

**Proposed Guidelines submitted by the Petitioners of Writ Petition (Criminal) No. 02 of 2016  
(DSGMC & Ors. Vs Union of India) pending before Hon'ble Supreme Court of India**

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The guidelines to provide for the uniform and effective legal mechanism, together with the procedure to be followed by the said legal mechanism, and the matters incidental thereto for their effective and uniform implementation throughout India through the prescribed competent authorities and Court of law.

**WHEREAS** in absence of any enacted law to provide for the effective enforcement of the basic human right of individuals/citizens of this Country to remain insulated and protected from all kinds of mental harassment/trauma/humiliation/social alienation etc. being caused by the uncontrolled and unwitting/causal objectionable, derogatory, humiliating, bullying and ridiculing remarks, comments, acts, Jokes, gestures etc. either spoken by individual(s) or created and decimated by the individual/ entity/Company/internet site owners/internet site managers/internet site handlers etc., it is necessary to lay down the guidelines and norms specified hereinafter for due and strict adherence, observance and compliance throughout the Indian Territory, until a legislation is enacted for the purpose. This is done in exercise of the power available under Art. 32 of the Constitution for enforcement of the fundamental rights and it is further emphasized that this would be treated as the law declared by this Court under Art. 141 of the Constitution.

**AND WHEREAS** it is expedient to frame guidelines for creating awareness and also for discouraging and deprecating, and in some cases for punishing the offenders/habitual offenders, against the objectionable, derogatory, humiliating, bullying and ridiculing remarks, comments, acts, Jokes, gestures etc. either spoken by individual(s) or created and decimated by the individual/entity/Company/internet site owners/internet site managers/internet site handlers etc. either with an aim to create humor or otherwise against an individual or a class of individuals hailing from any particular religious/ethnic/racial/linguistic groups in India and also to provide for the uniform and effective legal

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mechanism, together with the procedure to be followed by the said legal mechanism, and the matters incidental thereto for their effective and uniform implementation throughout India through the prescribed competent authorities and Court of law.

**Preliminary**

**1. Short title, commencement and extent:-**

- i. These Guidelines shall be referred to and called as "The Guidelines for promoting and maintaining Social, Religious, Ethnic and Racial Harmony".
- ii. It shall come into force as per the Directions given by the Hon'ble Supreme Court of India.
- iii. It shall extend to whole of India without any exception

**2. Definitions:-**

- i. "Adhering Institutions" means the institutions which shall be bound to adopt these guidelines and consequently these adhering institutions shall be bound to develop and maintain the legal mechanism and records as provided in these Guidelines for ensuring complete and strict adherence to these Guidelines and these institutions shall includes all the Schools, educational and/or Training institutions, all the Colleges, Technical Training/ Engineering/ Management institutions/colleges, all offices, all Transport vehicles/ means, all the Registered Group Housing Societies, all the Market Welfare Associations, all the Hospitals, all the Police Stations etc. irrespective of the fact as to whether the said institutions are controlled by Government or Private managements.

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- ii. "Aggrieved person" means and include any citizen of India who has lodged the complaint before the "Appropriate Authority" either for himself or on behalf of the other victims.
- iii. "Appropriate Authority" (as mentioned in Schedule-I) shall mean and include any authority which has been empowered to act as an "Appropriate Authority" for receiving the complaints under of this Guidelines. Appropriate Authority may delegate his/her powers to "Appropriate Delegated Authority" (as mentioned in Schedule-I) also.
- iv. "Competent authority" means and includes the designated Civil Authority functioning under the direct control and supervisions of the Central Government or State Government or Administration of Union Territories or their instrumentalities etc. (having civil administrative control over the area where the complaint has been lodged before the Appropriate Authority) to which the complaints shall be referred to by the "Appropriate Authority" in terms of the provisions of these Guidelines.
- v. "Complaint" means and includes any allegation made orally or in writing by the "Aggrieved Person"/"victim" to the "Appropriate Authority" and this shall include all the records and evidence submitted by the Aggrieved person/victim.
- vi. "Court" means and includes the Court as defined and classified under Chapter-II & Chapter-III of the provisions of the Code of Criminal Procedure, 1973
- vii. "Habitual Offender" means the "Offender" against whom there has been more then two convictions by the Court of law for the offending acts.

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- viii. "Offender" means and include the individual(s)/ entity/ Company/ internet site owners/internet site managers/internet site handlers etc. against whom the complaint is lodged by Aggrieved person or victim.
- ix. "Offending Act" means and include any act of uttering, speaking, writing, creating, publishing and/or decimating any word/ writings/ photos/videos/gesture/remarks/jokes/comments etc., either casually/unwittingly or for the sake of fun or humor or for the sake of private/self consumption, which are perceived in the opinion of the victim(s) or aggrieved person(s) to be offending either to themselves or against any other individual or group of individuals belonging to any particular religious/ ethnic/racial/linguistic groups in India. For any dispute regarding the real nature and purport of the contents of offending acts and the consequential allegations and perception of the Aggrieved Person/victim, the decision of competent authority shall be final subject to the provisions of the Code of Criminal Procedure, 1972 and the Power of Judicial Review available to the High Courts under Articles 226/227 of the Constitution of India.
- x. "Police Officer" means and include the officers, acting for maintaining the law and order situation, under the control and supervisions of the respective Central Government or State Governments as per the Law of the land and the provisions of the Code of Criminal Procedure, 1973
- xi. "Victim" means and include the individual or group of individuals belonging to any part of India who have felt offended by the Offending acts of the Offenders.

**3. Prohibition:-**

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It shall be completely prohibited to commit any "Offending Act" which has been defined in sub-clause (ix) of Clause 2 of these Guidelines.

**4. Procedure:-**

- i. In case any Aggrieved person or victim notices the commission of any Offending Act, he shall lodge a complaint before the Appropriate Authority by giving the following details:-
  - a. Name of the Offender.
  - b. Address of the Offender (if known).
  - c. Telephone Number, e-mail id or internet site details of the offender (if known).
  - d. Ingredients of the said Offending acts with precise allegations.
  - e. Place of the commission of the offending acts.
  - f. Witnesses of the offending acts, if any.
  - g. Details of the Aggrieved person and/or victim, as the case may be, with their complete addresses, e-mail ids, telephone numbers and if possible photographs also.
  - h. Details of any communication/notices, if any, exchanged between the Aggrieved person and/or victim and the offender with the copies thereof.
  - i. Details of the litigation pending between the Aggrieved person/ victim and offender and between their family members, if any, with the

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complete set of the paper books and documents of the said litigation, if any.

- ii. On the receipt of the complaint, Appropriate Authority shall ensure that all the pages of the complaint and the documents shall be signed by the Aggrieved person and/or victim and the Appropriate Authority also on each page of the complaint and documents with the date of receipts of the said documents and complaint on each page.
- iii. Appropriate Authority, on receipt of the complaint and after complying with the procedure prescribed under sub-clause (ii) of clause 4 of these guidelines, shall forward the Notice to the offender intimating the offender about the receipt of the complaint against him and the said Notice shall contain a due date also for giving an opportunity to the offender to inspect entire records and also to get the copies of the said records, under written receipt, lodged by the Aggrieved person/victim with the complaint at the cost of the offender. Appropriate Authority shall also be bound to maintain the Register of Complaints to maintain the data of the receipts of the Complaints and the separate files for each of the Complaints shall also be maintained by giving them Serial Number as per the entry mentioned in the Register of Complaint.
- iv. The Offender may collect the records on the date mentioned in the Notice sent to him under sub-clause (iii) of clause 4 or within 30 days from the first date mentioned in the said Notice issued under sub clause (iii) of Clause 4 of these guidelines.
- v. The Offender shall have the liberty to tender his unconditional apology, with the assurance by way of a separate undertaking declaring that he shall not

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commit the offending acts in future against anybody or any group, to the Appropriate Authority within 30 days from the date mentioned in the Notice issued under sub clause (iii) of Clause 4 or from the date of the collection of the records by him under sub-clause (iv) of clause 4 of the guidelines, which ever is later and in case an apology letter with undertaking is given by the offender the copy of the same shall be furnished to the Aggrieved person/victim and on the receipt of the written satisfaction note from the Aggrieved person/victim; the complaint file shall be closed with an intimation to the Aggrieved person/ victim and the offender. The apology letter tendered under this clause shall not be treated as "conviction" for declaring the "Offender" as "Habitual Offender" under sub-clause (vii) of Clause (2) of this Guidelines.

- vi. In case no apology letter or undertaking is furnished by the offender within the stipulated period of time or in case the offender contests the allegations by filing reply, the Appropriate Authority shall forward the copies of the complaints and documents with the replies/documents, if any, to the appropriate Competent Authority for taking appropriate decision.
- vii. The Competent Authority may also mutatis mutandis follow the procedure prescribed in sub-clauses (iii) to (v) of clause (4) of these Guidelines for giving due opportunities to the Aggrieved person/victim and offender(s) for resolving the issues and disputes between the parties and in case the said disputes are not resolved within 60 days from the receipt of the file by the Competent Authority from Appropriate Authority under this sub-clause; the Competent authority shall pass appropriate orders, without being influenced by the assessment as to whether or not any offence is made out under the provisions

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of Indian Penal Code or not or any other existing law or not, on the issue as to whether or not the complaint and documents received and signed under sub-clauses (i) and (ii) of clause (4) of these Guidelines should be sent to the concerned police station for lodging the First Information Report under the provisions of the law and for the violation of the provisions of these Guidelines and the copy of the said order shall be sent to both the parties i.e. Aggrieved Party/victim and Offender and this decision shall be final subject the provisions of the Code of Criminal Procedure, 1973. Notwithstanding anything contained in this sub-clause, it is provided that in case the offender has chosen not to respond to the complaint before the Appropriate Authority under Sub-clause (v) and (vi) of clause 4 of these Guidelines, the Competent Authority may treat the records, signed under Sub-clauses (i) and (ii) of clause 4 of these guidelines, as sufficient for passing necessary orders under this sub-clause.

- viii. In case the Competent Authority passes an order to refer the matter to Police for the lodgment/registration of the complaint, the same shall be sent to the concerned police station within 7 days from the date of passing such order with the copies of the complaint and all the documents received and signed under sub-clauses (i) and (ii) of clause (4) of these Guidelines together with the copies of the replies/documents filed by the offender, if any.
- ix. On the receipt of the order passed by the competent authority under sub-clause (viii) of clause 4 of these guidelines, the Police officer of the concerned police station shall register the First Information Report on the basis of the complaint and all the documents received and signed under sub-clauses (i)

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and (ii) of clause (4) of these Guidelines and investigate the matter as per the law.

- x. The police officer investigating the allegations under sub-clause (ix) of clause of 4 of these guidelines, shall strictly follow the procedures prescribed under the provisions of the Code of Criminal Procedure, 1973.

**5. Maintenance of Records:-**

All the Adhering Institutions, Appropriate Authorities, Competent Authorities, Police stations shall separately maintain the records of the Offenders (with the complaint date, complaint number, First Information Reports Number and the date of order of conviction and the Court convicting the said offender) who have been "convicted" by the Courts of competent jurisdiction and in case any convicted person gets an acquittal by any Court of Appellate jurisdiction the names of such acquitted persons should be removed within 15 days from the date of the receipt of the said acquittal order with an intimation to the Aggrieved person/victim and the acquitted person.

**6. Declaration of Habitual Offender:-**

In case any Offender is convicted finally on more than two occasions, the said person shall be declared as Habitual Offender by the Competent Authority within 90 days from the date of the receipt of the Third Conviction Order. However, it is clarified that before declaring the offender as Habitual Offender, due Notice shall be given to Offender for seeking his response as to whether he has any proof for showing the pendency of any appeal proceedings or for getting any proof for showing his having availed any further legal recourse against the conviction orders and during the pendency of the appeals before any court of law, the said offender shall not be declared as Habitual offender.

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**7. Consequences of the declaration of the Offender as Habitual Offender:-**

In case any offender is declared as Habitual Offender under clause (6) of these Guidelines, the said Habitual Offender shall be debarred from holding any public post, public office, Government employment, private employment besides being prohibited from contesting any elections for any office for next 10 years from the date of the passing of the order declaring him as Habitual Offender.

**8. Maintenance of the records by the Internet site owners:-**

All the internet site owners are expected to maintain complete day to day records for the purposes of investigating agencies to fix the responsibility against the offender, in case of any complaint and in absence of any such record the entire management of the said Owning agency shall be deemed to be responsible for the offending acts.

**9. Tenure of these Guidelines:-**

These Guidelines shall remain in force till the time appropriate legislation is enacted by the Legislature.

**10. Time Limit:-**

All the Adhering institutions shall be bound to implement these guidelines since 1.1.2017

**11. Awareness:-**

Awareness of the rights of the Aggrieved persons/victims in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner by all the Adhering

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institutions. The Central/State Governments/UT Governments are requested to consider adopting suitable measures including legislation to ensure that these guidelines are also observed by all the concerned.

12. These guidelines will not prejudice any existing rights available to any Aggrieved person/victims as may be available in any other law.

Encl: Schedule-I

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**SCHEDULE - I**

Sr. No.	Adhering Institutions	Appropriate Authority	Appropriate Authority	Delegated Authority
1	All Schools Classes from K – VIII of Government / Aided / Un-Aided / Private	Principal / Head of Schools	Monitoring Committee consisting of 3 -5 teachers nominated by the Principal shall keep a watch over the issues and submit monthly report for the subsequent necessary action	
2	All Schools Classes from IX – XII of Government / Aided / Un-Aided / Private Schools	Principal / Head of Schools	Same as above	
3	Colleges Intermediate & Undergraduate	Principals	Same as above	
4	Colleges & Institutes offering All Professional Courses	Principal / Affiliating University or Council	Same as above	
5	Universities	Dean / Head of Departments	Same as above	
6	Commercial Establishments / Malls, Shops etc	Owner	Monitoring Committee consisting of 2-3 Senior Staff members nominated by the owner shall keep a watch over the issues and submit monthly report for the subsequent necessary action	
7	Trade Establishments including E Commerce	Owner	Same as above	

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8	All work Places like Government Offices, Autonomous Bodies etc	Head of Department	Monitoring Committee consisting of 2-3 Senior Staff members nominated by the Head of Department shall keep a watch over the issues and submit monthly report for the subsequent necessary action
9	All Industrial Work Places Public Sector Undertaking	Head of Department	Same as above
10	All Industrial Work Places in Private Sector	Owner	Monitoring Committee consisting of 2-3 Senior Staff members nominated by the owner shall keep a watch over the issues and submit monthly report for the subsequent necessary action
11	All Dispensaries, Clinics & Hospitals	Medical Officer incharge	Monitoring Committee consisting of 2-3 Senior Staff members nominated by the medical Officer Incharge shall keep a watch over the issues and submit monthly report for the subsequent necessary action
12	Restaurant, Fast Food, Eating Outlets, Hotels Business Class and Star Hotels etc,	Owner	Monitoring Committee consisting of 2-3 Senior Staff members nominated by the owner shall keep a watch over the issues and submit monthly report for the subsequent necessary action
13	All Airports, Railway Stations and Bus	Officer Incharge	Monitoring Committee consisting of 2-3 Senior

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	Stands		Staff members nominated by the officer incharge shall keep a watch over the issues and submit monthly report for the subsequent necessary action
14	All modes of Transport Auto, Taxi, Buses owned State Public & Private Transport	(a)If the vehicle is attached to some entity by way of ownership including aggregation, then, owner of such entity (b)If the vehicle is self driven by the owner, then, such owner	a) In relation to (a), monitoring committee consisting of 2-3 Senior Staff Members nominated by owner shall keep a watch over the issues and submit report for the subsequent necessary action. b) Owner to keep a watch over the issues and adhere to strict compliance thereof
16	Cinema Halls and Theatres, Sport Complexes, Auditoriums	Owner or Head of the Department, as the case may be	Monitoring Committee consisting of 2-3 Senior Staff members nominated by the owner or Head of the Department shall keep a watch over the issues and submit monthly report for the subsequent necessary action
16	Social Media including Web Sites, Telephony	Owner or Head of the Department, as the case may be	Monitoring Committee consisting of 2-3 Senior Staff members nominated by the owner or Head of the Department shall keep a watch over the issues

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			and submit monthly report for the subsequent necessary action
17	Residential Colonies, Gated Housing Societies, Housing Resident Welfare Associations	President / General Secretary	Monitoring Committee consisting of 2-3 Senior Members nominated by the President / General Secretary shall keep a watch over the issues and submit monthly report for the subsequent necessary action

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