Mr. R.P. Kakoti, learned senior advocate, assisted by Mr. S. Sutradhar, learned counsel for the respondents.

Background facts:

2) In this order, all such particulars through which the identity of the complainant can be revealed, has not been disclosed. In this order, the victim is called X and the establishment where she had worked is referred to as "workplace".

- 3) The appellant is the writ petitioner in W.P.(C) No. 5959/2022.
- 4) Bereft of unnecessary particulars, the case of the appellant is that he was accused of committing sexual harassment of women at workplace. The victim X, had complained that on 01.12.2014, while she was attending to her duty and doing her assigned task, the appellant had raped her in their workplace. Therefore, apart from filing a complaint before the authorities of her workplace, X had also lodged an FIR before the jurisdictional police station on 11.12.2014.
- 5) The appellant was arrested on 16.12.2014, and owing to continued suspension since 17.12.2014, he had filed a writ petition and this Court, by order dated 28.07.2017, passed in W.P.(C) 2229/2015, allowed the writ petition with a direction for reinstating the appellant in service in his substantive post in the workplace. The said order was affirmed by the Division Bench by order dated 16.09.2017, in W.A. No. 262/2017. The said order was assailed before the Supreme Court of India and the Supreme Court of India, by order dated 16.09.2025, passed in Civil Appeal No. 11889 of 2025 [arising out of SLP(C) No. 1115/2018], set aside the order dated 16.09.2017, passed by the Division Bench of this Court in W.A. No. 262/2017; granted liberty to the authorities of the workplace to proceed and conclude the departmental inquiry against the delinquent officers expeditiously and preferably within a period six months from the date of order. The proceedings initiated by the appellant before this Court was expedited.
- 6) Be it stated that in the meantime, the complaint of X was referred to the Internal Complaint Committee ("ICC" for short). However, the ICC, vide its minutes dated 19.12.2014, for the reason that the matter is under trial and *sub judice* before the competent court, the ICC had decided to take no

action under her complaint. The competent authority of the victim's workplace requested the ICC to consult higher authorities about the role of ICC in such matters and ICC was directed to suggest some action plan. However, the ICC, vide minutes dated 27.04.2015, resolved that the matter is *sub judice* and it is beyond the jurisdiction of ICC to take any action and the matter may be referred to the higher State authority, as advised by the external member of the ICC. On a further request by the authorities of the workplace of the victim, the ICC, by its minutes dated 19.12.2014, again resolved that ICC cannot exercise its power beyond jurisdiction and that it stands by its resolution dated 19.12.2014.

7) It appears from the material available on the record that vide an interim order dated 25.06.2015, passed by this Court in W.P.(C) 3827/2013, had directed the authorities of the workplace not to proceed with the show cause notice. Later on, the show cause notice was withdrawn by the authorities in the workplace. Accordingly, the said writ petition was dismissed as infructuous vide order dated 31.10.2016.

8) Thereafter, the ICC was reconstituted vide office order dated 28.03.2022. The reconstituted ICC had completed its inquiry and submitted its report dated 27.06.2022, amongst others, and in short, holding that the circulation of note to the victim is unbecoming of a senior most faculty (of the workplace) and it amounts to an act of official misconduct by the appellant and it was further held that there exists sufficient grounds to probe into the allegations under the provisions of Section 3 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, Redressal) Act, 2013 (hereinafter referred to as "2013 Act" for short) by appropriate committee, also holding that the charge-sheet refers to rape and intimidation and not of sexual harassment

at workplace.

9) Accordingly, by filing a writ petition under Article 226 of the Constitution of India, the appellant had prayed for setting aside and quashing the ICC report dated 27.06.2022; consequential directions given to the appellant by email dated 26.08.2022; and to declare the present ICC inquiry and the inquiry conducted by the Inquiry Committee as bad in law.

Impugned judgment and order in W.P.(C) 5959/2022:

10) The learned Single Judge, upon hearing both sides, by judgment and order dated 07.02.2026, dismissed W.P.(C) 5959/2022.

11) In doing so, the learned Single Judge, took note of the decision of the Supreme Court of India in the case of *Vishaka & Ors. v. State of Rajasthan & Ors., (1997) 6 SCC 241*, by which the right of women to equality under Articles 14, 15 and 21 of the Constitution of India was upheld and it was observed that the said judgment led to the enactment of the 2013 Act. Moreover, by referring to the decision of the Supreme Court of India, in the case of *Dr. Sohail Malik v. Union of India & Anr., (2025) SCC OnLine 2751*, wherein the Supreme Court of India had dealt with the various steps by which the inquiry is required to be conducted by the ICC and thereupon submit a report and further opined that based on such inquiry report, the employer of the delinquent employee and the disciplinary authority has to decide as to whether disciplinary proceedings was warranted or not and that if the disciplinary authority of the employee was of the opinion that disciplinary proceedings are warranted, then a charge-sheet has to be issued to the delinquent employee. In this regard, the relevant paragraph nos. 58 to 68 and 72 were quoted.

12) The learned Single Judge had also taken note of the decision of

the Supreme Court of India in the case of *Medha Kotwal Lele & Ors. v. Union of India & Ors., (2013) 1 SCC 311*, wherein it was held that the Complaints Committee, under the guidelines, shall be deemed as the Inquiry Authority for the purpose of Central Civil Services (Conduct) Rules, 1964. The learned Single Judge had also taken note of the fact that the Central Government had amended the Civil Services (Classification, Control and Appeal) Rules, 1965 by inserting proviso to Sub-Rule (2) of Rule 14, relating to treatment of Complaint Committee as Inquiring Authority.

13) The learned Single Judge having observed that the complaint was submitted to the ICC on 16.12.2014, but the ICC constituted by the respondent no.1 did not inquire into the complaint. Accordingly, it was observed that the ICC had abdicated its duties cast upon them by the provisions of Section 10, 11 and 13 of the 2013 Act. Accordingly, it was held that from the reports dated 19.12.2014, 27.04.2015 and 19.06.2018, it appears that the ICC of the respondent no.1 were not conversant with the provisions of the 2013 Act, more particularly, to the effect that the ICC were empowered to look into the complaint and carry out an inquiry *de hors* investigation being carried out in the FIR so filed by X before the concerned police station. Accordingly, it was held that the reports dated 19.12.2014, 27.04.2015 and 19.06.2018, cannot be considered to be a fact finding inquiry or recommendation of the ICC. Accordingly, it was further held that the Committee constituted by the Office Order dated 28.03.2022 and the report submitted by the said Committee would not come within the purview of the 2013 Act or the steps that are required to be taken in terms of the Office Memorandum dated 16.07.2015. It was also held that the Committee was constituted only to ascertain whether the opinions rendered by the ICC so constituted by the respondent no.1 in the minutes of

meetings dated 19.12.2014, 27.04.2015 and 19.06.2018, was as per Section 11 and Section 13 of the 2013 Act and it was also held that the report dated 27.06.2022 was only an internal report which would have no bearing on the inquiry to be conducted on complaint by ICC. Resultantly, it was held that the ICC shall carry out the inquiry as per the 2013 Act as well as the Office Memorandum dated 16.07.2015. Paragraph 46 to 48 of the impugned judgment and order are quoted below:-

“46. It is the further opinion of this Court that though the Committee constituted vide the Office Order dated 28.03.2022 and the report so submitted on 27.06.2022 by the said Committee would not come within the purview of the Act of 2013 or the steps which are required to be taken in terms with the Office Memorandum dated 16.07.2015, but it is also the opinion of this Court that the said Committee was constituted only to ascertain whether, the opinions rendered by the ICC so constituted by the Respondent No. 1 in the Minutes of the Meetings dated 19.12.2014, 27.04.2015 and the report dated 19.06.2018 was as per Section 11 and Section 13 of the Act of 2013. The said report dated 27.06.2022 was only an internal report which would have no bearing on the inquiry to be conducted on compliant by the ICC. The ICC shall carry on the inquiry as per the Act of 2013 as well as the Office Memorandum dated 16.07.2015.

47. The ICC of the Respondent No. 1 having failed to discharge its duties and responsibilities in accordance to Section 11 and Section 13 of the Act of 2013 as well as the Office Memorandum dated 16.07.2015, is otherwise obligated to carry out the fact-finding/preliminary inquiry as mandated under law.

48. Considering the above, this Court does not find any merit in the instant writ petition. Accordingly, the instant writ petition stands disposed of with the following observations and directions:

(i) The writ petition lacks merit and accordingly stands dismissed.

(ii) Interim order(s) passed earlier stands vacated.

(iii) The ICC so constituted by the Respondent No. 1 shall forthwith initiate the preliminary/fact-finding inquiry, which constitutes the first stage in terms with the Office Memorandum dated 16.07.2015. Upon completion of the said inquiry, the ICC shall submit its report.

(iv) The Respondent No. 1 as well as the disciplinary authority of the Respondent No. 1 are further directed, upon submission of such report to consider, as to whether, any action for initiation of disciplinary proceedings is warranted against the Petitioner. This Court further directs that, if in the circumstances the Respondent No. 1 and the disciplinary authority of the Respondent No. 1 are of the opinion that disciplinary proceedings are warranted, a Charge Sheet be issued to the Petitioner. Upon issuance of the Charge Sheet, the ICC so constituted by the Respondent No. 1 shall conduct the second stage formal inquiry as the Inquiring Authority.

(v) Taking into account that the Central Civil Services (Classification, Control And Appeal) Rules, 1965 would be applicable, post the submission of the Inquiry Report submitted by the ICC of the Respondent No. 1, the needful be done.

(vi) It is also observed that keeping the timelines given by the Supreme Court in the order dated 16.09.2025 as already quoted above, the Authorities concerned are directed to expedite the proceedings.”

Submissions by the learned senior counsel for the appellant:

14) The learned senior counsel for the appellant had submitted that the question before this Court is as to how many reports the ICC can be allowed to make. It was submitted that the submission of reports, one after the other, cannot be allowed to be an endless affair.

15) It was also submitted that the principle of protection against double jeopardy, as provided under Article 20(2) of the Constitution of India would be squarely applicable in this case, because the appellant is facing

criminal trial and ICC inquiry at the same time.

16) By referring to the grounds of appeal, it was submitted that the learned Single Judge, if not satisfied with the writ petition, could have dismissed it, but it would not have given advise to the ICC and authorities of the workplace as to what to do. It was also submitted that the learned Single Judge could not have given directions operating against the appellant in his writ petition.

17) It was submitted that review is the creature of the statute and the 2013 Act did not empower the ICC to review its decision. In support of this submissions, the learned senior counsel for the appellant had cited the case of *Kalabharati Advertisement v. Hemant Vimalnath Narichania & Ors., (2010) 9 SCC 437 (para 12 and 13)*. It was also submitted that the authorities of the workplace (i.e. employer) had no business to tell the ICC what to do and then when they did not do what the authorities in the workplace desired, they had reconstituted the ICC and thus, influenced and procured the ICC report dated 27.06.2022.

18) It was submitted that by the impugned order, the learned Single Judge had revived the ICC complaint after a lapse of 11 years from the date of complaint and in the process, failed to take notice of the statutory time limit to complete the inquiry under the 2013 Act. Moreover, by virtue of the impugned order, the ICC was directed to re-open the case, which had attained finality.

19) Accordingly, it was prayed that the appeal be admitted for hearing and the operation of the impugned judgment and order be stayed in the connected interlocutory application for stay.

Submissions by the learned senior counsel for the respondents:

20) The learned senior counsel for the respondent, by referring to the impugned judgment, made his submissions in support of the impugned judgment and order. It was submitted that in light of the decision in the case of *Dr. Sohail Malik (supra)* and the OM dated 16.07.2015, the judgment and order, impugned in this intra-court appeal was justified.

Reasons and decision:

21) The first point to be considered is as to whether the minutes of meetings dated 19.12.2014, 27.04.2015, 19.06.2018 and 27.06.2022, can be said to be a report and/or recommendation of the ICC, as envisaged under Section 11 and Section 13 of the 2013 Act.

22) In this regard, the ICC, in its said four minutes, has observed as under:-

- a. As per minutes dated 19.12.2014, the ICC had observed that the matter is under trial and *sub judice* before the competent court and therefore, the ICC had decided to take no action under her complaint.
- b. By its minutes dated 27.04.2015, the ICC again resolved that the matter is *sub judice* and it is beyond the jurisdiction of ICC to take any action and the matter.
- c. By its minutes dated 19.12.2014, the ICC again resolved that ICC cannot exercise its power beyond jurisdiction and that it stands by its resolution dated 19.12.2014.
- d. By the minutes/report dated 27.06.2022, amongst others, it was held that the circulation of note to the victim is unbecoming of a senior most faculty (of the workplace) and it amounts to an act of official misconduct by the appellant and it was further held that there exists

sufficient grounds to probe into the allegations under the provisions of Section 3 of the 2013 Act by appropriate committee, further holding that the charge-sheet refers to rape and intimidation and not of sexual harassment at workplace.

23) Not to take any action because the matter is *sub judice*, as held in the three minutes dated 19.12.2014, 27.04.2015 and 19.06.2018, in the considered opinion of the Court, cannot be said to be either a recommendation or a report of the ICC, touching upon the complaint. In his aspect, this Court fully concurs with the finding of the learned Single Judge.

24) In the considered opinion of the Court, if any of these four minutes dated 19.12.2014, 27.04.2015, 19.06.2018 and 27.06.2022, would have been a report, it would have contained a finding reported to the employer of the delinquent officer, as envisaged under Section 11(1) of the 2013 Act, which is not available. Alternatively, there ought to have been a conclusion of the ICC, as envisaged under Sub-Section (2) of Section 13 of the 2013 Act, which again is not there. Moreover, based on the finding against the appellant, there should have been a recommendation as to whether any action was to be taken against the appellant or no action was required to be taken, which is the mandate of Sub-Section (2) and (3) of Section 13 of the 2013 Act.

25) Thus, the further observation by the learned Single Judge that the ICC of the respondent no.1 was not conversant with the provisions of the 2013 Act is again a correct observation. By taking a decision not to enquire into the matter, not only the ICC were not aware of the mandate of the provisions of Section 11 and 13 of the 2013 Act, but the ICC also had no idea of the Office Memorandum dated 16.07.2015, or the amendment to the CCS(CCA) Rules 1965, by which proviso to Sub-Rule (2) of Rule 14 was inserted, by which ICC

would be Inquiring Authority.

26) The ICC, by referring to the FIR and its investigation or pendency of trial, seems to have failed to appreciate the definition of "sexual harassment", as provided in Section 2(n) of the 2013 Act.

27) The Court is unable to accept the submissions made by the learned senior counsel for the appellant that the principle of double jeopardy would be attracted in this case. The 2013 Act envisages civil liability whereas for offences punishable under the erstwhile Indian Penal Code as replaced by the BNS, 2013, criminal consequences as per punishment awarded would follow. Thus, in the considered opinion of the Court, under the Scheme of the 2013 Act, read with Rule 14 of the CCA(CCA) Rules, 1965, the ICC can always inquire into the complaint independent of the investigation being carried out in the FIR filed by X before the concerned police station.

28) Thus, as it has been held that the report dated 27.06.2022, cannot be considered to be a fact finding inquiry or recommendation of the ICC, the learned Single Judge is right in holding that the Committee constituted by the Office Order dated 28.03.2022 and the report submitted by the said Committee on 27.06.2022, would not come within the purview of the 2013 Act because that is not a step that is envisaged under the Office Memorandum dated 16.07.2015. The learned Single Judge was right in arriving at a conclusion that the said Committee was constituted only to ascertain whether the opinions rendered by the ICC, so constituted by the respondent no.1, in the minutes of meetings dated 19.12.2014, 27.04.2015 and 19.06.2018, were as per Section 11 and Section 13 of the 2013 Act. The learned Single Judge was also correct in holding that the report dated 27.06.2022 was only an internal report which would have no bearing on the inquiry to be conducted on complaint by ICC.

This Court also arrives at the same conclusion because as per the minutes of the ICC, it was held that there exists sufficient grounds to probe into the allegations under the provisions of Section 3 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, Redressal) Act, 2013 (hereinafter referred to as "2013 Act" for short) by appropriate committee, also holding that the charge-sheet refers to rape and intimidation and not of sexual harassment at workplace. Thus, it is clear that the said Committee also did not do any inquiry, but it merely arrived at a conclusion that there exist sufficient grounds to probe into the allegation, further observing that the charge-sheet in the criminal case did not relate to the allegations of sexual harassment at workplace.

29) Thus the first point is answered by holding that the minutes/resolutions of meetings dated 19.12.2014, 27.04.2015, 19.06.2018 and 27.06.2022, cannot be held to be a report and/or recommendation of the ICC, as envisaged under the provisions of Section 11 and Section 13 of the 2013 Act.

30) An incidental point that is also answered by holding that after the minutes/ resolution dated 19.12.2014, the other minutes/ resolutions dated 19.12.2014, 27.04.2015, 19.06.2018 and 27.06.2022, not being a report and/or recommendation of the ICC, also do not amount to exercise of review by the ICC. Therefore, the case of *Kalabharati Advertisement (supra)*, does not come to the aid of the appellant.

31) The consequences of the aforesaid finding is that X, the victim, who is not a party in the writ petition or in this intra-court appeal, in the absence of any finding by the ICC, could not have approached the appellate authority by filing an appeal as envisaged under Section 18 of the 2013 Act. On the other hand, the employer of the appellant, had to make request to the ICC

to reconsider its decision, which also cannot be faulted with.

32) The second point is whether the learned Single Judge had erred in law in issuing directions that the ICC shall carry out the inquiry as per the 2013 Act as well as the Office Memorandum dated 16.07.2015.

33) In this regard, it is a matter of great concern that the ICC, which is supposed to be an expert committee in the matter relating to making the workplace safer, had not acquainted itself with (i) the provisions of Sections 11 and 13 of the 2013 Act; (ii) the provisions of Rule 14(2) of CCA(CCS) Rules 1965; and (iii) Office Memorandum bearing F.No. 1013/2/2014-Estt(A-III) dated 16.07.2015.

34) Therefore, the learned Single Judge had aptly held that the ICC had abdicated its duty.

35) Therefore, it appears that the learned Single Judge had no option, but to issue the directions, the relevant portion of which has been extracted hereinbefore.

36) The Supreme Court of India, in the case of *Vishaka & Ors. (supra)*, had sought to protect women at workplace, which had led to the enactment of the 2013 Act. With the intervention of the Supreme Court in the case of *Medha Kotwal Lele (supra)*, the OM dated 16.07.2015 was issued and also led to insertion of amendment in the CCS(CCA) Rules, 1965. Again the Supreme Court of India had, in the case of *Dr. Sohail Malik*, laid down the process and steps that are required to be taken by the ICC. Yet, totally ignorant about the above, in this case the ICC had abdicated its duty to inquire into the complaint and give its recommendation. Therefore, it was incumbent of the learned Single Judge of this Constitutional Court to issue further directions as

extracted hereinbefore. The Court does not find any of the observations to cause any prejudice to the appellant. Rather, after being satisfied that the ICC was not aware of the law, those observations is found to rather, help the ICC to adhere to the process prescribed by law to inquire into the complaint dated 16.12.2014, which was not done by the then ICC constituted by the respondent no.1. It is unfortunate that owing to lack of knowledge of the legal procedure, the complaint of the victim is pending for last 12 years. This is a gross injustice to the victim.

37) Thus, the second point is also decided by holding that the learned Single Judge had not erred in law in issuing directions that the ICC shall carry out the inquiry as per the 2013 Act as well as the Office Memorandum dated 16.07.2015.

38) Before parting with the records, two points must be recorded, which are as follows:

- a. Firstly, that X, the victim has not been arrayed as a respondent in the writ petition or in this intra-court appeal.
- b. Secondly, the direction of the Supreme Court of India in its order dated 16.09.2025, passed in Civil Appeal No. 11889 of 2025 [arising out of SLP(C) No. 1115/2018], was to the effect that the appellant before it, i.e. the respondents herein was to proceed and conclude the departmental proceedings initiated against the delinquent officers expeditiously and preferably within a period of six months from 16.09.2025. The said end period seems to be approaching on 15.03.2026. However, the learned senior counsel for the respondents had submitted that he is not instructed on the present status of

departmental inquiry.

39) Thus, as no infirmity whatsoever is found in the judgment and order impugned in this intra-court, the judgment and order dated 07.02.2026, passed by the learned Single Judge in W.P.(C) 5959/2022 is hereby affirmed. Resultantly, this intra-court appeal is dismissed.

40) The parties are left to bear their own cost.

JUDGE

JUDGE

Comparing Assistant