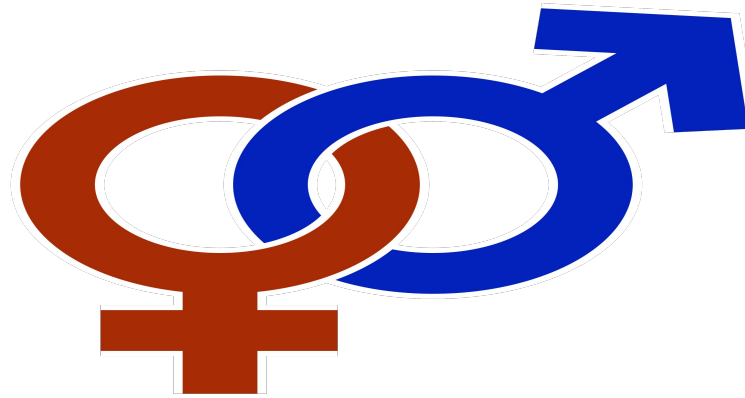


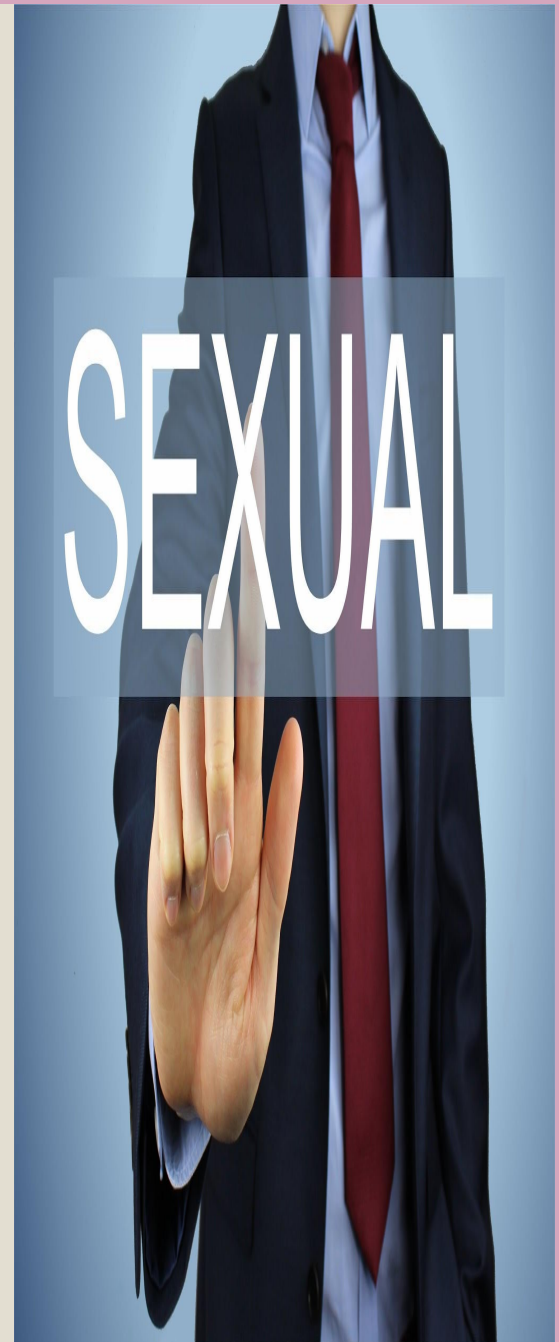
GENDER SENSITIZATION PROGRAMME



Conducted by Women Cell of RRRM, Nangulpara, Hooghly

Sexual Harassment in the Workplace: Vishaka Guidelines against Sexual Harassment in the Workplace

Guidelines and norms laid down by the Hon'ble Supreme Court in Vishaka
and Others Vs. State of Rajasthan and Others
(JT 1997 (7) SC 384)



Why necessary?

- ❖ The present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in workplaces and that enactment of such legislation will take considerable time.
- ❖ It is necessary and expedient for employers in workplaces as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women

What is Sexual Harassment

- ❖ Sexual harassment is a discriminatory and unwelcome behaviour of sexual nature. It could be in the form of pressure for sexual favours, unwanted sexual advances, verbal or physical conduct that has sexual overtones
- ❖ When rejection of or submission to such behaviour is used/capable of being used as a threat to the employment/academic performance/career progression of a person, it becomes a clear case of sexual harassment
- ❖ When such unwelcome behaviour creates a hostile, intimidating or offensive work/study environment, and interferes with the work/academic performance of women, it certainly is sexual harassment



What Constitutes Sexual Harassment

As per the POSH Act, 'sexual harassment' includes unwelcome sexually tinted behaviour, whether directly or by implication, such as:

- Advances
Physical contact and advances
- Favours
Demand or request for sexual favours
- Remarks
Making sexually coloured remarks
- Visuals
Showing pornography
- Conduct
Any other physical, verbal or non-verbal conduct of sexual nature

Forms of Workplace Sexual Harassment

❖ **Quid Pro Quo translates to ‘This for That’**

This form of sexual harassment is basically a form of sexual blackmail. In a typical situation of quid pro quo harassment, the respondent being a person in power, pressurizes the woman student/staff/faculty, who is typically a subordinate, for sexual favours in exchange for advancement or preferential treatment in academics / workplace/ department. It is usually followed with a threat of adverse academic /employment action if such a demand is rejected.

❖ **Hostile Work Environment**

Creating a hostile, intimidating or an offensive work environment

Humiliating treatment likely to affect the person's health or safety

➤ **Example**

Derogatory comments of sexual nature

Comments about a person's clothing style, behaviour, or physique

Forms of Workplace Sexual Harassment

❖ Unwanted Physical Contact

This occurs when someone engages in inappropriate or unwelcome physical interactions, such as touching, patting, or brushing against someone, without their consent.

Example: A higher authority repeatedly placed his hand on a junior employee's shoulder and brushed against her inappropriately in confined spaces.

❖ Sexual Texts and Online Harassment

This involves sending inappropriate or explicit messages, comments, or images through digital platforms, making the recipient uncomfortable.

Example: A female employee received suggestive texts and unsolicited photos from a male colleague despite requesting him to stop.

❖ Stalking at the Workplace

Stalking involves persistent and unwanted attention from a coworker or supervisor, making the victim feel unsafe or intimidated.

Example: A female employee noticed that a male colleague was following her to the cafeteria and waiting outside her office repeatedly despite being told to stop.

Cases: Is this a case of sexual harassment?

- ❖ A male employee publicly accuses a female coworker during a team meeting of receiving a promotion because she is "flirting with the boss." This baseless accusation humiliates her and undermines her professional credibility.
- ❖ During an office meeting, a male employee accuses a female coworker of securing a client deal through "unethical means," implying inappropriate conduct without any evidence. This public shaming severely affects her professional and emotional well-being.
- ❖ During a presentation, a senior male colleague comments on a female employee's outfit, saying it is "distracting" and inappropriate, drawing unnecessary attention to her appearance instead of her work.
- ❖ A male colleague spreads a rumor in the office that a female coworker got a key project because she is "close" to the team leader. This false gossip damages her reputation and creates a hostile work environment.
- ❖ A male coworker shares an inappropriate meme in the team's group chat, implying that a female colleague uses her looks to get favors at work. The post embarrasses her and creates discomfort among the team.

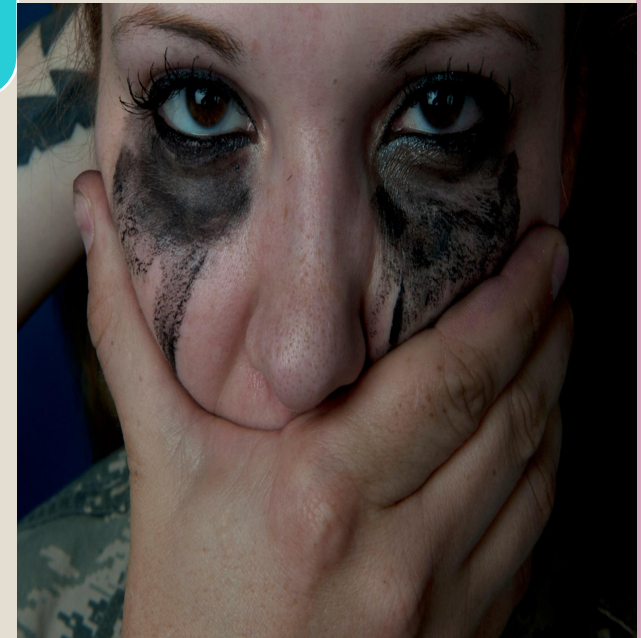
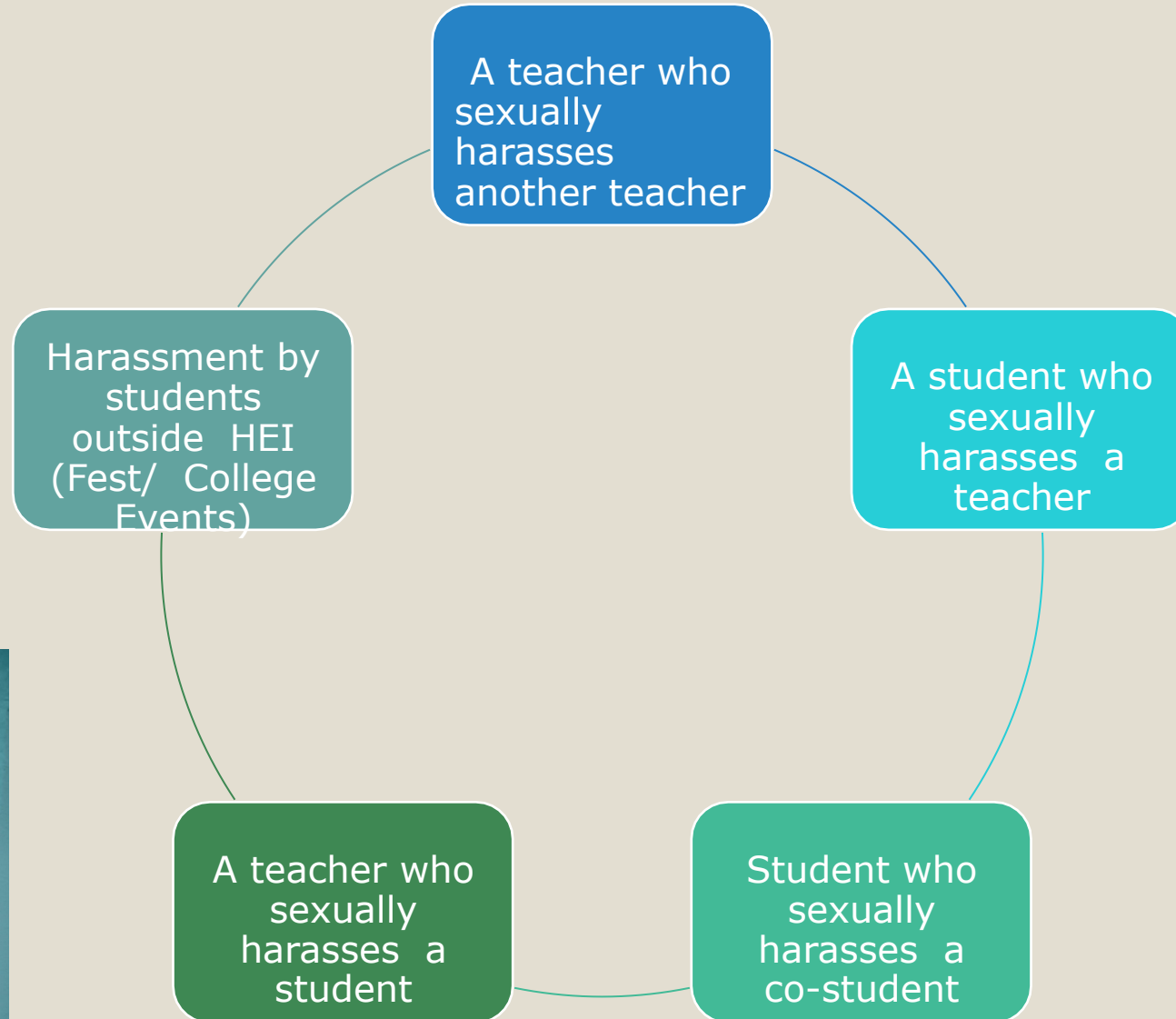
Work Places

- ❑ Any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or funded by either the Government, a local authority (such as a Municipal Corporation), a Government Corporation, or a Government run co-operative society
- ❑ Any private sector organisation, private venture, undertaking, enterprise, institution, establishment, society, trust, NGO, or a service provider, that carries out commercial, professional, vocational, educational, entertainment, industrial, financial or health-related activities
- ❑ Hospitals and nursing homes
- ❑ Sports institutes, stadiums, sports complexes and competition venues that may be used for training, sports or any other related activities
- ❑ Any place visited by an employee arising out of during the course of their employment. This includes any transportation service provided by the employer for visiting any such place
- ❑ A house or any domestic dwelling
- ❑ Any enterprise, commonly said to belong to the unorganised sector, which is owned by individuals or self-employed workers and engaged in the production of sale of goods or services

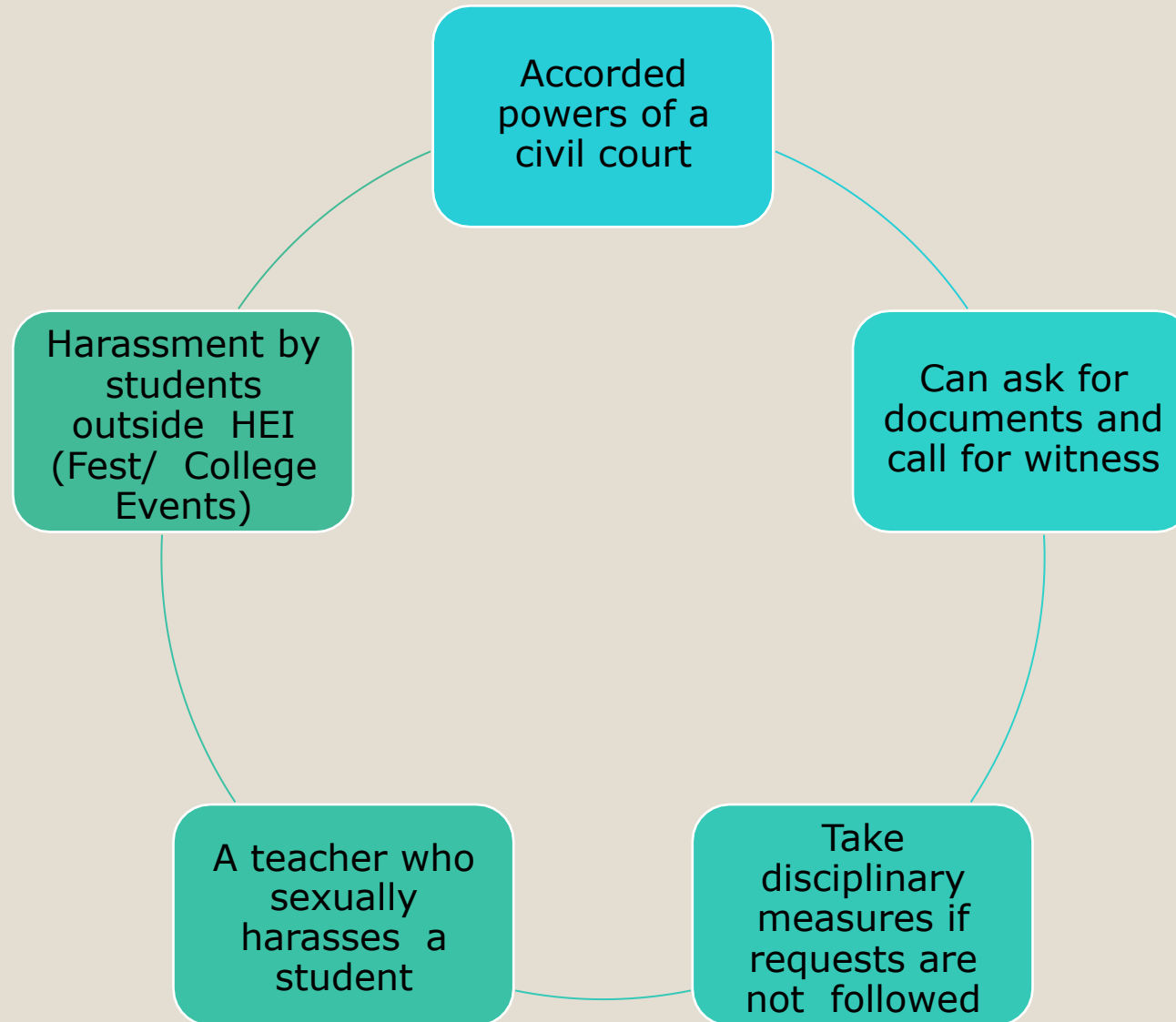
UGC Rules and Special Scopes

- ❖ Ministry of Human Resource Development (University Grant Commission) via notification dated 2nd May, 2016 made University Grants Commission (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015
- ❖ University Grants Commission Act, 1956 (3 of 1956) in exercise of the powers conferred under clause (g) of sub-section (1) of section 26 and sub-section (1) of Section 20 makes this regulation which shall apply to all higher educational institutions in India
- ❖ **Regulation 3 (d) of the UGC** regulation states that it is the responsibility of Higher Educational Institutions to act decisively under all gender based violence against employees and students of all sexes recognizing that primarily women employees and students and some male students and students of the third gender i.e. the regulation states that sexual harassment is gender neutral and institutions should take action on complaints of employees and students of all sexes.

Who may be a perpetrator under UGC Rules



Power of The ICC





**Can a woman file a case of posh
against another woman before the
ICC?**



***Malabika Bhattacharjee v. Internal Complaints Committee,
Vivekananda College and Ors.***

Bench: High Court of Calcutta

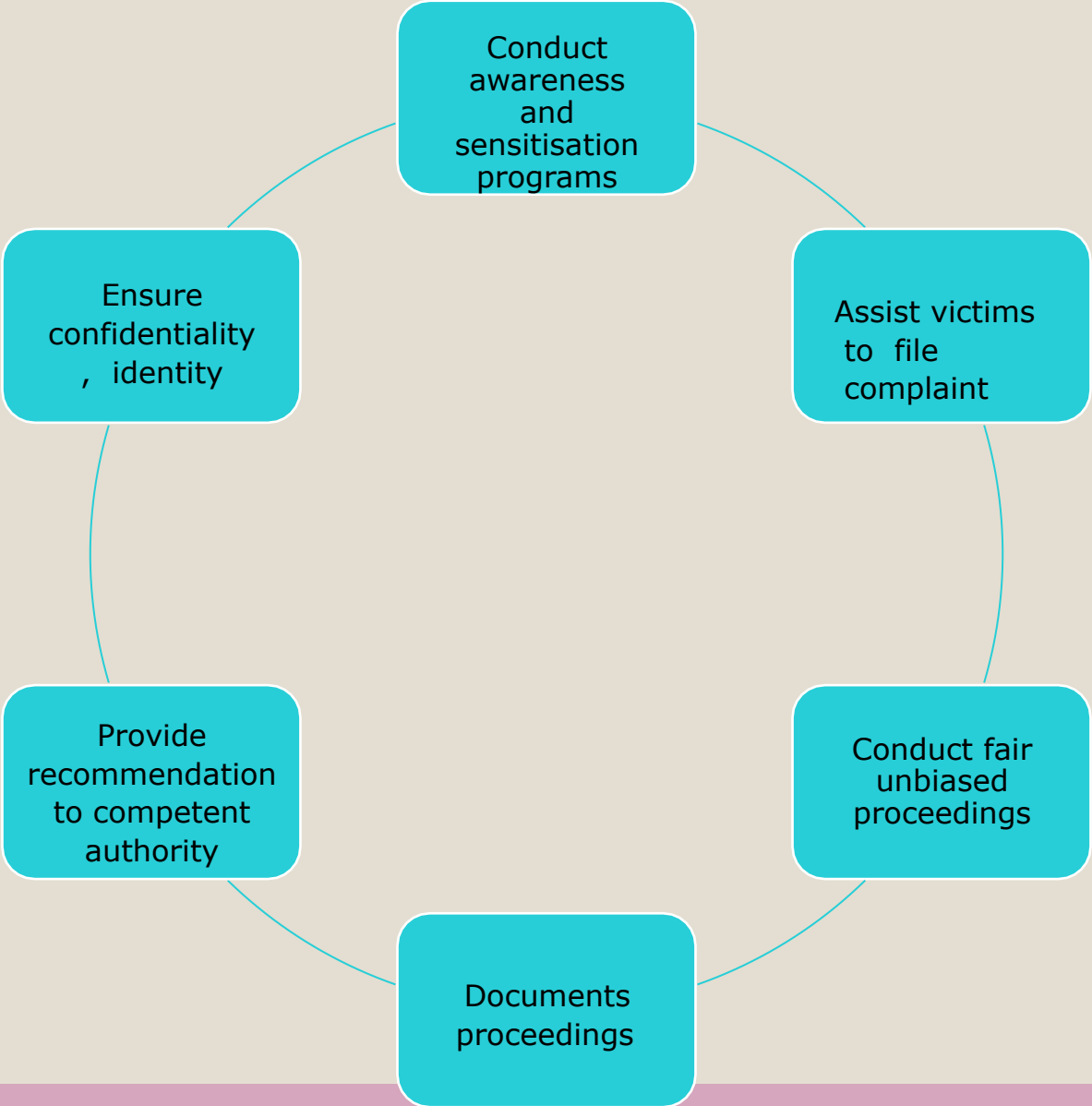
Decision dated: November 27, 2020

Facts: A complaint of sexual harassment was filed against Petitioner, a female employee of the college, by a private respondent being a female

Judgement: The High Court held that there is nothing in Section 9 of the 2013 Act [which has been referred to in Section 2(m)] to preclude a same-gender complaint under the PoSH Act.

Further, the court held that Sexual harassment, as contemplated in the 2013 Act, has to pertain to the dignity of a person, which relates to her/his gender and sexuality; which does not mean that any person of the same gender cannot hurt the modesty or dignity as envisaged by the 2013 Act.

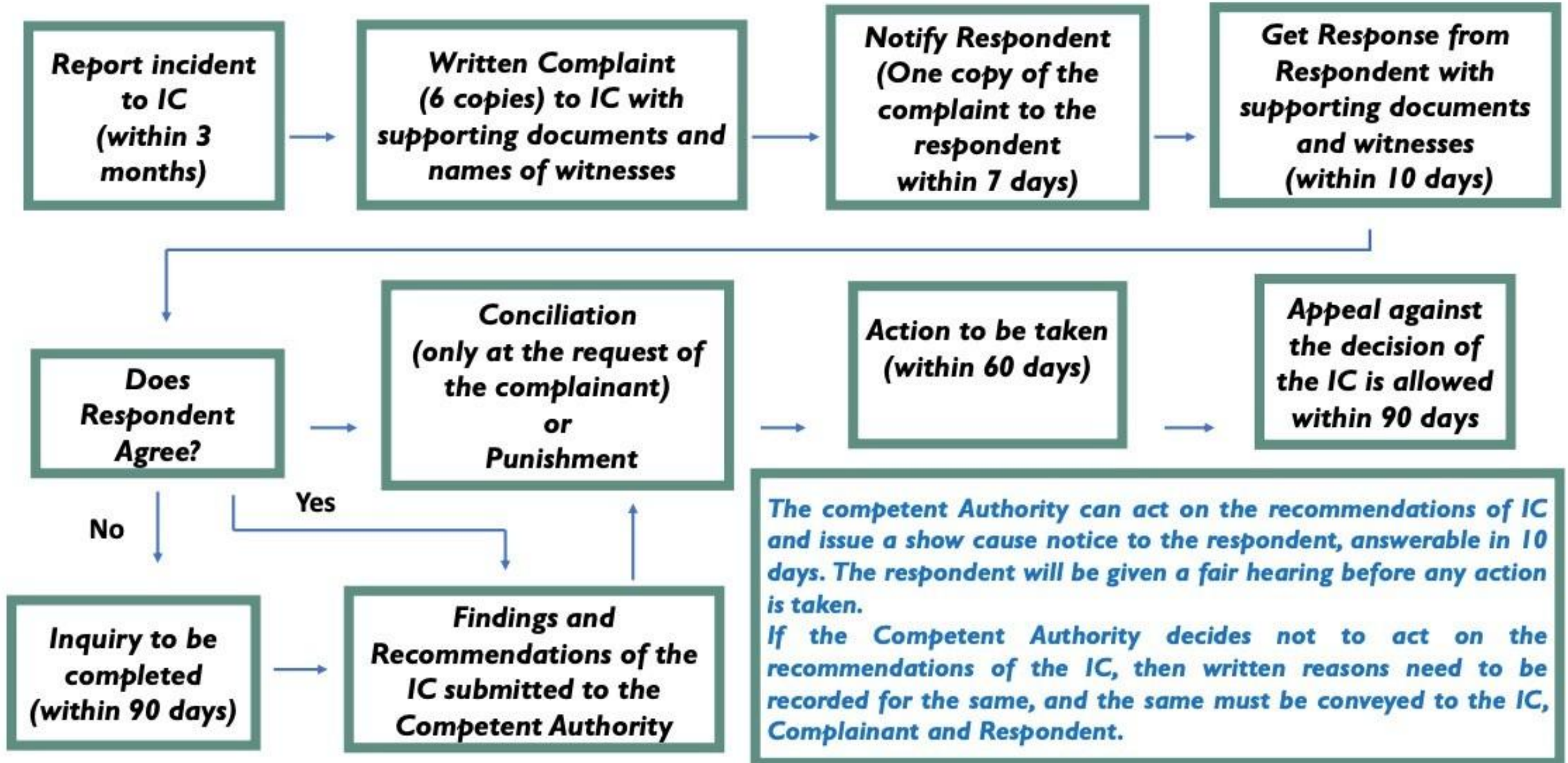
Role & Responsibility of The IC



Who may file a complaint?

- ❖ The victim himself/ herself
- ❖ Victim's friends, colleagues or any person can file a complaint on his or her behalf if he or she is not able to complain due to illness or death or any other reason
- ❖ The complaints should be filed within 3 months of the offence (on reasonable grounds extension of 3 months may be provided by ICC) and the inquiry of the complaint should be completed within a period of ninety days

Mechanism & Timeline for filing a



Actions &

Redressal

- Under Regulation 9 of UGC PoSH Regulation there is scope for interim redressal
- Regulation 10 mentions the amount of punishment and compensation

False Complaint

- Regulation 11 clearly states that provisions against false and malicious complaints have to be made and publicised in HEI's
- Actions under Regulation 10 shall be taken against any complainant who made false allegation