

STATUTES FRAMED IN VIEW OF GUIDELINES LAID DOWN BY THE SUPREME COURT IN VISHAKA'S CASE FOR PREVENTION OF SEXUAL HARASSMENT IN WORK PLACES, UNDER SECTION 29 (2) (b) and (t), SECTION 42(1) (a), SECTION 42 (1) (L) AND Sec. 77 (1) and (2) of K.S.U Act. 2000

1. Short Title and Commencement:

- a) These Statutes may be called the **“Statutes Governing Sensitization to, Prevention of, and Redressal for Sexual Harassment in the University (SPARSH).”**
- b) They shall come into force from the date of assent of the Chancellor.

2. Definitions:

- a) **“APEX BODY”** means ‘the Apex body of SPARSH’(ABS)
- b) **“DISCIPLINARY AUTHORITY”** in relation to imposition of penalty on an employee or a student of the University means the authority competent under these or other relevant Statutes to impose on the employee or on the student, that penalty.
- c) **“EMPLOYEE”** means any person appointed to any post in the University and includes any person whose services are temporarily placed at the disposal of the University including those working under ‘outsourcing’ arrangements.

- d) “EMPLOYER” means the authority empowered to make appointments or the authority which appointed the employee, including those working under ‘outsourcing’ arrangements.
- e) “SEXUAL HARASSMENT” includes unwelcome sexually determined behaviour (whether directly or by implication) such as –
- i) Eve-teasing
 - ii) Unsavoury gender based remarks
 - iii) Gender based jokes causing or likely to cause awkwardness or embarrassment
 - iv) Gender based innuendoes and taunts
 - v) Gender-based insults or sexist remarks
 - vi) Unwelcome sexual overtone in any manner such as obnoxious telephone calls and the like
 - vii) Touching or brushing against any part of the body and the like
 - viii) Displaying pornographic or other offensive or derogatory pictures, cartoons, pamphlets or sayings
 - ix) Forcible physical touch or molestation
 - x) Physical confinement against one’s will and any other act likely to violate one’s privacy
 - xi) A demand or request for sexual favours

and also includes any act or conduct by a male person in authority which denies or would deny equal opportunity in pursuit of career development or otherwise make the environment at the workplace hostile or intimidating to a woman, only on the ground of sex/gender.

Notwithstanding what is stated above

Where any comment, act or conduct is directed against any woman and such affected party has a reasonable apprehension that;

- It is humiliating and may constitute a health and/ or safety problem or affront to modesty and dignity.
- It is discriminatory, as for instance when the victim has reasonable grounds to believe that the objection by her would disadvantage her in connection with her employment or study, including recruitments or promotion or advancement or when it creates a hostile environment, or
- It would result in adverse consequences if the affected party does not consent to the conduct or raises any objection,

It shall be deemed to be sexual harassment.

f) “STUDENT” means a person who has registered himself / herself as a student of the University for any course/degree/diploma/certificate.

Explanation: Any complaint by or against the student under these Statutes shall not be entertained later than one year after the student obtains his/her degree/diploma/certificate.

g) “UNIVERSITY” means the University of Mysore.

h) “UNIVERSITY COMPLAINTS COMMITTEE (UCC)” means the committee constituted to deal with the complaints of the victims of sexual harassment.

i) “WORKPLACE” in relation to an “Employee” means a building or structure belonging to the University, along with land appurtenant to such building or structure, as well as all other lands belonging to the University including playgrounds etc., used for University purposes and in relation to a

student shall include all the above said places as well as such structures and lands appurtenant thereto and belonging to the affiliated colleges/ autonomous colleges / recognized institutions.

Applicability: Notwithstanding anything contained in the Mysore University Employees CCA Statutes and Mysore University Students (Disciplinary Control) Ordinances, these Statutes shall apply to the employees and students, in the event of any complaint of sexual harassment in workplaces against them.

3. Obligations of University:

- a) The University shall, through a notification in each academic year notify the names and contact details of the members of ABS and UCC and they shall be responsible for gender sensitisation and enquiries into complaints of sexual harassment.
- b) The University will ensure that the policy is included in the Admission Brochure and circulated at the time of admission. The University will ensure that recruitment announcements to all academic and non-teaching positions include the following statement, as notification of the policy. – “The University has a policy against sexual harassment and is committed to providing an environment free from gender discrimination and harassment”.
- c) In order to ensure the permanent placement of the policy, the University shall arrange for several copies to be placed on boards for display in prominent places.

d) The University shall provide legal, medical and counselling assistance to those complainants who have to take recourse to the law.

e) The University shall forward to the Government Departments concerned such as the Department of Higher Education, the Department of Women and Child Development, The Karnataka State Commission for Women, the Scheduled Caste and Tribes Commission, the Backward Classes Commission, the Minority Commission etc., the Annual Report together with a written record on the Action upon the decision/recommendations of the UCC.

4. Constituent bodies of SPARSH: SPARSH shall include the Apex Body of SPARSH (ABS) and the University Complaints Committee (UCC).

5. Constitution of ABS: The ABS shall consist of the following members who will be nominated by the Syndicate.

- a) Five members representing various faculties/Centres of the University, of which at least three shall be women.
- b) Two students of whom at least one shall be a girl (names to be proposed by Director, Student Welfare).
- c) Two members from the non-teaching staff, of whom at least one shall be a woman.
- d) One woman representative from an NGO concerned with women's issues.
- e) One woman advocate.
 - i) The Chairperson shall be a woman faculty member.
 - ii) At least one member of the ABS shall be a woman belonging to SC/ST.

Explanation: In making nominations to the ABS the Syndicate shall ensure that the nominees possess concern for women's issues.

6. Functions and Powers of ABS:

- a) To emphasize the commitment of the University to provide a workplace free of gender-based discrimination, sexual harassment and other acts of gender-based violence.
- b) To promote an environment in the workplace which will raise awareness about gender based discrimination and prevent sexual harassment and other acts of gender based violence.

7. Constitution of UCC: The Syndicate shall nominate the members of the UCC from among the members of the ABS. It shall comprise the following:

- a) Two faculty members- one male and one female.
- b) One non-teaching staff.
- c) The woman representative from the NGO concerned with women's issues.
- d) One woman advocate.

-The UCC shall designate one of its women members as Member Secretary.

-The Chairperson shall be a woman member of the faculty, other than the Chairperson of the ABS nominated by the Syndicate.

8. Functions and Powers of UCC:

- a) To comply with the directives of the Supreme Court enjoining all employees to develop and implement a policy against sexual harassment at the workplace.
- b) To evolve a permanent mechanism for prevention and redressal of gender based discrimination, sexual harassment and other acts of gender based violence.
- c) To ensure that the provisions of the Statutes are implemented in letter and spirit through proper reporting and redressal of the complaints.
- d) To cause wide publicity to be given in respect of filing complaints.
- e) Taking cognizance of complaints about sexual harassment, the UCC shall conduct enquiries, provide assistance and redressal to the victims, and recommend penalties and other action to be taken.

9. Term of office of Chairperson and Members of ABS and UCC:

- a) The Chairperson and members shall hold office for a term of three years from the date on which they assume office.
- b) Provided that the Chairperson and members shall not hold office for more than two terms.

10. Vacancy of the Office of Chairperson or members of ABS/UCC:

If the office of the Chairperson or any other member becomes vacant or if either of them remains absent without written intimation for three consecutive meetings or for two months, whichever is greater another member may be appointed to fill the vacancy. The new Chairperson/member shall be nominated by the Vice-Chancellor.

11. Procedures for transaction of business Of ABS:

The ABS shall hold at least four meetings/programmes in an academic year. The procedures to be adopted at the meeting shall be prescribed by the rules of business to be framed by the ABS.

12. Procedure for Filing Complaints with the UCC:

- a) The complaint may be oral or in writing. If it is oral, it shall be recorded in writing by the receiving authority.
- b) Any student, service provider, faculty member or non-teaching staff may lodge a complaint of sexual harassment against a student, service provider, faculty member or non-teaching staff.

Save that this shall not exclude those rendering services in the University even if they are not employees.

- c) Complaints are to be registered maintaining strict confidentiality.
- d) The affected party may lodge a complaint to anyone of the following;
 - i) The Vice-Chancellor/Registrar/Director of Student Welfare.
 - ii) Principal of the College concerned/Chairperson of the Department concerned.
 - iii) Chairperson or member of the UCC.

On receipt of the complaint the person receiving it shall forward it to the Chairperson of the UCC within 24 hours.

13. Procedure for processing complaints:

- a) UCC shall examine if there are sufficient grounds for conducting a formal enquiry. In the event of the UCC concluding that further enquiry is not necessary the matter will be dropped.

- b) The formal inquiry shall commence within a week of receipt of complaint by the UCC and shall be completed within two months. If the UCC is unable to complete the enquiry within the stipulated time it may seek extension of time from the Vice-Chancellor.
- c) The UCC shall forward a copy of the complaint to the opposite party, directing him to give his version of the case, within a period, of 15 days which may be extended by another 15 days.
- d) Where the opposite party, on receipt of the copy of the complaint, referred to him files a written reply admitting the allegation made in the complaint, and if such allegation amounts to sexual harassment in the work place, the UCC may record its findings of guilt including its opinion on the gravity of the offence and submit a report to the Vice-Chancellor for appropriate action.
- e) Where the opposite party omits or fails to take any action to represent his case, within the time given to him, even after due service of the copy of the complaint on him, the UCC shall proceed to record its finding on the basis of oral and documentary evidence, brought to its notice by the complainant.
- f) Where the opposite party denies or disputes the allegation contained in the complaint, the UCC may institute an enquiry.
- g) The UCC shall proceed to conduct the enquiry as follows:
 - i) Permit the parties to call for any document or other material object, mentioning the relevance of the said documents or material objects and take steps to secure those documents or material objects before commencing the recording of oral evidence
 - ii) List of witnesses from both the parties shall also be filed before the UCC for the recording of oral evidence

- iii) The copies of documents and the list of witnesses filed by parties shall be furnished to the other party
- iv) Record the oral evidence of the complainant and her witnesses, after giving full opportunity to the opposite party to cross examine them
- v) Allow the opposite party to examine themselves and/or examine such witnesses whom he desires to examine and give opportunity to the complainant to cross examine them
- vi) Receive such documentary evidence that may be adduced by the Parties
- vii) The complainant and/ or opposite party, with the permission of the UCC may choose to produce additional documents/materials and may choose to examine additional witnesses .The UCC either suo-motto or at the instance of the complainant and/ or opposite party may also call for documents, material objects which are relevant and necessary for arriving at a just conclusion of the matter in dispute
- viii) Allow both parties to present their arguments orally and/ or in writing
- ix) The UCC may also examine the parties and witnesses
- x) The UCC may summon any person and may also verify any vital aspects by making such inspection as may be required
- xi) Consider the evidence adduced and the arguments and arrive at findings and submit a report to the Vice-Chancellor with the recommendation for appropriate action

h)The Vice-Chancellor shall cause a copy of the report to be served on the complainant and the opposite party and consider their representations, if any, and take such action as he/she deems fit. He/she may impose any penalty which he/she is competent to impose on the employee or the student or place the matter before the Syndicate to impose any penalty that could be imposed by it on the employee

or the student or direct the head of the college/hostel/institute to take appropriate action.

i) However, if in the opinion of the Vice-Chancellor, the enquiry/report suffers from serious infirmities so as to cause injustice to any of the parties, the Vice-Chancellor may refer the matter back to the University Complaints Committee for further enquiry and the UCC shall thereupon proceed to hold such further enquiry as may be necessary.

14. Third party harassment: If the sexual harassment occurs as a result of any act by any third party or outsider, the employer and the person/s in charge of the workplace shall take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

15. Protection for the complainant and witnesses: The employer shall ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the accused or their own transfer.

16. Constitution of complaints committees by Affiliated/ Autonomous Colleges/ Recognized Institutions: Notwithstanding anything contained in the Statutes relating to the granting of affiliation/autonomous status to all such affiliated/autonomous and recognized Institutions, such body shall also constitute a similar Complaints Committee and take action against acts of sexual harassment against women in the work place.

17. Penalties and empowered authorities:

a). In respect of Employees-

Penalties

Empowered authorities

i	Censure	Vice-Chancellor
ii	Fine not exceeding Rs.10,000/- (Ten thousand only)	Vice-Chancellor
iii	Withholding of increments without Cumulative effect	Syndicate
iv	Withholding of increments with cumulative effect	Syndicate
v	Reduction in rank or pay	Syndicate
vi	Compulsory Retirement	Syndicate
vii	Removal from service	Syndicate

b). In respect of Students:

Penalties

Empowered authorities

i	Warning	Vice-Chancellor
ii	Fine, not exceeding Rs. 10,000/- (Ten thousand only)	Vice-Chancellor
iii	Debarring from examinations	Syndicate
iv	Rustication from the college or hostel or an institution	Syndicate
v	Cancellation of admission to the Course to which he was admitted	Syndicate

18. Savings: Nothing contained in these Statutes shall prejudice any rights available to the employer/employee / student or prevent any person from seeking any legal remedy under any law in force.

Where such conduct amounts to an offence under the Indian Penal Code or under any law, the employer shall initiate appropriate action in accordance with the law, by making a complaint to the appropriate authority.

19. Repeal: The existing Rule relating to sexual harassment on women employees shall stand repealed.