

**IN THE SUPREME COURT OF INDIA
(Criminal Original Jurisdiction)**

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

WRIT PETITION No. of 2014

In the matter of:

Ms. X

C/o N-14A,

Saket,

New Delhi-110017.

.....Petitioner

Versus

1. SECRETARY GENERAL,
 SUPREME COURT OF INDIA,
 TILAK MARG,
 NEW DELHI-110 001.

2. SHRI SWATANTER KUMAR, FORMER
 JUDGE SUPREME COURT OF INDIA CURRENTLY
 CHAIRPERSON
 NATIONAL GREEN TRIBUNAL.
 FARIDKOT HOUSE,
 COPERNICUS MARG, NEW DELHI

3. UNION OF INDIA THROUGH MINISTRY OF

ENVIRONMENT AND FORESTS, BEING THE NODAL
MINISTRY.

...Respondents

To,

**THE HON`BLE CHIEF JUSTICE OF INDIA & HIS LORDSHIP'S
COMPANION JUDGES OF THE HON`BLE SUPREME COURT OF
INDIA.**

**THE HUMBLE PETITION OF
THE PETITIONER ABOVE NAMED**

MOST RESPECTFULLY SHOWETH:

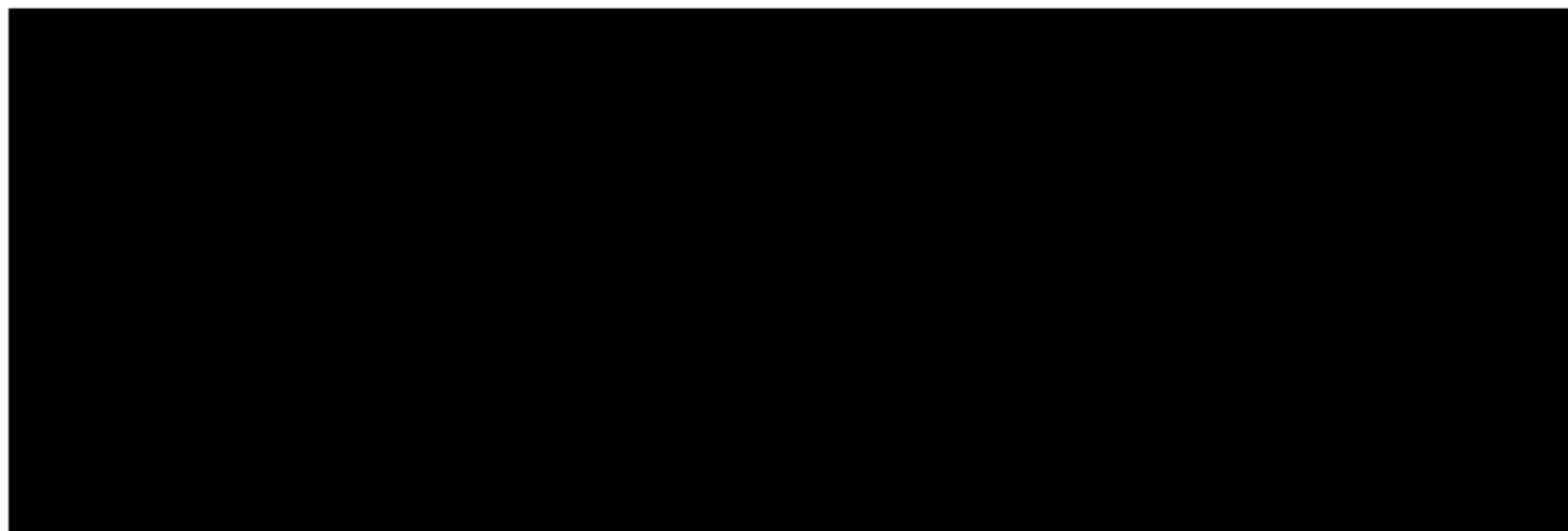
1. That this Writ Petition filed under Article 32 of the Constitution of India, filed as a public interest litigation raises an issue of great public importance of the right to work with dignity for all working women of the country including and in particular women engaged in the profession of law and law students. The Court, be it the Supreme Court, or the High Court or any other Court or Tribunal or quasi-judicial Tribunal need to be safe working environments for women. This petition also raises the issue that the workplace must be broadly defined, moving beyond the precincts of the Court and including any place visited by the lawyer, law students, or any other women arising out of or during the course of work, including transportation provided by the Court for undertaking any journey in connection with employment. It challenges the constitutionality, legality and

legitimacy of the Full Court Resolution dated 05.12.2013 and letter dated 13 December, 2013 issued by the Secretary General of the Supreme Court that complaint(s) against a former Judge will not be entertained by the Supreme Court.

2. The Petitioner makes it clear that she is filing this Petition in public interest, so that there is an acknowledgement of the truth of the sexual harassment that she had suffered and a declaration that her fundamental rights have been violated. She truly believes that such a declaration which acknowledges the truth that sexual harassment has occurred even in high places will prevent other women being sexually harassed in the future.

3. That the name and identity of the Petitioner, who is a young woman lawyer, is not being disclosed as she is a woman victim of sexual harassment at the workplace. Keeping in mind the statutory prohibition against disclosure of identity of the woman victim of sexual offences and with a view to protect the dignity of the Petitioner, her identity is being suppressed. The Petitioner is therefore referred to in the cause title and elsewhere in this Writ Petition as Ms. X.

4.

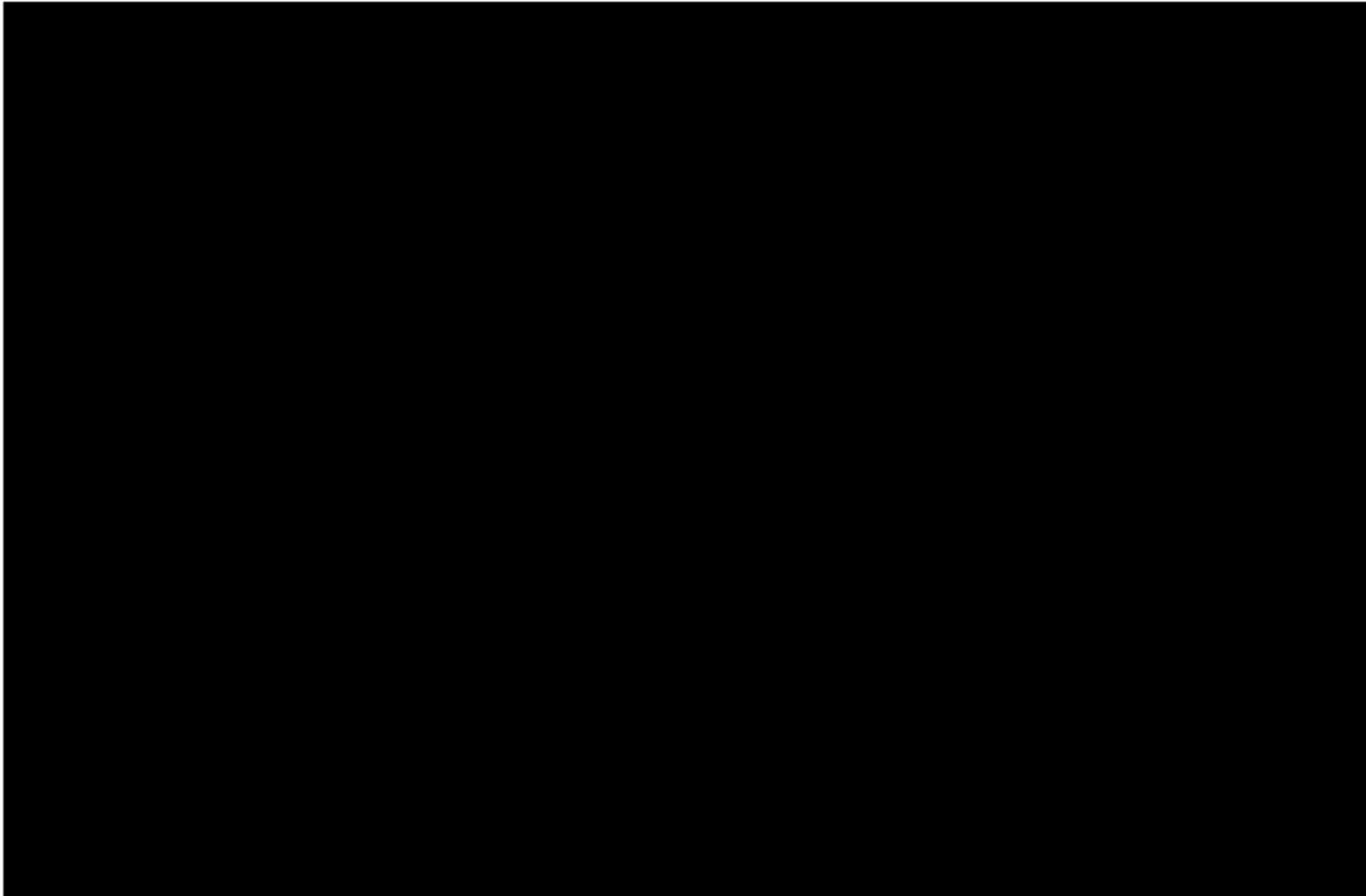


5.





10.



11. That the Petitioner was unable to secure any redress for the violation of her bodily integrity and dignity at the workplace, as there was no redressal mechanism constituted to address complaints of sexual harassment of a law intern by a sitting judge of the Supreme Court of India, in accordance with the mandate of the Vishakha judgment of the Hon'ble Supreme Court. Although the Vishakha verdict passed on 13 August 1997 was the law of the land on sexual harassment at the time, neither WBNUJS nor the Hon'ble Supreme Court, had any policy or committee to ensure that the educational institution and the workplace was safe and free from sexual harassment of women. The Petitioner had clearly suffered harm and injury due to the sexual harassment from a sitting judge of the Supreme Court and yet no redressal mechanism as envisaged by Vishakha, was available for the Petitioner.

12. That according to the judgment of the Hon'ble Supreme Court of India in Vishakha, all workplaces were required to establish an institutional mechanism, including an internal complaints committee to deal with complaints of sexual harassment at the workplace. The guidelines and norms laid down by the Hon'ble Supreme Court in Vishakha v State of Rajasthan directed that they, "would be strictly observed in all work places for the preservation and enforcement of the right to gender equality of the working women. These directions would be binding and enforceable in law until suitable legislation is enacted to occupy the field."
13. That although the Vishakha judgment was pronounced by the Hon'ble Supreme Court in 1997 and the sexual harassment faced by the intern by a sitting judge of the Supreme Court of India took place in 2011, the Petitioner found no redressal avenue to raise her complaint and has been living with the trauma of her experience since 2011.
14. That on 12 November 2013 the Hon'ble Supreme Court took cognizance of news reports highlighting the complaint of another law intern of sexual harassment faced by her from Justice A.K. Ganguly in 2012, after Justice Ganguly had retired from the Supreme Court. That the Petitioner was heartened to see the Hon'ble Chief Justice of the Supreme Court take immediate cognizance of the information placed in the public domain by the

other law intern and constituted a panel of three Judges of the Hon'ble Supreme Court, on 12 November 2013, to ascertain the facts. Confronted with the violation of the fundamental rights of a young woman law intern, the Hon'ble Chief Justice of India took steps to address the matter. The Petitioner was further encouraged by the swiftness and seriousness with which the complaint was addressed by the Hon'ble Supreme Court.

15. That this gave the petitioner confidence to put forward her complaint with the hope of securing justice and for access to a mechanism through which the truth is brought to the fore. The validation of the truth and the acknowledgment of the harm and injury suffered by the petitioner would enable her to overcome the trauma and helplessness.
16. Accordingly, on 2 December 2013 the Petitioner filed an affidavit dated 30 November 2013, with the Hon'ble Chief Justice of the Supreme Court of India detailing the incidents of sexual harassment faced by her from the second respondent. That there is no unreasonable delay on the part of the Petitioner and she approached this Hon'ble Court as soon as there was some possibility of her complaint being addressed by this Hon'ble Court. True Copy of the Affidavit of the petitioner dated 30th November 2013, is annexed as **Annexure-P/3** at [17-23] . .
17. That on 13 December 2013, the affidavit of the Petitioner was returned to her by Mr. Ravindra Maithani, Secretary General of

the Hon'ble Supreme Court in view of the full court resolution of the Hon'ble Supreme Court dated 5 December 2013, stating that, "when it was resolved that the representations made against former Judges of this Court are not entertainable by the administration of the Supreme Court of India." A true copy of the letter dated 13 December, 2013 addressed to the Petitioner from the Secretary General of the Supreme Court of India is annexed as **Annexure-P/4** at [24].

18. The Petitioner, therefore, approaches this Hon'ble Court for the reliefs prayer for herein on the following, amongst other grounds, which are without prejudice to one another:-

GROUND S

- I. That the judgment in the *Vishaka* case passed by this Hon'ble Court obliges all Institutions to prevent sexual harassment at work place and provide an in-house mechanism as contemplated in *Vishaka* to address complaints of sexual harassment at the workplace.
- II. The *Vishaka* judgment, therefore, mandates that this Hon'ble Court set up a mechanism for addressing complaints regarding acts of sexual harassment in the Supreme Court or at the residence of Judges or any other location where women are required to work.

- III. That at the material time the Petitioner's official internship period was between 16.5.2011 to 25.6.2011, with the Respondent No.2 Judge in the capacity of an intern on the rolls of this Court.
- IV. That the Petitioner was recruited as an intern to work with the Respondent No.2 Judge in his capacity as a Judge of this Hon'ble Court through proper channels of this Hon'ble Court.
- V. That at the material time the Respondent No.2 Judge was a sitting Judge of this Hon'ble Court.
- VI. That in the circumstances aforesaid, and more particularly contained in the Affidavit annexed hereto, it is submitted that the Respondent No.2, Judge committed acts of sexual harassment verbal and non-verbal at the workplace against the Petitioner as understood in *Vishaka*.
- VII. That, therefore, this Hon'ble Court is obliged and bound to set up a Committee as contemplated under *Vishaka* to look into the complaint made by the Petitioner in the form of an Affidavit annexed hereto.
- VIII. That the decision of the Full Court of this Hon'ble Court in its administrative side, being the Resolution dated 05.12.2013, to the effect that no complaint of sexual harassment against a former Judge would be taken up by this Hon'ble Court, communicated to the Petitioner vide the letter dated 13.12.2013 is contrary to law and needs to be set aside.
- IX. That there is no rationale for not enquiring into complaints of sexual harassment against a judge who was a sitting judge at the material time on the ground that he has subsequently retired

and the resolution of the Full Court of this Hon'ble Court is therefore arbitrary and in violation of Article 14 of the Constitution of India.

- X. That it is discriminatory to enquire into the complaint of one intern in respect of a retired Supreme Court Judge, even though he was not a sitting judge when the acts of sexual harassment took place in that case, and to not enquire into the complaint of the Petitioner against the respondent No. 2 Judge when at the material time, of sexual harassment was a sitting Judge.
- XI. That it is unfair to relegate the Petitioner only to a criminal prosecution when the judgment in *Vishaka* mandates all Institutions to conduct an enquiry into a complaint of sexual harassment at the workplace. Criminal proceedings as and when initiated are in addition to and not to the exclusion of an in-house mechanism to enquire into the complaint.
- XII. That sexual harassment at the workplace not only interferes with the dignity of a woman but is also in violation of her fundamental rights, in particular her fundamental rights under Articles 14, 15, 21 and 19(1)(g) when the sexual harassment at work place has taken place by an institution which is created by the Constitution of India and is a State within the meaning of the Article 12 of the Constitution.
- XIII. That the Supreme Court of India is 'State' within the meaning of Article 12 of the Constitution of India and, therefore, any decision on its administrative side is amenable to its writ jurisdiction on the judicial side.

- XIV. That fundamental rights of the Petitioner, in particular fundamental rights under Articles 14, 15, 19 and 21 have been violated by the sexual harassment at the workplace by a sitting judge of this Hon'ble Court, as more particularly set out in the Affidavit annexed hereto.
- XV. That the Petitioner has a right to have the truth of the allegations acknowledged by this Hon'ble Court to vindicate her dignity and this Hon'ble Court has a duty to do justice to her by so declaring.
- XVI. That this Hon'ble Court on the administrative side has a duty to undertake a fact-finding function to ascertain and acknowledge the facts as found.
- XVII. That there is a need to have a permanent mechanism as contemplated in Vishaka to enquire into the complaints against Judges of this Hon'ble Court of sexual harassment at the workplace.
- XVIII. That an enquiry leading to an acknowledgment of the misconduct of sexual harassment will restore the credibility of the judiciary as the matter concerns the integrity of one of the most important organs of constitutional governance, namely the judiciary.
- XIX. That the Petitioner has not filed any other Petition in respect of the subject matter of this Petition in this Court or any other Court in India.
- XX. That the Petitioner has no other alternative efficacious remedy but to approach this Hon'ble Court for reliefs prayed for and if the same are granted that shall be complete.

XXI. That the Petitioner shall rely on documents annexed with the Petition herein.

19. That this Hon'ble Court has jurisdiction to entertain and try this Petition.

PRAYERS

The Petitioner therefore, prays:

- (a) For an appropriate Writ Order or direction calling for the records of the Resolution dated 05.12.2013 passed by the Full Court of the Supreme Court on its administrative side and the communication dated 13.12.2013 and after going through the same, quash and set aside the same.
- (b) For an appropriate Writ Order or direction directing that a appropriately constituted committee headed by a woman with an external member be set up to enquire into the complaint filed by the Petitioner, in the form of an Affidavit annexed hereto;
- (c) For a declaration that the rights of the Petitioner have been violated under Articles 14, 15, 19(1)(g) and 21 of the Constitution of India;
- (d) For an appropriate Writ Order or direction directing that a permanent mechanism be set up to enquire into the complaints of sexual harassment against all judicial officers, sitting or retired judges, whether while holding office or not.
- (e) Pass an appropriate orders thereon.

**AND FOR THIS ACT OF KINDNESS, THE PETITIONERS AS
IN DUTY BOUND SHALL EVER BE GRATEFUL.**

(PURSHOTTAM TRIPATHI)
(Advocate for the Petitioner)

Place: New Delhi
Drawn By: Vrinda Grover
Advocate
Date: 13.01.2014