

**Minutes of the 43rd meeting of the Executive Council held on 14th July 2023 at
Conference Hall Barad Sadan, Academic Block**

43rd meeting of the Executive Council was held on 14th July 2023 at 11 AM in Meeting Room, Barad Sadan. Following were present:

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| 1. Prof. Avinash Khare
Vice-Chancellor | - | Chairperson | |
| 2. Prof. Manesh Choubey
Dean, School of Social Sciences | - | Member | |
| 3. Prof. S.S. Mahapatra
Dean, School of Professional Studies | - | Member | |
| 4. Prof. Sohel Firdos
Dean, School of Human Sciences | - | Member | |
| 5. Prof. J. P. Tamang
Senior Professor, Department of Microbiology | - | Member | |
| 6. Dr. Amitabha Bhattacharyya
Associate Professor, Department of Physics | - | Member | |
| 7. Prof. Sanjay Dahal
Dean, Students Welfare | - | Member | |
| 8. Shri P. K. Dash
Finance Officer | - | Special Invitee | } Left
before
taking
up the
last
agenda
item |
| 9. Prof. Shanti Swarup Sharma
CVO | - | Special Invitee | |
| 10. Shri K.V.S. Kameswara Rao
Registrar | - | Secretary | |

Following members attended the meeting online through video conferencing:

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| 11. Prof. H.C.S. Rathore
Former Vice-Chancellor
Central University of South Bihar | - | Member |
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Mrs. Grace D. Chankapa, Deputy Registrar was present to assist the Executive Council.

At the outset, the Vice-Chancellor welcomed all Members of the Executive Council to its 43rd meeting. The Vice-Chancellor thanked the outgoing member Prof. A. N. Shankar, Professor, Department of Commerce for his contributions as the member of the Executive Council and welcomed the new member Dr. Amitabha Bhattacharyya, Associate Professor, Department of Physics.

Thereafter, the agenda items were taken up as under:

SECTION-1

CONFIRMATION OF THE MINUTES AND ACTION TAKEN REPORT

EC 43.1.1: Confirmation of the minutes of the 42nd meeting of the Executive Council held on 26th April 2023

The minutes of the 42nd meeting of the Executive Council held on 26th April 2023 were circulated to all the members on 13th May 2023. No comments were received from any of the members of the Executive Council.

The minutes of the 42nd meeting of the Executive Council held on 26th April 2023 were confirmed.

EC 43.1.2: Action taken report on the minutes of the 42nd meeting of the Executive Council held on 26th April 2023

The Secretary presented the action taken report on the minutes of the 42nd meeting of the Executive Council. The Executive Council noted the action taken report by the University.

SECTION-2

REPORTING ITEMS

EC 43.2.1: Extension of service of Prof. Avinash Khare, Vice-Chancellor, Sikkim University

The Executive Council noted the extension of service of the Vice-Chancellor till 31.07.2024 as communicated by the Ministry of Education, Government of India vide letter No. F.No.36-2/2023-CU-V dated 04.07.2023 granted by the President of India in her capacity as the Visitor of Sikkim University. The Executive Council congratulated the Vice-Chancellor and wished him best for the same.

EC 43.2.2: The agenda item regarding the declaration of results of interviews of faculty positions were circulated vide email dated 31st May, 2023 and the same was accepted by the Executive Council as under:

“1. Declaration of results of interviews of faculty positions in the Department of Zoology and Education.

2. Selection Committee proceedings for placement in next stage under CAS of Dr. Durga P. Chhetri from Stage IV to V.

The agenda items above were circulated to all the members of the Executive Council for consideration vide email dated 31st May 2023.

The following members have accorded approval to the agenda items by email:

1. Prof. H.C.S. Rathore, Former Vice-Chancellor, Central University of South Bihar
2. Prof. Manesh Choubey, Dean, School of Social Sciences
3. Prof. Sanjay Dahal, Dean, School of Physical Sciences & Dean Students' Welfare
4. Prof. S. S. Mahapatra, Dean, School of Professional Studies
5. Prof. Sohel Firdos, Dean, School of Human Sciences
6. Prof. Jyoti Prakash Tamang, Senior Professor, Department of Microbiology
7. Dr. A. N. Shankar, Associate Professor, Department of Commerce

The Chairman considered the agenda items as approved as all the Members of the Executive Council gave their approval to it.”

The following candidates were selected against the following posts and have joined the University on the date mentioned against them:

Sl. No.	Name	Post selected for	Department	Date of joining
1	Dr. Bhoj Kumar Acharya	Professor	Zoology	08.06.2023
2	Dr. Bisu Singh	Associate Professor	Zoology	12.06.2023
3	Dr. Arnab Banerjee	Assistant Professor	Zoology	13.07.2023
4	Dr. Manisha Subba	Assistant Professor	Education	05.07.2023
5	Shri Pawan Kumar Ray	Assistant Professor (On contract)	Education	07.07.2023

With the approval of the Executive Council Dr. Durga P. Chhetri was placed from Associate Professor (Stage IV) to Professor (Stage V) w.e.f. 20.08.2021.

SECTION-3

RATIFICATION MATTERS

EC 43.3.1: Application of Ms. Ashi Pem Pem Wangmo for Study Leave

The Executive Council noted that Ms. Ashi Pem Pem Wangmo, Assistant Professor in the Department of Tourism has requested for grant of Study Leave of 1 year w.e.f. 01.07.2023 – 30.06.2024 to work on her PhD.

The Executive Council also noted that Ms. Ashi Pem Pem Wangmo joined the University on 01.05.2014 and has completed 3 years of continuous service on regular post as on 30.04.2017 on the recommendation of the Department of Tourism the Vice-Chancellor accepted the request and granted Study Leave for one year w.e.f. 01.07.2023.

The Executive Council ratified the action of the Vice-Chancellor of granting study leave to Ms. Ashi Pem Pem Wangmo, as mentioned above.

EC 43.3.2: Relieving of Dr. Salvin Paul, Assistant Professor

The Executive Council noted that Dr. Salvin Paul, Assistant Professor, Department of Peace & Conflict Studies & Management and regular faculty member requested to be relieved on lien on 09.06.2023(A/N) vide letter dated 31.05.2023 to join the post of Associate Professor in the School of Law, Governance and Citizenship at Dr. B. R. Ambedkar University, Delhi. The Vice-Chancellor accepted his request and released him on lien for a period of six month w.e.f. 09.06.2023 (A/N).

The Council ratified the action for the Vice-Chancellor.

EC 43.3.3: Relieving of Dr. Gadde Omprasad, Assistant Professor

The Executive Council noted that Dr. Gadde Omprasad, Assistant Professor, Department of Political Science and regular faculty member requested to be relieved on lien on 11.07.2023 (A/N) vide letter dated 19.06.2023 to join the post of Associate Professor in the Centre for South Asian Studies, School of International Studies, Jawaharlal Nehru University, New Delhi. The Vice-Chancellor accepted his request and released him on lien for a period of one year w.e.f. 11.07.2023 (A/N).

The Council ratified the action for the Vice-Chancellor.

EC 43.3.4: Relieving of Dr. Vimal Khawas, Associate Professor

The Executive Council noted that Dr. Vimal Khawas, Associate Professor in the Department of Peace & Conflict Studies & Management and regular faculty member requested to be relieved on lien on 30.06.2023 (A/N) vide letter dated 19.06.2023 to join the post of Professor in the Special Centre for the Study of North East India, Jawaharlal Nehru University, New Delhi. The Vice-Chancellor accepted his request and released him on lien for a period of one year w.e.f. 30.06.2023 (A/N).

The Council ratified the action for the Vice-Chancellor.

EC 43.3.5: Appointment of Internal Audit Officer on deputation

Based on its decision in its 42nd meeting held on 26th April, 2023 of authorizing the Vice-Chancellor to open the sealed envelopes for the post of Internal Audit Officer on deputation the Council noted the issue of offer of appointment to Dr. C. B. Chhetri. Further, the Council also noted since there were no change in the Ministry/Organization the condition of cooling off period on deputation was condoned by the Vice-Chancellor.

The Executive Council ratified the action of the Vice-Chancellor of condoning the cooling off period and issuing the offer of appointment to the selected candidate Dr. C. B. Chhetri.

EC 41.3.6: Age Relaxation to Internal candidates for non-teaching positions

The Executive Council noted the upper age relaxation extended to all internal candidates (regular and contractual) as per previous norms was extended by the Vice-Chancellor for the various non-teaching positions advertised vide Advertisement No. SU/REG/Estt/F-2/09/2018/Vol-II/1122 dated 25.01.2023.

Additionally, the Council also noted the one time upper age relaxation extended by the Vice-Chancellor to the candidates working in Sikkim University through outsourced agency having served the University for minimum of 5 years. The candidates who otherwise fulfilled the minimum qualification prescribed under the rules.

Looking at the limited scope of regular appointment in Non-Teaching and their length of service in the University the Executive Council as special consideration accepted and ratified the action of the Vice-Chancellor of extending age relaxation to the internal candidates as stated above and allowing them to sit for the written examination against the posts during the examination held between 06.07.2023 to 09.07.2023 for various non-teaching positions.

However, due to some administrative concerns, the decision on relaxation of upper age limit to outsourced candidates was deferred till the next meeting of the Executive Council. The outsourced candidates had applied against the post of Kitchen Attendant only hence, the decision on the post of Kitchen Attendant only was kept on hold till the next meeting of the Executive Council.

SECTION-4

MATTER FOR CONSIDERATION AND APPROVAL

EC 43.4.1: Extension of Contract of Teaching Staff

The Council noted that the contract of the following faculty members expired on the dated shown against each:

Sl. No.	Name	Designation	Department	Contract expire on
1.	Prof. Imtiaz Gulam Ahmed	Professor	Law	30.06.2023
2.	Shri Bhaichung Tsh. Bhutia	Associate Professor	Bhutia	30.06.2023
3.	Shri Bal Bahadur Subba	Associate Professor	Limbu	30.06.2023
4.	Shri Norbu Tshering Lepcha	Associate Professor	Lepcha	30.06.2023
5.	Ms. Dukmit Lepcha	Assistant Professor		30.06.2023
6.	Dr. R. S. S. Nehru	Assistant Professor	Education	30.06.2023

The Executive Council approved the extension of contractual appointment of above mentioned faculty members for further period of six months on the existing term and conditions subject to the condition that they do not exceed the age of 70 years.

EC 43.4.2: Inquiry against Prof. V. Krishna Ananth, Dr. Amitabh Bhattacharyya and Dr. Vijay Kumar Thangellapali

The Council noted the Office Memorandum dated 28.06.2023 from the CVC as communicated by the Vigilance Section, M/o Education vide letter dated 03.07.2023 as under:

“2. Ministry’s reference has been examined in the Commission. In agreement with the CVO and DA, the Commission would advise exoneration of Dr. V. Krihna Ananth, Associate Professor, Dr. Amitabha Bhattacharyya, Associate Professor and Shri. Vijay Kumar Thangellapali, Associate Professor.

3. Further, CVO, M/o Education and CVO, Sikkim University are also advised to undertake systematic improvement to avoid such lapses in future recruitment.”

The Council accepted the decision of CVC as stated above.

EC 43.4.3: Appeal of Dr. Silajit Guha, Professor, Department of Mass Communication against his termination order.

The background of the entire matter right from the complaint dated 12.05.2019 of Ms. X (name withheld to protect her privacy) then a student of MA (Mass Communication) in Sikkim University (hereinafter referred to as the complainant) upto the imposition of penalty of removal from service on the appellant is on record. This reappraisal is based on the directions dated 08.12.2020 of the Hon'ble High Court of Sikkim modified to the extent of judgement dated 03.07.2021 of the Hon'ble Division Bench and the interim order dated 16.06.2023 in Cont. Case (C) No.04 of 2021.

The EC which met on 14.07.2023 heard Dr. Silajit Guha, Sikkim University (hereinafter called the appellant) at length. Later, it also deliberated his appeal dated 01.07.2019 in detail vis-à-vis the written arguments of 24.07.2021 and interactions during the personal hearing, considered report dated 20.10.2021 of the Committee of appeal and reconsidered its resolution dated 28.06.2019.

In short, the appellant feels aggrieved by his perceptions on lack of jurisdiction of the Internal Complaints Committee (ICC), not resorting to conciliation, the procedure adopted to draw the conclusion on guilt, denial of opportunity to cross-examine witnesses, contradiction in the testimony of witnesses, lack of corroboration, the recommendation of ICC being illegal and beyond its power and the entire premise in the show cause notice dated 10.06.2019 being bad in law. Each of these perceptions has been examined in detail for drawing objective conclusions.

(i) Lack of jurisdiction

ICC conducted the inquiry under the University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015 (the regulations for short). It is a sub-ordinate legislation notified in the Gazette of India under Section 29 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (the Act for short). The regulations are applicable to all higher educational institutions in India from the 2nd of May, 2016. "Campus" defined by clause 2 (c) of the regulations inter alia means and includes places visited as a student of the HEI outside the institution on field trips, internships, study tours, excursions, short-term placements, places used for camps, cultural festivals, sports meets and such other activities where a person is participating in the capacity of an employee or a student of the HEI. Under clause 2 (o) of the regulations, the 'workplace' means the campus of the HEI. The complainant visited Hotel Terrace Valley, Ranipool, Gangtok, Sikkim on 5th May 2019 as a student of HEI to attend a marriage reception on the invitation of one of her teachers. A few other students of Sikkim University were also present at

the hotel during the reception - a social activity within the scope of 'other activities'. Thus, the hotel irrefutably became 'campus' within the definition of clause 2 (c) of the regulations. Workplace, under Regulation 2(o) meant the 'campus' of the HEI. Consequentially, Hotel Terrace Valley, Ranipool, Gangtok, Sikkim was a 'workplace' on the evening of 5th May 2019 for the complainant as well as the appellant. So much so, the ICC had jurisdiction to inquire into the sexual harassment alleged to have been caused to the complainant on 05.05.2019 by the appellant while at Hotel Terrace Valley, Ranipool, Gangtok, Sikkim.

The Executive Council also took note of the complaint filed by the complainant before the ICC and the subsequent deposition of the complainant and other witnesses recorded by the ICC against Dr Guha.

Such act of misconduct happened within the University precincts. The Executive Council took note of the same.

(ii) Not resorting to conciliation

ICC, u/s 10 (1) of the Act, is empowered to take steps to settle the matter through conciliation at the request of the aggrieved woman. There is nothing on record to infer that the complainant had made a request for conciliation under clause 8 (7) of the Regulations. Therefore, the ICC cannot be found fault with for any lapse, mistake, omission or deliberate intention to conciliate the matter between the complainant and the appellant.

(iii) Procedure adopted to draw the conclusion on guilt

The ICC is observed to have held the inquiry in accordance with the procedure laid down by Clause 8 of the Regulations read with Section 11 (1) of the Act. While doing so it was bound by Clause 8 (8) of the regulations not to disclose the identities of the victim or the witnesses. The procedure adopted by the ICC followed the principles of natural justice, predominantly of giving extract of the complaint, seeking reply, providing access to the evidence, affording personal hearing to the parties and drawing a reasoned report. Within the limitations of sensitivity and restrictions imposed upon it by law, the procedure adopted by the ICC to draw conclusion was fair, impartial and hence lawful.

(iv) Denial of opportunity to cross-examine witnesses

Subject to the restrictions imposed by Section 16 of the Act, the ICC extended full opportunity of cross-examination to the appellant by providing him statements of all witnesses. The appellant, in response, framed the questions which were given to each of the witnesses. The reply to the queries in cross examination formed part of the record of inquiry. Unlike the contention in appeal, the opportunity of cross-examination is not seen to have been denied to the appellant at all.

(v) Contradiction in the testimony of witnesses, lack of corroboration

The appellant has not stated anywhere in the appeal the reasons as to why the testimony of the concerned witness was contradictory. He has also not advanced any argument or contention for the lack of corroboration. A sweeping statement on contradiction or lack of corroboration is not admissible in appeal. The law of evidence demands the evidence to be considered as a whole and not piecemeal for the purpose of proof. Para -VII at pages 23 to 28 of the ICC Report submitted on 10.06.2019 is enough substantiation that evidence has been analyzed threadbare and discussed as a whole for drawing conclusions.

(vi) Recommendation of ICC being illegal and beyond its power

Under clause 8 (3) of the regulations the ICC is required to submit its report with recommendations.

(vii) Entire premise in the show cause notice dated 10.06.2019 being bad in law

The premise of the ICC being the Inquiring Authority under CCS (CCA) Rules, 1965 is factual and hence not bad in law. The next premise of conclusion was provisional and subject to consideration of reply to be furnished by him. The show cause notice, therefore, did not suffer from any legal infirmity.

The ICC submitted its report on 10.06.2019. The University issued a show cause notice under clause 8 (6) of the regulations on 10.06.2019. The appellant replied to the show cause notice on 21.06.2019. This reply did not contain any mention of his inclination to appeal under clause 8 (5) of the regulations. The EC considered the said reply dated 21.06.2019 on 25.06.2019. The order imposing penalty was passed on 28.06.2019.

The appeal under clause 8 (5) of the regulations submitted by the appellant was dated 01.07.2019. However, on 09.07.2019 the appellant had submitted a letter to the Registrar to inform him who was the Appellate Authority as he did not know the same. The date 01.07.2019 put in hand on the appeal, therefore, lacks credibility, raising doubts on the limitation of the appeal. Records also reveal that the EC, while considering the reply dated 21.06.2019, could not have any knowledge of the appeal dated 01.07.2019. Nevertheless, the prospect of an appeal as per the latter part of clause 8 (4) of the regulations escaped the notice of the EC on 25.06.2019. The resolution of the EC dated 28.06.2019 of the 33rd meeting held on 25.06.2019 imposing the penalty on the appellant, therefore, obligates a review.

After having discussed the appeal in detail as above the EC continues to maintain its conclusion so far as the acceptance of ICC Report. It is proved that the appellant had committed on 05.05.2019 the serious misconduct of sexual harassment within the meaning of clause 2 (k) (i) (d) read with clause 2 (k) (ii) (b & c) of the regulations. In consideration of the oversight in its 33rd meeting and the plea of the appellant on 14.07.2023 for lenience due to his family and financial difficulties the EC has decided to invoke its inherent powers of revision/review of the penalty.

While doing so the EC cannot ignore its solemn and sublime responsibilities under Clause 3 (d) (f) (k) (l) and (m) of the regulations to act decisively against all gender based violence perpetrated against employees and students of all sexes recognising that primarily women employees and students and some male students and students of the third gender are vulnerable to many forms of sexual harassment and humiliation and exploitation; reinforce its commitment to creating its campus free from discrimination, harassment, retaliation or sexual assault at all levels, proactively move to curb all forms of harassment of employees and students whether it is from those in a dominant power or hierarchical relationship within HEIs or owing to intimate partner violence or from peers or from elements outside of the geographical limits of the HEI, be responsible to bring those guilty of sexual harassment against its employees and students to book and initiate all proceedings as required by law and also put in place mechanisms and redressal systems like the ICC to curb and prevent sexual harassment on its campus and treat sexual harassment as a misconduct under service rules and initiate action for misconduct if the perpetrator is an employee.

Resultantly, the EC holds that a major penalty less harsh in effect than removal from service which acts as reformative and deterrent would serve the ends of justice. Accordingly, the EC has resolved to reduce the penalty of removal from service imposed on Dr. Silajit Guha, Sikkim University as reduction to lower grade of Associate Professor at the minimum of the pay in level 13 A for seven years w.e.f. 28.06.2019 which shall be a bar to his promotion to the grade of Professor during the specified period, with further direction that on promotion on the expiry of the said specified period, the period of reduction shall not operate to postpone future increments of his pay and that he shall regain his original seniority in the higher grade from the date of restoration i.e. 28th June 2026.

The appellant will continue to remain divested of responsibilities such as to be the Head of a Department or Dean of the School or be part of any administrative responsibility. He will not be allowed to supervise students during the penalty period. He will only be allowed to teach in the classroom.

The Vice Chancellor, Sikkim University is hereby authorized to issue reasoned speaking orders conveying this resolution to all concerned.

SECTION-5

**MINUTES OF AUTHORITIES/COMMITTEES
NIL**

SECTION-6

ITEMS FROM THE CHAIR

NIL

Meeting ended with a vote of thanks to the Chair.

**Sd/-
(K.V.S. Kameswara Rao)
Registrar & Secretary
Executive Council**

**Sd/-
(Prof. Avinash Khare)
Vice-Chancellor & Chairman
Executive Council**