

# AISA GENDER SENSITISATION COMMITTEE AGAINST SEXUAL HARASSMENT POLICY

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As part of the movement to ensure gender equality in every social space, we have made demands for the setting up of Gender Sensitisation Committees Against Sexual Harassment (hereinafter referred to as 'GSCASH') in institutions and workspaces across the country. The movement for gender equality has repeatedly emphasized the need to battle patriarchy, misogyny and sexism within progressive spaces and organisations as well.

It is in this regard that the All India Students' Association, in its 9<sup>th</sup> National Conference, passed a resolution to form an anti-sexual harassment cell and gender sensitisation body for the organisation and has adopted the 'AISA Gender Sensitisation Committee Against Sexual Harassment Policy' (hereinafter referred to as the 'policy').

**AIMS AND OBJECTIVES OF THE GSCASH:**

AISA takes serious objection to all forms of sexual harassment in the organisation as it infringes the fundamental right of a person under Article 14 and 15 and their right to life and live with dignity under Article 21 of the Constitution of India, which includes right to safe environment free from sexual harassment.

This Policy has been drafted in accordance with and drawn from the Supreme Court judgment on "Sexual Harassment of Women at the Workplace in Vishakha & Ors. Vs. State of Rajasthan & Anr. [AIR 1997 SC 3011]" and "The Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013". AISA endeavours to uphold the commitment of the organisation to provide and enable gender inclusive environment free from all forms of discrimination and violence against women and gender minorities. AISA takes all allegations of sexual harassment seriously and has constituted a GSCASH, which will respond with due seriousness to all complaints. Anyone facing sexual harassment at the hands of a member of the organisation, should approach the GSCASH to take actions with severity. The misconduct should be immediately reported using the procedures delineated in this Policy.

In fulfilling our responsibility to uphold gender justice, all National Council members, State Committee members, Unit Committee members and all those in office-bearer positions are expected to immediately halt any harassment which comes to their attention and are expected to report violations to the GSCASH. They must ensure the implementation of the policy in letter and spirit by undertaking all necessary and reasonable steps for the purpose of gender sensitisation of all members.

## **Redressal of Sexual Harassment**

To address complaints to sexual harassment of members and against its members, and battling normalisation of sexism and misogyny within the organisation, it is necessary for political organisations and movements to have an autonomous GSCASH to ensure zero-tolerance against sexual harassment within our movement. AISA aims to fulfil all its obligations and duties towards preventing, prohibiting and redressing instances of sexual harassment within the organisation.

## **Prevention Mechanism**

Within the larger framework of a principled commitment to ensure an organisational space where everyone can experience equality, respect and justice, regardless of their sex or gender identity, caste, sexuality, community affiliation, ethnicity, race, language, religion and culture. Active prevention and redressal of violation of gender sensitivity shall be followed in the organisation.

### 1. SCOPE AND JURISDICTION

The provisions of this policy shall apply to all members of the organisation to the extent as specified hereinunder –

- 1) By a member against a member of the organisation, irrespective of whether sexual harassment is alleged to have taken place within or outside the organisation space
- 2) By a non-member of the organisation against a member of the organisation is alleged to have taken place within or outside the organisation space
- 3) By a member against non-member, and the form of redressal in such case shall be initiated in accordance with the provisions specified in Section 12(1) of this policy.

### 2. DEFINITIONS

- 1) **"Alternate Dispute Resolution"** refers to any means of settling disputes to help parties resolve disputes without going into an enquiry, and is non adversarial in nature, and helps to maintain co-operation, social order and provides opportunity to reduce hostility, and may include conciliation, mediation, among other methods, and shall be conducted by the members of GSCASH
- 2) **"Aggrieved Person"** means any member or non-member of the organisation, who is a woman or a person from gender minority, who experiences any act of sexual harassment by the respondent
- 3) **"Chairperson"** means the Chairperson of the GSCASH
- 4) **"Enquiry Committee"** includes the members from among the GSCASH who will conduct enquiries into complaints of sexual harassment filed by members and non-members against members
- 5) **"External Member"** includes any person who is not part of organisation and is working in the sphere of gender justice.
- 6) **"GSCASH"** shall refer to the Gender Sensitisation Committee against Sexual Harassment of AISA
- 7) **"Member"** includes any person who is enrolled as a primary member of the organisation in any unit across India. Any unit meaning, part of a college/institute/university/city/village/block/district/state unit.
- 8) **"NGO"** includes any Non-Governmental Organisation registered under the Societies' Registration Act or as a public charitable trust recognised under law. Such a society/charitable trust should have been engaged in work for gender equality, particularly for

the amelioration of the status of women, for a minimum of three years prior to the date of empanelment.

- 9) **"Organisation"** refers to All India Students' Association, including the National Council, National Executive Committee, State Committees, District Committees and all units and bodies formed and constituted by its members
- 10) **"Respondent"** means a person against whom the aggrieved person has made a complaint and is a member of the organisation
- 11) **"Sexual harassment"** in this context, (as is described in the Supreme Court Judgement, and the GSCASH), includes any unwelcome sexually determined behaviour, whether directly or by implication, and includes physical contact and advances, a demand or request for sexual favours, sexually coloured remarks, showing pornography, and other unwelcome physical, verbal or non-verbal conduct of a sexual nature. It shall include, but will not be confined to, the following:
  - i. When unwelcome sexual advances, requests for sexual favours, and verbal or physical conduct of a sexual nature are made, either explicitly or implicitly, a term of condition of instruction, favourable treatment, participation, or involvement in activities of the organisation or posting of unwelcome messages on social media and other internet sites.
  - ii. When unwelcome sexual advances and verbal, non-verbal, or physical conduct such as loaded comments, slander, remarks or jokes, letters, phone calls or e-mail, SMS, MMS, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, sounds or display of a derogatory nature have the purpose or effect of interfering with an individual's performance or of creating an intimidating, hostile or offensive organisational environment for any individual or group including during a festival/cultural programme.
  - iii. It includes the creation of a hostile retaliatory environment, use of objects as extension of the sexualised body, inappropriate promise of rewards for sexual favours or implied or explicit promise of preferential or detrimental treatment (quid pro quo harassment), and any single or repeated act that creates an undesirable, uncomfortable, humiliating or hostile environment for living, working, learning, or political activity.
- 12) **"Supreme Court Judgement"** shall refer to the guidelines on the prevention and deterrence of sexual harassment in the workplace laid down by the Supreme Court of India on 13 August 1997 in its ruling on the Writ Petition (Criminal) Vishaka vs. State of Rajasthan and the judgment titled Apparel Export Promotion Council vs. A.K. Chopra, on 20<sup>th</sup> January 1999.' Justice J.S.Verma Committee Report refer to the report by Justice JS Verma Committee set up by GOI after incident of 16 December 2012 and "Work Place Act" refer to the act issued by Ministry of Law and Justice on April 23 ,2013.
- 13) **"Third Party"** shall include the NGO representative or the eminent woman academician serving on, or empanelled by, GSCASH.

### 3. CONSTITUTION AND COMPOSITION OF GSCASH

#### 1) Constitution of GSCASH

- a. The GSCASH body shall constitute not more than seven members, and not less than five members, and shall constitute the following members, namely:-

- i. A chairperson, who shall be nominated or elected by the members of GSCASH from among themselves through unanimity, consensus or a simple majority;
- ii. Not less than four members from amongst the members of the organisation
- iii. Not less than three members from amongst such non-governmental organisations or association or other individuals experienced in dealing with the issues relating to sexual harassment

Provided that at least fifty percent of the members so nominated shall consist women and LGBTQI+ communities

- b. The members of GSCASH shall be nominated or elected at the All India Conference of the organisation
- c. In the interim of the All India Conference, the National Council will have the authority to appoint members to the GSCASH

## 2) Term of Office of GSCASH Members

Every member of the GSCASH shall hold office for such a period, not exceeding twelve months from the date of nomination, with an option for extension for one more term

## 3) Constitution of Enquiry Committee

- a. All enquiries into complaints shall be conducted by a three-member 'enquiry committee' elected from among the GSCASH members
- b. The Enquiry Committee shall have not less than two members from within the organisation and one member from such non-governmental organisations or association or other individuals experienced in dealing with the issues relating to sexual harassment

## 4) Disqualification of Members

- a. A member shall be disqualified from being appointed, elected, nominated or designated as, or for being continued as, a member of GSCASH, if there is any complaint of sexual harassment against such member, or if they have been found guilty of sexual harassment, serious misconduct, or breach of confidentiality
- b. GSCASH shall take suo moto cognizance of breach of code of conduct and/or confidentiality committed by any of its members
- c. If any member is found to be guilty of sexual harassment, serious misconduct or breach of confidentiality, the GSCASH shall pass a resolution for the disqualification of such member

## 5) Resignation of Members

A member of GSCASH may resign office at any time after giving prior notice of four weeks, by tendering their resignation in writing to the Chairperson. Such member shall be deemed to have vacated their office after the GSCASH passes a resolution accepting such resignation. If the resolution accepting the resignation has not been passed for three months, the resignation is deemed to have been accepted.

## 6) Filling Vacancy in GSCASH

In case of vacancy in GSCASH, the same shall be filled through nomination of a member by the National Council within four weeks from the date of the seat falling vacant. No act or proceedings of GSCASH shall be invalidated merely by reason of a vacancy.

7) Appointment of State-level Volunteers to GSCASH

The GSCASH shall identify and appoint volunteers from each State to assist the GSCASH with complaints, enquiry process, including translations and support to the Aggrieved Person; a list of such volunteers shall be published on the website of the organisation. In case the volunteer appointed is related in any manner whatsoever to a particular complaint that arises therein, including relationship with the Aggrieved Person or the Respondent, the State Committee shall volunteer another member in the unit to assist the GSCASH.

4. PROCEDURE TO BE FOLLOWED BY GSCASH

1) Procedure to Register Complaints

a. Recording of Complaints

Any aggrieved person may make in writing, a complaint of sexual harassment to the GSCASH, in the prescribed form and manner,

- i. Directly to the chairperson or any member of the GSCASH or through the state-level volunteer (as provided for in Section 3(7))
- ii. Provided where such complaint cannot be made in writing, the chairperson or any member of the GSCASH may render all reasonable assistance to the aggrieved person for making the complaint in writing immediately within 24 hours
- iii. The mechanism for registering complaints should be safe, accessible and sensitive and the same must be conspicuously published by the organisation
- iv. All complaints must be brought by the aggrieved person in-person and must be authenticated by the aggrieved person bearing their signature or thumb impression, as the case maybe in the prescribed format
- v. In exceptional cases, where the Aggrieved Party is unable to come forward to make the complaint, Third Party/witness complaints may be entertained. In such cases, the GSCASH will ascertain whether the aggrieved person wishes to lodge a formal complaint. Once such a complaint is received, the GSCASH shall proceed to enquire into the complaint as per procedure specified

b. Withdrawal of Complaint

The Aggrieved Person may withdraw their complaint in writing to the GSCASH, at any time before or during the mediation or enquiry process, and upon receipt of such notice for withdrawal, any and all processes initiated by the GSCASH shall stand terminated, save in instances in which the Enquiry Committee is informed, has knowledge of, or has reasons to believe, that the reasons for such withdrawal are the consequences or effect of inducement, coercion and/or intimidation exerted by the Respondent(s), or any person on their behalf, on the Aggrieved Person. In such case, the enquiry proceedings shall continue in accordance with the procedure outlined in Section 4(4).

2) Procedure Upon Receiving Complaint

- a. All complaints must be received and recorded by a member, who shall inform the Chairperson, who shall in turn call a meeting of the GSCASH

- b. All meetings of the GSCASH will be called by the Chairperson and a notice of at least five working days must be given for the meeting, in exceptional cases, an emergency meeting may be convened as per requirement
- c. Within ten days of the receipt of a complaint, the GSCASH must determine whether a prima facie case of sexual harassment is made out. It shall carefully consider the complaint and may hear the aggrieved person and the Respondent and/or any other relevant person to determine whether an enquiry is to be instituted. If the GSCASH considers it necessary to hear the Respondent at this preliminary stage, it shall issue a notice to the Respondent as per Form B
- d. Upon receipt of the complaint and determining whether a prima facie case of sexual harassment is made out, the GSCASH shall issue a restraint order to the Respondent as per Form C
- e. If the GSCASH decides not to conduct an enquiry into a complaint, due to the absence of a prima facie case, it shall record the reasons for the same in the minutes of the GSCASH meeting and the same shall be made available to the aggrieved person in writing.

### 3) Alternate Dispute Resolution

- a. After the GSCASH determines whether a prima facie case of sexual harassment is made out, the GSCASH may ask the Aggrieved Person if they would like to adopt alternate dispute resolution mechanism, before a formal enquiry is initiated into the complaint. The process of alternate dispute resolution is entirely voluntary and shall be at the behest of the aggrieved person only
- b. At no time during this process and before the enquiry is instituted, shall the aggrieved person and the respondent be put in a situation where they have to face each other, keeping strictly in view the guidelines in the Supreme Court Judgement
- c. No person who is an Aggrieved Person, witness, or respondent in the complaint of sexual harassment shall be a member of the Enquiry Committee.

### 4) Procedure to be Followed by Enquiry

The Enquiry Committee shall inquire into the complaint of sexual harassment following procedures in conformity with principles of natural justice and gender sensitivity;

- a. Within two days of the institution of the enquiry proceedings, the Enquiry Committee shall prepare a summons in the form and manner prescribed, containing the details of the complaint, such as the location, date and time on which the incident is alleged to have occurred and shall hand over the same to the Aggrieved Person as well as to the Respondent, along with a copy of this Policy. The Respondent shall be furnished a true copy of the complaint, along with the chargesheet. It shall also intimate the Respondent and the Aggrieved Person the contact details of all members of the Enquiry Committee.
- b. The Enquiry Committee shall inform the Respondent in writing about the material particulars of the charges made against him and he should be given an opportunity to respond to the charges
- c. During the enquiry proceedings, the Aggrieved Person and/or their witnesses and the Respondent shall be called separately, so as to ensure freedom of expression and an atmosphere free of intimidation

- d. The procedure to be followed by the Enquiry Committee must be clearly explained to both the Aggrieved Person and the Respondent at the time of receiving their testimonies for the purpose of the enquiry
- e. The Aggrieved Person and the Respondent shall furnish a list of witnesses, along with contact details of such witnesses, that s/he desires the Enquiry Committee to examine
- f. The Aggrieved Person and the Respondent shall be responsible to present their witnesses before the Enquiry Committee
- g. Both the Aggrieved Person and the Respondent will be allowed to be accompanied by one representative during the enquiry, and such representative shall be bound by the oath of confidentiality
- h. The Enquiry Committee may call any person to appear as a witness if it is of the opinion that it shall be in the interest of adjudication of the issues involved in the enquiry
- i. The Respondent, Aggrieved Person and witnesses shall be intimated at least seventy-two hours in advance in writing of the date, time and venue of the enquiry proceedings. The responsibility of communicating with the witnesses, lies with the Aggrieved Person or the Respondent, as the case maybe, regarding the date, time and venue of such meeting
- j. The venue of the enquiry should take into consideration the convenience and security of the Aggrieved Person
- k. If the Aggrieved Person, the Respondent or the witness desires to appear before the Enquiry Committee accompanied by one person of their choice, they shall communicate to the Enquiry Committee the name of that person. Such a person shall have only observer status and her/his presence during the proceedings shall be restricted to the testimony of the individual s/he is accompanying
- l. The identities of the Aggrieved Person and all witnesses shall throughout be protected and kept confidential by the Enquiry Committee
- m. The Enquiry Committee shall inform the Aggrieved Person that they may give their evidence in writing, provided that they make themselves available for examination by the Respondent on the same, unless the Aggrieved Person opts to give their evidence orally
- n. The Enquiry Committee shall have the right to summon, as many times as required, the Respondent, Aggrieved Person and/or any witnesses for the purpose of supplementary testimony and/or clarifications
- o. The Aggrieved Person and the Respondent shall have the right of cross-examination of all witnesses. However, such cross examination shall be conducted in the form of written questions and responses via the Enquiry Committee only. The Respondent shall have no right to directly cross-examine the Aggrieved Person or her Respondent's witnesses
- p. The Respondent or the Aggrieved Person may submit to the Enquiry Committee, a written list of questions that to pose to the Aggrieved Person, the Respondent or the witnesses. The Enquiry Committee shall retain the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, slanderous, derogatory or gender-insensitive. Any behaviour, verbal or otherwise, on part of the Respondent or his nominee, that is designed to intimidate or subject the Aggrieved Person or their witnesses to mental and physical trauma, can lead the Enquiry Committee to recommend disciplinary action against the Respondent



- q. The Enquiry Committee shall inform the Aggrieved Person that they may give their answers to questions of a sensitive nature in writing at the enquiry proceedings during cross examination
- r. All information received in the course of the examination and enquiry into a complaint of sexual harassment shall be held in trust by the GSCASH and Enquiry Committee and the same shall not be made available as such disclosure of information may endanger the life or physical safety of the Aggrieved Person or any of the witnesses.
- s. In the event that the Enquiry Committee thinks that supplementary testimony is required, the Enquiry Committee shall forward to the persons concerned, a summary of the proceedings to allow for a testimony in person or in writing, to the Enquiry Committee
- t. The Enquiry Committee shall provide all reasonable opportunity to the Aggrieved Party and the Respondent to present and defend their case
- u. The Aggrieved Person and the Respondent shall be informed that counselling services can be made available to them if they so desire
- v. If the Enquiry Committee believes that the absence of either of the parties to the dispute is on valid grounds, the Enquiry Committee shall adjourn that particular meeting after recording reasons for the same
- w. The Enquiry Committee shall have the power to summon any official papers or documents pertaining to the complaint under enquiry
- x. The Enquiry Committee may consider as relevant any earlier decisions pertaining to sexual harassment against the Respondent. However, the past sexual history of the Aggrieved Person shall not be probed into as such information shall be deemed irrelevant to a complaint of sexual harassment
- y. If the Aggrieved Person desires to tender any document by way of evidence, the Enquiry Committee shall supply true copies of such documents to the Respondent. Similarly, if the Respondent desires to tender any documents in evidence, the Enquiry Committee shall supply true copies of such documents to the Aggrieved Person.
- z. The Aggrieved Person and the Respondent, or any one person on their behalf, shall have the right to examine written transcripts of the recordings once prepared. No person who has been found guilty of sexual harassment shall be accepted as a nominee. The Aggrieved Person/Respondent should inform the Enquiry Committee specifically if they wish to exercise this right. At no point in time, however, can the concerned parties publicise these documents outside the enquiry process
- aa. All persons heard by the Enquiry Committee, as well as observers/nominees, shall take and observe an oath of secrecy about the proceedings to protect the dignity of the Aggrieved Person and the Respondent. Any violation of the oath of confidentiality shall invite penalties  
[Exception: The Aggrieved Person has the right to go public about the complaint of sexual harassment if they so desire. If the Aggrieved Person goes public before filing the complaint with the GSCASH, the same shall not prejudice the Enquiry Committee. Once a complaint has been given to the GSCASH, the Aggrieved Person should preferably not go public till the enquiry is completed, unless there are compelling reasons for them to do the same.]

- bb. The Enquiry Committee shall be sensitive to the covert, private and insidious nature of sexual harassment and shall take into account that often the Aggrieved Person may not be able to submit/present direct or corroborative evidence
- cc. The Enquiry Committee shall not permit any evidence or examination based on the Aggrieved Person's character, personal life, conduct, personal and sexual history
- dd. The Enquiry Committee shall take note of the respective socio-economic positions of the parties, their hierarchy in the organisation and other power differences while appreciating the evidence
- ee. Nothing precludes the Enquiry Committee from taking cognizance of any new fact or evidence which may arise or be brought before it during the pendency of the enquiry proceedings. If a new fact or evidence is brought to the notice of the GSCASH after the submission of the enquiry report to the National Council, the Aggrieved Person or the Respondent as the case may be must be provided with an opportunity to examine such new fact or evidence, before taking cognizance.
- ff. All Proceedings of the Enquiry Committee shall be recorded in writing. The record of the proceedings and the statement of witnesses shall be endorsed by the persons concerned in token of authenticity thereof and shared immediately with the parties.
- gg. The Enquiry Committee shall have the right to terminate the enquiry proceedings and to give an ex parte decision on the complaint, should the Respondent fail, without valid ground, to present himself for three consecutive hearings convened by the Enquiry Committee
- hh. The Enquiry Committee shall strive to complete the enquiry within ninety days from the date on which the enquiry commences. In the event of any delay in submission of the enquiry report, the reasons for the same shall be recorded in writing

#### 5) Oath of Confidentiality

- a. All members of GSCASH shall mandatorily sign an oath of confidentiality; any breach of confidentiality shall cause disqualification from GSCASH
- b. The GSCASH members or others who receive the complaint, will respect the confidentiality of the aggrieved person and the respondent against whom the complaint is filed as much as possible, except as may be reasonably necessary to successfully complete the investigation and the necessity to investigate allegations of harassment and initiate disciplinary action when there is a reasonable belief that the conduct has occurred.

#### 6) Report and Findings of the Committee

- a. After concluding its enquiry, the Enquiry Committee shall prepare a detailed and written report of its findings. The enquiry report shall specify the details of the charge(s) against the Respondent, the statement made and evidence presented in the enquiry and a discussion of the reason upon which the findings were arrived at by the Enquiry Committee.
- b. No observations regarding the work and behaviour of either the Aggrieved Person or the Respondent shall be made, which are not related to the alleged act of sexual harassment. However, the Enquiry Committee may consider as relevant any earlier complaints of sexual harassment against the Respondent.

- c. Upon the completion of the enquiry, the Enquiry Committee shall by a detailed and reasoned order pass any of the following orders:
  - i. If the Enquiry Committee finds no merit in the complaint, it shall write to the GSCASH giving reasons for its conclusion. The Enquiry Committee may then dismiss the complaint which was the subject of the enquiry.
  - ii. If the Enquiry Committee finds that the complaint is proven on a balance or probabilities, it shall give a detailed and reasoned finding to that effect
  - iii. In the event that the Enquiry Committee finds the Respondent guilty of sexual harassment, it shall also recommend the nature of penalty to be initiated taking into consideration the gravity of the offence of which he has been found guilty and the impact on the Aggrieved Person.
  - iv. In the event the enquiry is prematurely terminated owing to withdrawal of complaint as per Section 5(1)(b) or by placing the Respondent ex parte as per Section 5(4)(q), the same maybe recorded in detail by the Enquiry Committee
- d. After the preparation of the Enquiry Report by the Enquiry Committee, the same shall be forwarded to the Chairperson of the GSCASH who shall convene a meeting. Each member of the GSCASH shall have the right to access the entire enquiry proceedings, or any part thereof.
- e. The GSCASH will adopt the Enquiry Report and the same shall be forwarded to the National Council, along with a Summary of the Recommendations

#### 7) Communication of Findings

- a. Upon receipt of the Enquiry Report and the Summary of Recommendations, the National Council will promptly act on the Enquiry Report
- b. A copy of the Enquiry Report shall be sent to the Aggrieved Person and the Respondent by the National Council
- c. The National Council shall implement the recommendations of the GSCASH. In case of non-implementation of the said recommendations, reasons for the same shall be recorded in writing and the same shall be communicated in writing to the GSCASH
- d. The National Council shall provide an opportunity to the Respondent to reply to the Enquiry Report through oral or written representation and in accordance with principles of natural justice
- e. The Summary of Recommendations shall be forwarded to the committee/unit to which the Respondent belongs for the implementation of the recommendations made by the Enquiry Committee
- f. The committee/unit shall impose the penalty within one month of the receipt of the Summary of Recommendations
- g. An action taken report shall be submitted by the relevant committee/unit on the implementation of the recommendation made by the Enquiry Committee, to the National Council, who will then forward the same to the GSCASH

#### 5. PENALTIES

Any member found guilty of sexual harassment shall be liable for disciplinary action. The penalties listed below, in ascending order are indicative of the severity of penalty, and

shall not constrain the GSCASH from considering other options of penalty where it is deemed necessary after consultation of all GSCASH members.

1) Penalties in case of Members

- a. Warning or reprimand
- b. Suspension from organisation decision-making posts
- c. Suspension from organisation for a period up to one month to twenty-four months
- d. Terminating organisational membership of the member

In addition to the penalties specified under this Section, the person maybe advised to undergo counselling and gender sensitisation, and to give a written and/or public apology to the Aggrieved Person as per Form D.

2) Penalty in case of second offence

A second or repeated offence, may, on the recommendation of GSCASH, attract a major penalty which the GSCASH might decide upon, i.e., increase the tenure of suspension to withdrawing primary membership of the member.

6. FUNCTIONS OF GSCASH

1) Duties of GSCASH

- a. To receive and take cognizance of complaints made about sexual harassment against members of the organisation
- b. To conduct enquiries into these complaints, place findings before the National Council and recommend penalties against the Respondent in accordance with the rules and procedures laid down
- c. To ensure the protection against victimisation of the Aggrieved Person and witnesses during the pendency of the inquiry and till the final determination of the complaint, by advising the concerned committees/units to issue warning, suspension or any other order, if the Respondent harasses or intimidates the Aggrieved Person or the witnesses
- d. To make efforts to ensure that the Aggrieved Persons and the witnesses are not further victimized or discriminated against while it is dealing with the complaint. The committee shall take action against anyone who threatens or intimidates the Aggrieved Person or the members of the committee. This may be in the nature of issuing a restraint order against the Respondent or any other person/s
- e. To seek medical, police and legal intervention with the consent of the Aggrieved Person
- f. To make arrangements for appropriate legal psychological/emotional and physical support for the Aggrieved Person if they so desire in terms of providing referral numbers
- g. To work towards creating an atmosphere promoting equality, non-discrimination and gen justice
- h. To promote and facilitate measures to create a work environment that is free of sexual harassment

- i. To publicise widely the policy against sexual harassment in Hindi, English and in regional languages, and to display the same on the website and all offices of the organisation
- j. The GSCASH shall publicise the phone numbers of its members, state-level volunteers and the members of the Appellate Body in Hindi, English and in regional languages, and to display the same on the website and all offices of the organisation
- k. Every new member shall be informed that the organisation has a policy against sexual harassment and is committed to providing an environment free from sexual harassment
- l. To regularly organise and carry out programmes for gender sensitisation of its members through workshops, seminars, posters, film shows, debates, etc. in every committee/unit
- m. The GSCASH shall take suo moto notice of grave violations of the basic principles of gender sensitivity and gender justice in the organisation

## 2) Meetings of GSCASH

- a. GSCASH shall meet at regular intervals as may be necessary provided that the interval with at least a meeting in a month
- b. Members shall be intimated of meetings in writing or by electronic communication. Some sort of record of intimation of meeting kept with an official of GSCASH is recommended
- c. Minutes of all meetings shall be recorded, confirmed and adopted.
- d. Any member of GSCASH may request the Chairpersons to call an Ordinary Meeting. Forty-eight hours notice shall be required for such a meeting to be called. The quorum for an Ordinary Meeting shall be one-third of the existing members of GSCASH. Motions shall be carried by a simple majority of those present and voting. All meeting shall be chaired jointly chaired by the external and internal chairperson. In case of a tie in votes, the decisions of the chairpersons shall prevail and in case of differing opinions between the two, the decision of the external chairperson shall prevail.
- e. Any member of GSCASH may request the Chairperson to call an Emergency Meeting. The GSCASH chairperson shall call the meeting with at least twenty-four hours notice. The quorum for an Emergency Meeting shall be one-third of the existing members of GSCASH with the necessary presence of the Chairpersons. Motions shall be carried by a simple majority of those present and voting.
- f. All meeting shall be chaired either by the external or internal chairperson, depending on nature of agenda. In case of a tie in votes, the decisions of the chairpersons shall prevail and in case of differing opinions between the two, the decision of the external chairperson shall prevail.
- g. A Special meeting shall be called by the Chairperson of GSCASH, with at least twenty-four hours notice. It shall have a quorum of one-third of the existing internal and external members of GSCASH. Motions shall be carried by a two-thirds majority of the members present and voting. All Special meetings shall be chaired by the external chairperson. In case of a tie in votes, the decisions of the chairpersons shall prevail and in case of differing opinions between the two, the decision of the external chairperson shall prevail.

- h. If the required quorum is not there at any meeting, such a meeting shall be adjourned for not more than seven working days. For the adjourned Ordinary or Special meetings, the required quorum shall be the same as in a regular Ordinary or Special meeting but for an adjourned Emergency Meeting there shall be no requirement of quorum.
- i. GSCASH may bring out an Annual Report for internal circulation among the organisation.
- j. The GSCASH will call meeting of the body for discussing issues related to gender sensitisation, for screening of the complaint received, for formation of Inquiry committee on receiving a complaint, for tabling of report of inquiry, on hearing a grievance against a report or any other issue GSCASH feels important is necessary to call for a meeting.

### 3) Crisis Management

- a. GSCASH will co-ordinate with the various units to devise ways and means by which a system of crisis management that is gender-sensitive as well as prompt and effective is put in place. It will maintain regular contact with the organisation members and office bearers to ensure that in crises arising out of incidents of sexual harassment, GSCASH members, and/or the volunteers identified by it, shall be intimated without delay
- b. GSCASH will enlist and activate an adequately representative team of volunteers. GSCASH shall ensure the widespread publicity of the contact details of all its members and volunteers.
- c. GSCASH will organize training workshops for members and volunteers to equip them to handle sexual harassment cases (including legal and medical aspects of aid). Volunteers will assist in the gender sensitisation, crisis management and management duties of GSCASH, but shall not participate in the task of formal redressal of complaints under these Rules and Procedures of GSCASH.
- d. In cases in which sexually motivated and inappropriate/unethical conduct is alleged against a member of the organisation by a member of the organisation or non-member and against a non-member of the organisation by the member of the organisation amounting to a specific offence under the Indian Penal Code or any other Indian law, GSCASH shall assist the affected party in making a complaint to the appropriate authority outside the organisation. This will be done with the consent of the Aggrieved Person.

## 7. OBLIGATION OF ALL UNITS IN THE ORGANISATION

- 1) The Organisation shall, through a notification after completion of the term of GSCASH members will notify the names and contact details of the new members of GSCASH for the members of the organisation, and the fact that GSCASH is the body responsible for gender sensitisation and enquiries into complaints of sexual harassment.
- 2) The Organisation will strive to ensure that the Policy is circulated widely in regional languages among various units
- 3) The Organisation will ensure that regular trainings and workshops are conducted in regard to gender sensitisation through the GSCASH
- 4) The Organisation and its members shall forward all complaints of sexual harassment to GSCASH

- 5) The members of the organisation shall maintain full confidentiality with respect to matters pertaining to GSCASH enquiries into complaints of sexual harassment.

## 8. PROTECTION AGAINST VICTIMISATION

- 1) The Enquiry Committee can ask for the suspension of the Respondent from decision-making position during the pendency of the enquiry if his presence is likely to interfere with the enquiry
- 2) A restraining order shall be issued to the Respondent upon the receipt of the complaint by the GSCASH providing details of the restraint to be exercised by the Respondent as per Form C
- 3) If a witness named by the Aggrieved Person is a member of the organisation, there should be proper mechanism put in place by the organisation to protect the witness from victimisation and harassment
- 4) If witnesses named by the Aggrieved Person and the Respondent(s) are members of the organisation it should be ensured that the witnesses do not intimidate each other and organisation should protect them from victimisation and harassment

## 9. APPELLATE PROVISION

- 1) The Aggrieved Person and the Respondent both have the right to appeal the decision of the Enquiry Committee.
- 2) Such appeal will be heard by an Appellate Body nominated by the National Council who shall be nominated or elected at the All India Conference of the organisation
- 3) Constitution of Appellate Body:  
The Appellate Body shall constitute not more than three members, and shall constitute the following members, namely:-
  - a. A chairperson, who shall be nominated or elected by the members of the Appellate Body through unanimity, consensus or a simple majority;
  - b. Not less than two members from amongst the National Council or National Executive Committee
  - c. One person from amongst such non-governmental organisation or association or other individuals experienced in dealing with the issues relating to sexual harassmentProvided that at least two members so nominated shall be women and LGBTQI+ community member
- 4) Term of Office  
Every member of the Appellate Body shall hold office for such a period, not exceeding twenty-four months from the date of nomination.
- 5) Procedure for Appeal  
The Aggrieved Person or the Respondent shall in writing submit to the chairperson of the Appellate Body stating clearly the reasons for appeal against the findings and recommendations of the Enquiry Report.

## 6) Procedure for Disposal of Appeal

- a. A notice of appeal shall be sent to the parties involved in the enquiry, including a copy to the GSCASH
- b. Appellate Body shall dispose appeals based on merits of the case of the appellant, without holding any further enquiry, within a period of thirty days
- c. The Appeals Committee shall have all the powers and duties of an Appellate Body. It shall consider the appeal, with the appellant deposing in person. It shall have the power to summon any person as witness as well as any official record. On the basis of all the records before it, including the deposition of the appellant, if it is satisfied that the matter needs to be further enquired into, it shall remand the matter to the Enquiry Committee to conduct further enquiry in accordance with the guidelines in the Vishaka Judgment and SHW Act, on errors apparent on the face of facts or the law
- d. The Appellate Body shall send a copy of its findings and recommendations on the nature of action to be taken on the appeal within thirty days of receipt of the appeal

## 10. ANNUAL REPORT OF THE GSCASH

The GSCASH shall forward to the organisation, the Annual Report of GSCASH together with a written report detailing the action taken by them on the complaints received, appeals disposed, and the trainings and workshops conducted on gender sensitisation.

## 11. AMENDMENTS TO THE POLICY

- 1) Amendments to the policy shall be effected by a decision taken in a Special Meeting of GSCASH called for the purpose.
- 2) The proposed amendment(s), together with the objectives and reasons thereof, shall be recorded in writing and circulated by the proposer of the amendment(s) at least fifteen working days prior to the Special Meeting called for the purpose.
- 3) An amendment motion shall be adopted by two-thirds of the members present and voting. In the event of a tie on an amendment motion, it shall be put to vote one more time. If a tie recurs, the amendment motion shall be reconsidered by another Special Meeting to be called after at least fifteen working days
- 4) GSCASH amended rules should be placed before the Executive Council of the Organisation for approval, and shall be passed with no less than two-thirds majority of National Executive Council of the Organisation.

## 12. MISCELLANEOUS

### 1) Action when Respondent is a Non-Member

If the respondent is a non-member, then the procedure to hold an enquiry or to initiate action against him must be adopted. The following can be adopted into the policy:

- a. The organization is responsible for the acts of non-members, with respect to sexual harassment of its members, where the organization and its units should ensure immediate and appropriate corrective action. In reviewing these cases, the GSCASH will consider the extent of the organisation's control and other



responsibility in respect to the conduct of the non-member. The GSCASH may assist the Aggrieved Person in the following ways in case the complaint is against the Third Party/non-member:

- i. Tell the Aggrieved Person about their rights and ask if they would like to file a police complaint
  - ii. Ask, if any assistance is required in dealing with the police complaint
  - iii. Ask, if any measure is required to handle the police complaint effectively, such as academic help, counselling, etc.
  - iv. The GSCASH may also offer that the complaint can be forwarded to the ICC/GSCASH of the organization to which the non-member/Third Party belongs to and as to which would be the correct forum for the complaint to be registered and an enquiry to be conducted
- 2) The provisions of these Rules and Procedures shall be duly incorporated within any other rules and regulations related to sexual harassment as may be relevant, in keeping with principles of gender justice.
  - 3) The proceedings under these Rules and Procedures shall not, in any way, be affected by any other proceedings against the respondent preferred by the Aggrieved Person under any other provision of civil or criminal law, except to the extent specifically ordered by a court of law.
  - 4) The provisions of these Rules and Procedures shall not restrict the powers of the organisation or the Aggrieved Person to proceed against the respondent for any other misconduct, or pursue criminal or civil remedies, whether or not connected with the misconduct within the purview of these rules.

### 13. FORMS

#### **FORM A: Format of a Complaint as per Section 4(1)(a)**

The following details must be clearly stated in the complaint of sexual harassment being filed with the GSCASH:

1. Name of the Aggrieved Person
2. If the Aggrieved Person is a member of the organisation, then the committee/unit they belong to
3. Details of the incident of sexual harassment, including date, time and place of the incident, along with continuing cause of action where it arises
4. Details of the Respondent, if known, including the committee/unit they belong to
5. If details of the Respondent is unknown, then a physical description of the Respondent to be provided
6. Signature or thumb impression of the Aggrieved Person

A complaint shall be entertained even if the complaint is not submitted in the abovementioned format. The Aggrieved Person shall be informed to submit the complaint using the format within seven days.

#### **FORM B: Format of the Notice to be Issued to the Respondent as per Section 4(2)(c)**

This is to inform you that we have received a complaint of sexual harassment against you from [Name of the Aggrieved Person]. A true copy of the complaint is attached with this notice for your perusal.

The GSCASH is determining whether a prima facie case is to be made out against you on the allegations made. Hence, at this preliminary stage, the GSCASH would like to hear from you about the incident mentioned in the said complaint.

Therefore, you are requested to appear before the GSCASH members - \_\_\_\_\_ and \_\_\_\_\_ [Names of the GSCASH members] on \_\_\_\_\_ [Date], at \_\_\_\_\_ [Time] at \_\_\_\_\_ [Place].

Signed,  
GSCASH Chairperson

### **FORM C: Format of the Restraint Order as per Section 4(2)(d)**

Issued to:

Dated:

By:

This is to inform you that a complaint of sexual harassment has been filed by [Aggrieved Person] against you stating that on [Date], at [Time] at [Place], an incident of sexual harassment occurred wherein, you have been accused of [Details of the charges].

This amounts to sexual harassment as per Section 2(10) of this Policy and an enquiry shall be instituted against you by the Enquiry Committee of AISA – GSCASH. The details of the enquiry are as follows:

1. [Names of Enquiry Committee members]
2. [Contact details of Enquiry Committee members]
3. [Date, time and venue of the meeting to take the testimony of the Respondent]

In case you are unable to appear before the Enquiry Committee on the abovesaid date and time, please inform in writing with suggestions of an alternate date and time.

You are hereby also called upon to refrain from:

1. Committing any act (either directly or by implication) that invades the privacy of the Aggrieved Person, threatens their security, violates their human rights, or adversely affects their living, working, or educational environment.
2. Making any attempt to contact the Aggrieved Person or any person in their confidence, with the purpose of influencing, intimidating, or exerting pressure upon the Aggrieved Person on any matter, especially those that pertain to their complaint of sexual harassment against you.
3. Publicising any fact, conjecture or speculation about the Aggrieved Person's personality, character, or motivation in any of their actions, including those involved in their lodging a complaint of sexual harassment against you.
4. Representing the organisation on a public platform until the completion of the enquiry

You are put to notice that any attempt on your part or by persons acting on your behalf, to contact, or influence, or intimidate or exert pressure on the Aggrieved Person or any person in the Aggrieved Person's confidence or any of the witnesses, or any violation of this order of restraint, may prove prejudicial to your case resulting in an adverse inference being drawn against you and it may also induce the Enquiry Committee to recommend immediate disciplinary action against you, in accordance with Section 5 of the AISA GSCASH Policy.

Signed,  
GSCASH Chairperson

### **FORM D: Format of A Written Apology as per Section 5(1)**

(to be written by hand)

[Name of the Aggrieved Person]

This is to place on record my understanding that my behaviour towards you on \_\_\_\_\_ [Date] in \_\_\_\_\_ [Place], constitutes an act of sexual harassment, which is a conduct that violated your right to dignity, equality and security in the organisation. Although I am aware that an apology for my unwelcome and gender-insensitive misconduct cannot redress the physical and emotional insecurity that my actions have visited upon you, I wish nevertheless to apologise for my actions.

I, \_\_\_\_\_ [Name of the Respondent], undertake that henceforth, I shall not commit any act (either directly or by implication) that invades your privacy, threatens your security, violates your human rights, or adversely affects your living, working, and/or educational environment.

I, \_\_\_\_\_, undertake that henceforth, I (or any person on my behalf) shall not make any attempt to contact you, or any person known to you, with the purpose of influencing, intimidating or exerting pressure upon you on all matters, especially those which pertain to your complaint of sexual harassment against me.

I, \_\_\_\_\_, undertake that henceforth, I or any person acting on my behalf, shall respect your right to full confidentiality on all matters pertaining to your complaint of sexual harassment against me. I, or any person acting on my behalf, shall not publicise, or cause to become publicly known, any fact, conjecture, or speculation about your personality, character, or motivations in any of your actions, including your lodging a complaint of sexual harassment against me.

I, \_\_\_\_\_, undertake that I shall attend the gender sensitisation programmes organised by the GSCASH. I shall make every effort to ensure that I shall never again commit an act of sexual harassment, and shall do everything in my powers to deter sexual harassment by or to others.

Signed,  
Respondent