

HIGH COURT OF JAMMU AND KASHMIR**(OFFICE OF THE REGISTRAR GENERAL AT SRINAGAR)****NOTIFICATION****NO:- 320 DATED:- 09/05/2017****SUBJECT:-THE GENDER SENSITIZATION & SEXUAL
HARASSMENT OF WOMEN AT THE HIGH COURT AND
SUBORDINATE COURTS, OF JAMMU & KASHMIR
(PREVENTION, PROHIBITION & REDRESSAL)
REGULATIONS, 2016.**

WHEREAS, it is necessary to provide for gender sensitization in working environment and protection against Sexual Harassment of Women at the precincts of Jammu & Kashmir High Court and Subordinate Courts of the State and for the prevention and redressal of complainants of Sexual Harassment and for matters connected therewith or incidental thereto.

AND WHEREAS, according to the decisions of Hon'ble Supreme Court in **Vishaka V/s State of Rajasthan, AIR 1997 SC 3011** and **Medha Kotwal Lele V/s Union of India and Ors, (2013) 1 SCC 297**, it is necessary to provide for protection of women from any form of indecency, indignity and disrespect, at all places including their work place.

AND WHEREAS, the directions given by Hon'ble Supreme Court in **Ms. Binu Tamta and Ors. V/s High Court of Delhi, writ petition (Civil) No. 162 Of 2013**, make it necessary for the High Court and Subordinate Courts, to frame their own rules for providing safe environment to women and matters ancillary there to.

AND WHEREAS, it is expedient to make provision for giving effect to the Constitution of India, Constitution of J&K, relevant conventions, and Judgments/directions of Supreme Court of India, for protection of women against sexual harassment at High Court and Subordinate Courts of Jammu and Kashmir State:-

CHAPTER-I

PRELIMINARY

1) Short title, extent and commencement-

These regulations may be called the Gender Sensitization and Sexual Harassment of Women at High Court and Subordinate Courts of J&K State (Prevention, Prohibition & Redressal) Regulations, 2016.

These regulations shall come into force on such date as the chief Justice of J&K High Court may, by notification in the State Official Gazette, appoint.

2) Definitions-

In these regulations, unless the context otherwise provides-

- a) "Aggrieved Women" means, in relation to High Court and Subordinate Courts of Jammu and Kashmir State, any female, of any age, whether employed or not, who alleges to have been subjected to any act of Sexual

Harassment by any person in the High Court of Jammu and Kashmir precincts or in the precincts of any Subordinate Courts of the State.

- b) "Chairperson" means, the Chairperson of High Court Gender Sensitization and Internal Complaints Committees.
- c) "Presiding Officer" means, an officer nominated by Principal District Judge (PDJ) for GSLCC.
- d) "Chief Justice of the High Court" in the context of present regulations means, the sitting Chief Justice of the High Court of J&K.
- e) "Habitual Respondent" is the person against whom a previous complaint of sexual harassment has been received by the GSICC or GSLCC on earlier occasion irrespective of whether the matter was resolved with or without any inquiry and except where the respondent has been exonerated in the previous complaint.
- f) "GSICC" and "GSLCC" respectively mean "Gender Sensitization and Internal Complaints Committees", for the High Court of Jammu and Kashmir and "Gender Sensitization and Local complaints Committees for Subordinate Courts" of the State, constituted under Regulations 4 & 5.

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- g) "Internal Sub-Committee" means, the Sub-Committee set up under Regulation 12.
- h) "Member" means, a member of GSICC or GSLCC as the case may be.
- i) "Prescribed" means, prescribed by these regulations.
- j) "Respondent" means, a person against whom the aggrieved woman has made a complaint under the present regulations.
- k) "Sexual Harassment" includes any one or more of the following act or behaviour (whether directly or by implication) namely-
- i) Physical contact and advances.
 - ii) A demand or request for sexual favours.
 - iii) Making sexually coloured remarks.
 - iv) Showing or exhibiting pornography and/or sexually explicit material by any means.
 - v) Sending undesirable sexually coloured oral or written messages, text message, e-mail messages or any such message by electronic, manual or other means.
 - vi) Stalking or consistently following aggrieved women in the High Court or Subordinate Courts of the State, precincts.
 - vii) Voyeurism including overt or tacit observation by the respondent by any
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means of the aggrieved women in her private moments.


- viii) Any conduct whereby the respondent takes advantages of his position and subjects the aggrieved women to any form of sexual harassment and seek sexual favours especially holding out career advancement whether explicitly or implicitly as an incentive or a natural result of submitting to the insinuations/demands of the respondent.
- ix) Any other unwelcome physical, verbal or no-verbal conduct of sexual nature.
- x) Implied or explicit promise of preferential treatment or threat of detrimental treatment, threat about her present or future career.
- xi) Interference with her work or creation of an intimidating or offensive or hostile work environment for her, or
- xii) Any treatment having a sexual colour or content likely to affect her emotional and/ or her physical health or safety.
- l) "High Court of Jammu & Kashmir Precincts" means, the whole premises of High Court Wing at Jammu as well as at Srinagar including the Court Blocks, Administrative Blocks, Jammu and Kashmir State Judicial

Academy Complexes, Mediation Centres, Legal Aid Clinics, open spaces, lawns, parkings, libraries, canteens, bar rooms, dispensaries, lawyers chambers and/or any other part of the premises under the control of the High Court of Jammu & Kashmir.

- m) "Subordinate Courts of the State Precincts" means, the whole premises of the courts located at District Headquarters or Mufassils including the court blocks, open grounds, administrative block, lawns, parking, libraries, canteens, bar rooms, dispensaries, lawyers chambers and or any other part of the premises under the immediate control of the Judicial Officer concerned in Mufassils and Principal District & Sessions Judge at the District Headquarters.
- n) "Volunteers" means, lawyer or other person enlisted by GSICC or GSLCC without any remuneration basis for carrying out the objects and purpose of these regulations.

3) **Prevention of Sexual Harassment-**

No women shall be subjected to sexual harassment at the High Court of Jammu & Kashmir precincts or in the precincts of Subordinate Courts of the State of Jammu & Kashmir.



Chapter-2**CONSTITUTION OF GENERAL SENSITIZATION AND
INTERNAL COMPLAINTS COMMITTEE**4) Constitution of Gender Sensitization and Internal
Complaints Committee-

1) The Chief Justice of the High Court of Jammu and Kashmir shall by an order in writing, constitute a Committee for each wing of the High Court, to be known as High Court of J&K Gender Sensitization and Internal Complaints Committee (GSICC), each of which shall consist of not less than seven members and shall include the following as far as practicable:-

a) One Judge of the High Court of Jammu & Kashmir, for each wing, who shall be the Chairperson of the Committee, to be nominated by the Chief Justice of the High Court.

b) Two Senior members of High Court Bar Association of Jammu and Kashmir, for each wing, with atleast ten years of membership of the Bar, to be nominated by Hon'ble the Chief Justice, one of whom being a woman.

c) Two women members being the members of Clerks Association from Jammu and Srinagar Wings of High

Court elected by general ballot by members of the High Court Clerks Association, for each Committee.

- d) At least two outside members to be nominated by Chief Justice of High Court, who are associated with Social Welfare Department or non-Governmental Organization having experience in the field of social justice, women empowerment and or gender justice, out of whom at least one member shall be a woman, for each wing/committee.
- e) Two women officers in the service of the two wings of the High Court not below the rank of Deputy Registrar to be nominated by Hon'ble the Chief Justice, who shall function as a Member Secretary of GSICC for each Committee and
- f) Any other member that the Chief Justice of High Court may deem fit to nominate.
Provided that not less than half of the total members of each GSICC should be women members.

- 2) The outside member appointed under Clause 4 (1) (f) shall be paid such fees or allowance from the allocated funds for holding the

proceedings of the GSICC, as may be prescribed.

3) Where the Chairperson or any member of GSICC:

- a) Has been convicted for an offence or an inquiry into the offence under any law for the time being in force is pending against him/her.
- b) Fails to take action under these regulations.
- c) Contravenes or attempts to contravene or abets contravention of any or all provisions of these regulations or any notification/orders issued thereunder or
- d) In the opinion of Chief Justice of the High Court, has so abused his/her position as to render his/her continuance in the office prejudicial to the exercise of functions of the GSICC,
Such Chairperson or member as the case may be, shall stand removed forthwith from the GSICC by a written order of the Chief Justice of the High Court and the vacancy so created shall be filled by the fresh nomination/election in accordance

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with the provisions of these regulations.

4) Term of Members of Gender Sensitization and Internal Complaints Committee.

The term of each member of GSICC shall be for two years subject to the member being elected/nominated for a maximum period of two terms and a member who has been removed under regulation 4 (3) (d) of the regulations and such a member shall not be eligible for re-nomination or re-election.

CHAPTER-3

CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE & TERM OF MEMBERS, FUNCTIONS OF GSICC & GSLCC, PROCEDURE FOR MEETINGS ETC.

5) Constitution of Local Complaints Committee-

- 1) The Chief Justice may notify Principal District & Sessions Judge, as the District Officer for every district to monitor the exercise or discharge of the functions by GSLCC under these regulations.
- 2) Every Principal District & Sessions Judge shall constitute in the district concerned a committee to be known as the Gender Sensitization Local Complaints Committee (GSLCC), to receive

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complaints of harassment from his subordinate officers/officials, posted in his district, or any aggrieved woman where GSLCC has not been constituted.

- 3) That the jurisdiction of GSLCC shall extend to the areas of the district where it is constituted.
- 4) The local complaints Committee shall consist of following members to be nominated by the Principal District & Sessions Judge, namely:
 - a) A senior Sub Judge of the District, preferably a woman officer, who shall be the presiding officer of the GSLCC.
 - b) Atleast two senior registered bar members of the District Bar Association, one of whom shall be a woman, having atleast seven years of experience at bar.
 - c) One woman to be nominated from amongst the eminent women in the field of social work and committed to the cause of woman, preferably from the district.
 - d) One woman officer/official from amongst the staff, working in the Judicial Department in any Court of the District shall be nominated as the Member Secretary of GSLCC.
 - e) Any other member that Principal District Judge may deem fit to nominate.



- f) One staff member to be nominated unanimously by the ministerial staff of the subordinate courts of the District.
 - g) Provided that it shall be ensured that the majority of the members of the GSLCC shall be women members.
- 6) The outside member appointed under 5(4) (c) shall be paid such fee or allowance from the funds allocated for holding the proceedings of GSLCC.
- 7) Where the Presiding officer or any member of GSLCC-
- a) Has been convicted for an offence or any inquiry into the offence under any law for the time being in force is pending against him/her.
 - b) Fails to take action under regulations.
 - c) Contravenes or attempts to contravenes or abets contravention of other provisions of these regulations or any notification/orders issued thereunder or
 - d) In the opinion of Principal District Judge, has so abused his/her position as to render his/her continuance in the office prejudicial to the exercise of functions of the GSLCC.
 - e) Such presiding officer or member as the case may be, shall stand removed forthwith from the GSLCC by a written order of the Chief Justice of the High Court on the recommendation of PDJ of the district, and the vacancy so created shall

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be filled by the fresh nomination/election in accordance with the provisions of these regulations.

8) **Term of Gender Sensitization and Local Complaints Committee Members:**

The term of each member of GSLCC shall be for two years subject to the member being elected/nominated for a maximum period of two terms and a member who has been removed under regulation 6 (7) (e) of the regulations and such a member shall not be eligible for re-nomination or re-election.

9) **Functions of the Gender Sensitization Internal Complaints Committee & Local Complaints Committee-**

GSICC & GSLCC shall take following steps with regard to gender sensitization and orientation:

- i) GSICC & GSLCC will ensure the prominent publicity of the policy on gender sensitization and prevention and redressal of sexual harassment in High Court precincts or in the precincts of Subordinate Courts of the State.
- ii) GSICC & GSLCC will organize programmes for gender sensitization of High Court and Subordinate Courts Committees respectively through workshops, seminars, posters, film shows, debates, displays etc.

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iii) GSICC & GSLCC shall submit an annual report by 31st of December every year to the Chief Justice of the State, which shall be made public outlining the activities undertaken by it and charting out the blue print for activities/steps to be taken in the following year.

iv) GSICC & GSLCC may seek the help of NGOs, associations, volunteers, lawyers, para-legal volunteers, concerned legal services authorities, staff to carry out these programmes.

10. Crisis Management & Mediation-

GSICC & GSLCC shall ensure that there is quick and responsive crisis management, counseling and mediation available to all the aggrieved women expeditiously which shall include the assistance to the victim of sexual harassment anywhere in High Court or Subordinate Court premises but no mediation shall conclude without the approval of GSICC & GSLCC.

11. Meeting of Gender Sensitization and internal Complaints Committee & Local Complaints Committee-

1. The GSICC or GSLCC shall meet at least once in four months in a calendar year.
2. Members shall be intimated of the meetings and agenda in writing and/or by electronic communication by the member Secretary.

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3. Minutes of all the meetings shall be recorded, confirmed and adopted. The Member Secretary shall circulate the minutes of the meeting and the resolution so passed to the presiding officer and all the members of GSICC and GSLCC as the case may be, within a week's time of the holding of the meeting or the passing of the resolution.
4. The ordinary meeting shall be called by the Chairperson in case of GSICC or presiding officer in case of GSLCC, with a minimum seven days notice to all the members.
5. Any members of GSICC & GLSCC may at any time request the Chairperson/presiding officer, as the case may be, to call an emergency meeting with a notice of 48 hours. However, the Chairperson/presiding officer may convene an emergency meeting in dispensation of 48 hours notice.
6. The Coram for all the meetings shall be one third of members of the GSICC or GSLCC. In the event the Coram is not complete for any meeting, same can be held within next 10 days following, for which the Coram may or may not be complete.
7. All motions shall be carried by a simple majority of those present and voting in all meetings except where it is specifically provided for.
8. Whenever a report of the Internal Sub-Committee, if any framed, is received by GSICC or a


complaint is received by GSICC or GSLCC, the Member Secretary shall within a period of seven days request the Chairperson/Presiding Officer, as the case may be, to call either an ordinary or emergency meeting and to take action on the same and the Chairperson/Presiding Officer, shall call a meeting but not later than two weeks from the date of the report or complaint.

9. If a member of GSICC or GSLCC does not attend three consecutive meetings, he/she shall be liable to removal forthwith by the Chief Justice of the High Court or Principal District Judge, with the approval of the Chief Justice, as the case may be, and the vacancy so, created shall be filled in accordance with these regulations.

Chapter-4

COMPLAINTS

11. Complaints:-

- 1) Any aggrieved woman, may make, in writing a complaint of sexual harassment at the precincts of the High Court of Jammu & Kashmir (Jammu/Srinagar) and anywhere in the precincts of Subordinate courts of the State, to GSICC or GSLCC, as the case may be, within a period of three months from the date of incident and in case
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of a series of incidents, within a period of three months from the date of last incident.

Provided that where the aggrieved woman is unable to make such complaint in writing due to any reason, a member of GSICC or GSLCC as the case may be or a volunteer, shall render reasonable assistance to the woman for making such a complaint in writing.

Provided further that where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or for any other reason, her legal heir or such other person directly concerned with her interest may make a complaint under these regulations.

12) **Inquiry into Complaint** :-

1) On receiving a complaint and upon being satisfied with regard to genuineness of the complaint, the GSICC or GSLCC shall constitute internal Sub-committee(s) to conduct a fact finding inquiry, which shall comprise of three members of GSICC or GSLCC, as the case may be, or such other persons to be so, nominated by GSICC or GSLCC in its meeting, with majority members being women and at least one person being an outside member.

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- 2) The fact find inquiry shall be conducted by Internal Sub-Committee within a period of 90 days and after conducting a fact finding inquiry, a report shall be prepared.

Provided that the validity of any inquiry shall not be called into question upon the inquiry not having been completed within stipulated period to the reasons beyond the control of the Internal Sub-Committee.

13) Inquiry Report:-


- 1) On completion of any inquiry under these regulations and after submission of the inquiry report, by Internal Sub-Committee(s), copies of the report shall be made available to the concerned parties within a period of 10 days from the date of completion of the inquiry.
- 2) Where the Internal Sub-Committee arrives at the conclusion that the allegations against the respondent have not been proved, it shall recommend to GSICC or GSLCC that no action is required to be taken in the matter.
- 3) Where the Internal Sub-Committee arrives at a conclusion that allegation against the respondent has been proved, it shall recommend to GSICC or GSLCC to take appropriate action for gender discrimination and/or sexual harassment.



- 4) Upon consideration of the material on record and the inquiry report of the internal Sub-Committee, if more than two-third of the members of GSICC or GSLCC differ from conclusion of the Internal Sub-Committee, the GSICC or GSLCC, as the case may be, shall after hearing the aggrieved woman and respondent in person, record its reason to so differ and taken consequent action accordingly.
- 5) The GSICC or GSLCC shall pass orders, either accepting or rejecting the inquiry report of the Internal Sub-Committee and thereafter pass consequent orders that may be appropriate and necessary for putting an end to sexual harassment and take all steps to secure justice to the victim of sexual harassment, within 45 working days of submission of the inquiry report, excluding the period of holidays and vacations.

Provided that the validity of the orders of GSICC or GSLCC shall not be called into question upon the same not being passed within the stipulated time.

14. Orders on Inquiry Report:-

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- 1) The GSICC shall have the power to pass following orders, to secure justice to the victim of sexual harassment-
 - a) Admonition.

- b) Admonition with publication of such admonition in the precincts of concerned Court or wing of High Court.
 - c) Prohibition from harassing the victim in any manner but not limited to, prohibition from communication with her in any manner, such as phones, messages, electronic means, physical or other means for a specified purpose.
 - d) Pass all orders, directions and or direct taking steps necessary for putting an end to the sexual harassment of the aggrieved woman.
 - e) GSLCC may also exercise the powers referred to in 14(1) supra, subject to the approval of Chief Justice.
- 2) GSICC or GSLCC will also have the power to recommend to the Chief Justice of the High Court to pass any order against the delinquent respondent, which His Lordship, may deem proper. The Chief Justice may, if the delinquent respondent is a member of the service, direct initiation of disciplinary proceedings against him, if the facts so warrant, and the service rules in vogue permit.
- 3) The orders of Chief Justice of the High Court and GSICC shall be final. However, the orders passed by GSLCC can be modified, reversed or set aside by the Chief Justice.
- 15) 1) During the pendency of an inquiry, on a written request made by the aggrieved woman, the GSICC or

GSLCC, as the case may be, may recommend to the Chief Justice to:

- a) Transfer the aggrieved woman or the respondent to any other place/station.
 - b) Grant leave to the aggrieved woman for a period of 03 months or
 - c) Grant such other relief to the aggrieved woman as may be prescribed.
- 2) The leave granted to the aggrieved woman under this section shall be in addition to the leave, she would otherwise be entitled to.
- 3) On the recommendation of GSICC or GSLCC, the Chief Justice may implement the recommendation made under Sub section 1 or pass any other order, which the Chief Justice deems fit.
- 16) **Representation:-**
- Any person aggrieved of the order passed (or not passed) by GSICC or GSLCC, or the recommendation of GSICC or GSLCC to the Chief Justice, or non-implementation of such orders, may make a representation to Chief Justice, who shall have the power to set aside or modify the orders passed by GSICC or GSLCC and issue directions that may be necessary to secure complete justice to the victim of sexual harassment.

Provided that the representation shall be preferred within a period of 90 days of communication of the order or the recommendation.

17) **Interim Measures:-**

The GSICC or GSLCC, after being seized of a complaint and during the pendency of an inquiry, on a written request of the aggrieved woman, may recommend specific interim measures to be taken through a signed decision, to the Chief Justice of the High Court, who on receipt thereof may pass such interim orders that may be required for the personal safety and dignity of the aggrieved woman.

Chapter-5

Powers & Duties

18) **Powers of GSICCs and GSLCCs and Internal Sub-Committees:-**

- 1) The GSICC/GSLCC shall have the power to issue circulars, notifications prescribing its procedure and for the purpose of carrying out and implementing the provisions of these regulations in their spirit and intend and GSICC shall also have the power to issue order/directions to GSLCC, as and when need be, in giving effect to these regulations.
- 2) The GSICC shall have the power to pass any orders to be able to carry out the objectives and mandate of the present regulations.

- 3) For the purpose of making an inquiry, the GSICC, GSLCC and the internal Sub-Committees, shall have the same powers as are vested in the Civil Court under the Code of Civil procedure, 1908, when trying a suit, in respect of summoning and enforcing the attendance of any person and examining him on oath, requiring the discovery and production of documents and any other matter, which may be prescribed.

19) **Duties:-**

The GSICC and GSLCC, with the assistance of registry of the High Court shall-

- a) Provided a safe working environment at the precincts of both the wings of the High Court and the Subordinate Courts of the State.
- b) Display at conspicuous places in the precincts of the High Court and Subordinate Courts of the State and on the official website of the High Court, the penal consequences of sexual harassment of women and the order constituting the Internal Sub-Committees under these regulations.
- c) Organize workshop and awareness programmes at regular intervals for sensitizing the employees.
- d) Provide necessary facility to Internal Sub-Committees for dealing with the complaints and conducting the enquiries.

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and provide suitable funds as may be prescribed for effective implementation of these regulations, for development of relevant information, education, communication and training, and for organizing orientation and training programmes for the members of GSICC or GSLCC and Internal Sub-Committees, volunteers, counselors etc.

23) **Punishment for false or malicious complaint and false**

evidence :-

- (1) Where the Internal Committee constituted by GSICC or GSLCC, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the Chief Justice, as the case may be, to take action under relevant law and rules against the woman or the person who has made the complaint under Section 9 of Gender Sensitization and Sexual Harassment of Women at High Court

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and Subordinate Courts of J&K State (Prevention, Prohibition and Redressal) Regulations, 2016:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:

Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

- (2) Where the Internal Committee arrives at a conclusion that during the inquiry any complainant or witness has given false evidence or produced any forged or misleading document, it may recommend to the Chief Justice, to take action under relevant law and rules against the said complainant or witness:

Provided further that if the GSLCC recommends the aforementioned action against the complainant or the witness, it shall forward its recommendation to the GSICC for appropriate directions.

24) Regulations not in derogation of any other law:-

- 1) The provisions of these regulations shall be in addition to and not in derogation of the provisions of any other law for the time being in force.
- 2) The provisions of present regulations shall not bar any court from taking cognizance of any offence punishable under any other enactment or law.

By order


(Sanjay Dhar)
I/C Registrar General

No:- 4575-4606/R.S

Dated: 09/05/2017

Copy forwarded to :-

1. Principal Secretary to the Hon'ble Chief Justice.
2. Secretary to Hon'ble Chief Justice and Hon'ble Judges.
.....with the request to place the same before His Lordship for kind information and perusal.
3. Registrar Vigilance, High Court of Jammu and Kashmir.
4. Registrar Judicial, High Court of J&K Jammu /Srinagar.
..... for information and necessary action at your end.
5. Principal District and Sessions Judge _____
..... for information and necessary action at your end. You are also requested to circulate the same amongst the Judicial Officers working under your jurisdiction.
6. Manager Government Press, Jammu.
..... for publication in the next Government Gazette.
7. In-charge NIC High Court of J&K.
..... for uploading on the High Court Website.


I/C Registrar General