

agriculture has been associated with production of essential food crops. At present, agriculture above farming includes forestry, dairy, fruit cultivation, poultry, bee keeping, mushroom, arbitrary, etc. The livelihood of many people is agriculture. It is hoped that the present edition of this book will be of all concerned of the society, in general and students, lawyers, advocates, academicians, human rights researchers and NGOs working in Agricultural economics field, in particular.

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Women Empowerment in Indian Society

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- Cases in which chargesheets were submitted- 252682
- Cases in which chargesheets were not laid but FR as True Submitted- 25040

Disposal of Crimes Committed Against Women Cases by Courts During 2014

- Cases Pending Trial from The Previous Year- 874388
- Cases Sent for Trial during the Year- 252682
- No. of Cases Withdrawn by the Govt.- 63
- No. Of Cases disposed by Plea Bargaining.- 3584
- Cases Compounded or Withdrawn- 15937
- Cases in which Trials were Completed- 124970
- Cases Convicted- 26660
- Cases Acquitted or Discharged- 98310
- Cases pending trial at the end of the year- 982516
- Cases Conviction Rate- 21.3

Conclusion

Therefore there is a need for change in the behaviour of the citizens. The attitudinal changes come through proper education and realisation of the teachings of culture and tradition. As long as there is no turnaround there will be increase in the incidents. The Government needs to take stringent actions against the attackers and offenders. Deterrence to the offenders is a much better choice as the present situation is too deep and widely affected. There is no use of just putting the rights on the paper. Social action on this aspect is also necessary.

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8

Gender Inequality in the Workplace: An overview of Sexual Harassment Act, 2013

Puneet Pathak

"A woman knows very well that, though a wit sends her his poems, praises her judgment, solicits her criticism, and drinks her tea, this by no means signifies that he respects her opinions, admires her understanding, or will refuse, though the rapier is denied him, to run through the body with his pen."

- Virginia Woolf

Introduction

The protection against sexual harassment and the right to work with dignity are universally recognised human rights by international human rights instruments. Universal Declaration of Human Rights and Convention on the Elimination of all forms of Discrimination against Women are ratified by most of the countries of the world which prohibit all forms of discrimination against women. Sexual harassment at workplace results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to live dignified life under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business under article 19 which includes a right to a safe environment free from sexual harassment.

The Supreme Court of India in Vishaka case¹ laid down detailed guidelines for protection of women against sexual harassment.² The government of India passed the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 after 15 years of Vishaka Guidelines due to the lack of women's voice in the decision making process. The statute is intended to ensure that women are protected against sexual harassment at all the work places, either in public or private. This will contribute to realisation of their right to gender equality, liberty and dignity in working conditions everywhere. The sense of security at the workplace will improve women's participation in work, resulting in the empowerment of women.

The preamble to the Constitution of India recognises the "equality of status and opportunity" to all its citizens. Further, equality of every person under the law is

guaranteed by Article 14 of the Constitution. A safe workplace is therefore a woman's legal and fundamental right which relate to the dignity of women as guaranteed by Article 21 of the Constitution. Indeed, the Constitutional doctrine of equality and personal liberty is contained in Articles 14, 15 and 21 of the Indian Constitution.³ These articles ensure a person's right to equal protection under the law, to live a life free from discrimination on any ground and to protection of life and personal liberty. This is further reinforced by the UN Convention on the Elimination of all Forms of Discrimination against Women⁴, which was adopted by the United Nations General Assembly in 1979 and which is ratified by the Government of India.⁵ Often referred as an international bill of rights for women, it calls for the equality of women and men in terms of human rights and fundamental freedoms in the political, economic, social, cultural and civil spheres. It emphasises that discrimination and attacks on women's dignity violate the principle of equality of rights. (Desai, 2015)

The issue relating to sexual harassment at workplace as the violation of human rights has been raised at various international forums. The Committee on the Elimination of All Forms of Discrimination against Women recognised that workplace sexual harassment is a form of human rights violation.⁶ It considered sexual harassment as a form of gender-specific violence which includes sexual harassment and impairs the enjoyment by women of several basic human rights and fundamental freedoms.⁷ Declaration on the Elimination of Violence against Women also recognises the right to just and favourable conditions of work.⁸

Beijing Platform of Action, 1995 advocates the elimination of violence against women and advancing women's equality includes the right to be free from workplace sexual harassment⁹ (The Advocates, 2010). UN Division for the Advancement of Women also appealed that the legislation on violence against women should define violence to include sexual harassment. Such legislation should also recognize sexual harassment as a form of discrimination and a violation of women's rights with health and safety consequences.¹⁰ The International Labour Organization (ILO) has also drawn specific attention to domestic workers, who have a right to enjoy effective protection against all forms of abuse, harassment and violence¹¹ (UNHDR, 2013; Handbook MWCD, 2015)

Sexual harassment constitutes a gross violation of women's right to equality and dignity. It has its roots in patriarchy and its attendant perception that men are superior to women and that some forms of violence against women are acceptable. One of these is workplace sexual harassment, which views various forms of such harassment, as harmless and trivial (Shanker, 2012; Kalindri, 2013). Often, it is excused as 'natural' male behaviour or 'harmless flirtation' which women enjoy. Contrary to these perceptions, it causes serious harm and is also a strong manifestation of sex discrimination at the workplace.

Not only is it an infringement of the fundamental rights of a woman, under Article 19 (1) (g) of the Constitution of India "to practice any profession or to carry out any occupation, trade or business"; it erodes equality and puts the dignity and the physical and psychological well-being of workers at risk. This leads to poor productivity and a negative impact on lives and livelihoods (Gupta, 2014). Sexual Harassment at work is an extension of violence in everyday life and is discriminatory, exploitative, thriving in

atmosphere of threat, terror and reprisal. Studies find that sexual harassment is still endemic, often hidden, and present in all kinds of organisations. The issue is of concern for both women and the employers as studies show that sexual harassment touches lives of nearly 40-60% of working women. According to data compiled by the National Commission for Women (NCW), there is a noticeable rise in sexual harassment at the workplace. (Ernst & Young, 2014)

Background of Sexual Harassment Law

Though the issue of sexual harassment at workplace in India has continued to be a serious offence and not something openly discussed about. Before 1997, there was no specific law or guidelines on the issue of sexual harassment at workplace in India and the matter was tackled under Section 354 of Indian Penal Code, 1860. It was only since 1992, when some incidents and cases regarding the sexual harassment at workplace started the debate to tackle the issue by legal means. Devastating consequence in some cases due to lack of legal framework and insensitivity regarding such issue shocked the society in this regard. These cases include Vishaka Case, Rina Mukherjee case¹² and RupanDeol Bajaj case¹³.

The Bhanwari Devi¹⁴ case revealed the ever-present sexual harm to which millions of working women are exposed across the country, everywhere and everyday irrespective of their location. It also shows the extent to which that harm can escalate if nothing is done to check sexually offensive behaviour in the workplace. Based on the facts of Bhanwari Devi's case, a Public Interest Litigation (PIL) was filed by Vishaka and other women groups against the State of Rajasthan and Union of India before the Supreme Court of India. It proposed that sexual harassment be recognized as a violation of women's fundamental right to equality and that all workplaces/establishments/institutions be made accountable and responsible to uphold these rights. (Pereira & Rodrigues, et al., 2014)

In a landmark judgment of Vishaka (1997), the Supreme Court of India created legally binding guidelines basing it on the right to equality and dignity accorded under the Indian Constitution as well as by the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Supreme Court defined sexual harassment as any unwelcome, sexually determined physical, verbal, or non-verbal conduct. Examples included sexually suggestive remarks about women, demands for sexual favours, and sexually offensive visuals in the workplace. The definition also covered situations where a woman could be disadvantaged in her workplace as a result of threats relating to employment decisions that could negatively affect her working life. It placed responsibility on employers to ensure that women did not face a hostile environment, and prohibited intimidation or victimization of those cooperating with an inquiry, including the affected complainant as well as witnesses. (Kabtta, Kiran, 2015)

It directed for the establishment of redressal mechanism in the form of Complaints Committee, which will look into the matters of sexual harassment of women at workplace. The guidelines extended to all kinds of employment, from paid to voluntary, across the public and private sectors. Vishaka established that international standards/law could serve to expand the scope of India's Constitutional guarantees and fill in the gaps wherever they exist. India's innovative history in tackling workplace sexual harassment

beginning with the Vishaka Guidelines and subsequent legislation has given critical visibility to the issue.

Scope of Sexual Harassment Law

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013¹⁵ was enacted to ensure safe working spaces for women and to build enabling work environments that respect women's right to equality of status and opportunity. This new legislation makes every effort to be a user friendly constitutional instrument in the hands of the employers and employees, to create safe and healthy working environment at workplace for women.¹⁶ The Act provides provision relating to the prevention of sexual harassment at workplace, protection in case of incident and redressal mechanism for the remedy to victim of sexual harassment.¹⁷ It is applicable not only to organised sector but also unorganised sector. The wide definition of workplace and aggrieved women is also intended to widen the protection of the Act and curb the menace of sexual harassment at workplace¹⁸ (Preetha, et al., 2015).

What is Sexual Harassment at the Workplace?

According to Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 "Sexual Harassment" includes anyone or more of the following unwelcome acts or behaviour (whether directly or by implication), namely:

- Physical contact or advances;
- A demand or request for sexual favours;
- Making sexually coloured remarks;
- Showing pornography;
- Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature¹⁹

In regard to analyse the issue of harassment from the women perspective, the High Court of Delhi in Punita K. Sodhi Case (2010) endorsed the view that sexual harassment is a subjective experience and for that reason held "We therefore prefer to analyze harassment from the [complainant's] perspective. A complete understanding of the [complainant's] view requires...an analysis of the different perspectives of men and women. Conduct that many men consider unobjectionable may offend many women..... Men tend to view some forms of sexual harassment as "harmless social interactions to which only overly-sensitive women would object. The characteristically male view depicts sexual harassment as comparatively harmless amusement. ... Men, who are rarely victims of sexual assault, may view sexual conduct in a vacuum without a full appreciation of the social setting or the underlying threat of violence that a woman may perceive."²⁰

Generally workplace sexual harassment refers to two common forms of inappropriate behaviour. The first form is Quid Pro Quo (literally 'this for that') which includes implied or explicit promise of preferential/detrimental treatment in employment; implied or express threat about her present or future employment status. The second form is Hostile Work Environment which includes creating a hostile, intimidating or an offensive work environment; humiliating treatment likely to affect her health or safety.²¹ Some examples of behaviour that constitute sexual harassment at the workplace are:

- Making sexually suggestive remarks or innuendos.
- Serious or repeated offensive remarks, such as teasing related to a person's

- Offensive comments or jokes.
- Inappropriate questions, suggestions or remarks about a person's sex life.
- Displaying sexist or other offensive pictures, posters, mms, sms, whatsapp, or e-mails.
- Intimidation, threats, blackmail around sexual favours.
- Threats, intimidation or retaliation against an employee who speaks up about unwelcome behaviour with sexual overtones.
- Unwelcome social invitations, with sexual overtones commonly understood as flirting.
- Unwelcome sexual advances which may or may not be accompanied by promises or threats, explicit or implicit.
- Physical contact such as touching or pinching.
- Caressing, kissing or fondling someone against her will (could be considered assault).
- Invasion of personal space (getting too close for no reason, brushing against or cornering someone).
- Persistently asking someone out, despite being turned down.
- Stalking an individual.
- Abuse of authority or power to threaten a person's job or undermine her performance against sexual favours.
- Falsely accusing and undermining a person behind closed doors for sexual favours.
- Controlling a person's reputation by rumour-mongering about her private life.

What is Workplace?

Recognising that sexual harassment of women may not necessarily be limited to the primary place of employment, the Prevention of Workplace Sexual Harassment Act has introduced the concept of an 'extended workplace'. As per the statute, 'workplace' includes any place visited by the employee arising out of or during the course of employment, including transportation provided by the employer for the purpose of commuting to and from the place of employment.

As per this definition, a workplace covers both the organised and un-organised sectors. It also includes all workplaces whether owned by Indian or foreign company having a place of work in India. As per the Act, workplace includes:

- Government organizations, including Government company, corporations and cooperative societies;
- Private sector organisations, venture, society, trust, NGO or service providers etc. providing services which are commercial, vocational, educational, sports, professional, entertainment, industrial, health related or financial activities, including production, supply, sale, distribution or service;
- Hospitals/Nursing Homes;
- Sports Institutes/Facilities;
- Places visited by the employee (including while on travel) including transportation provided by employer;
- A dwelling place or house.²²

The Act defines the Unorganised Sector as:

- Any enterprise owned by an individual or self-employed workers engaged in the production or sale of goods or providing services of any kind;
- Any enterprise which employs less than 10 workers.²³

All women working or visiting workplaces are included in the definition of Workplace. (See, Figure No. 01)

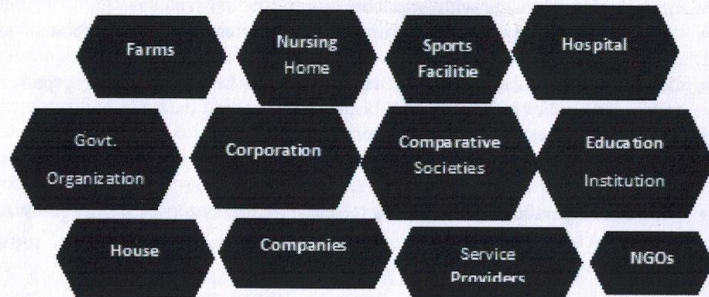


Fig. 1:

Who is Aggrieved Women?

The Act recognizes the right of every woman to a safe and secure workplace environment irrespective of her age or employment/work status.²⁴ Hence, the right of all women working or visiting any workplace whether in the capacity of regular, temporary, ad-hoc, or daily wages basis is protected under the Act. It includes all women whether engaged directly or through an agent including a contractor, with or without the knowledge of the principal employer. They may be working for remuneration, on a voluntary basis or otherwise. Their terms of employment can be express or implied. Further, she could be a co-worker, a contract worker, probationer, trainee, apprentice, or called by any other such name. The Act also covers a woman, who is working in a dwelling place or house²⁵ (See Figure 02).

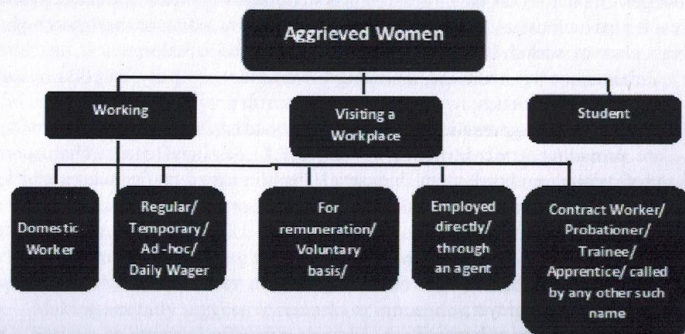


Fig. 1:

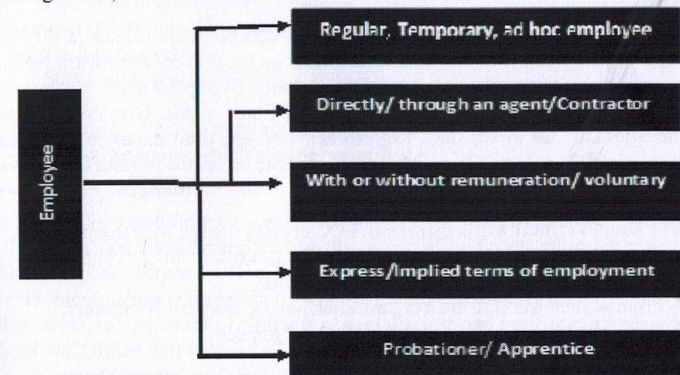
Who is an Employer?

According to the Act an employer refers to:

- The head of the department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the Appropriate Government or local authority or such officer specified in this behalf.
- Any person (whether contractual or not) responsible for the management, supervision and control of a designated workplace not covered under clause (i).
- A person or a household who employs or benefits from the employment of domestic worker or women employees.²⁶

Who is Employee?

The definition of an 'employee' under the Prevention of Workplace Sexual Harassment Act is fairly wide and covers regular, temporary, ad hoc employees, individuals engaged on daily wage basis, either directly or through an agent, contract labourers, co-workers, probationers, trainees, and apprentices, with or without the knowledge of the principal employer, whether for remuneration or not, working on a voluntary basis or otherwise, whether the terms of employment are express or implied (See Figure: 03).²⁷



Complaints Committee/sunder the Act:

An important feature of the Prevention of Workplace Sexual Harassment Act is that it envisages the setting up of grievance redressal forums for both organized and unorganized sectors. The Act provides for two kinds of complaints mechanisms: Internal Complaints Committee (ICC)²⁸ and Local Complaints Committee (LCC)²⁹. All Complaints Committees must have 50 per cent representation of women. ICC or LCC members will hold their position not exceeding three years from the date of their nomination or appointment.³⁰

1) Internal Complaints Committee (ICC)

Every employer is obliged to constitute an ICC through a written order. The ICC will be composed of the following members:

No. Member	Eligibility
1. Chairperson	Women working at senior level as employee; if not available then nominated from other office/units/ department/ workplace of the same employer
2. 2 Members (minimum)	From amongst employees committed to the cause of women/ having legal knowledge/experience in social work
3. Member	From amongst NGO/associations committed to the cause of women or a person familiar with the issue of Sexual Harassment

Important Points regarding Internal Complaint Committee:

- Not less than half of the ICC Members shall be women
- The term of the ICC Members shall not exceed 3 years
- A minimum of 3 Members of the ICC including the Presiding Officer are to be present for conducting the inquiry.
- In regard to the external member, it will greatly benefit Complaints Committees in terms of fair and informed handling of complaints to lead to sound outcomes. These external third party members shall be paid for their services on the Complaints Committees as prescribed.³¹

Where the office or administrative units of a workplace are located in different places, division or sub-division, an ICC has to be set up at every administrative unit and office. To establish such committee are mandatory. Even prior to the enactment of the law on sexual harassment, the Madras High Court in *Ms. G v. ISG Novasoft Technologies Ltd* Case awarded Rs. 1.68 crores in damages to an employee for the non-constitution of a Complaints Committee by the employer, as per the Vishaka Guidelines.³²

Local Complaints Committee (LCC)

The District Officer will constitute an LCC in every district so as to enable women in the unorganised sector or small establishments to work in an environment free of sexual harassment.³³ The LCC will receive complaints:

- From women working in an organisation having less than 10 workers;
- When the complaint is against the employer himself;
- From domestic workers.³⁴

The composition of Local Complaints Committee (LCC)³⁵ according to the Sexual Harassment of Women at Workplace Act, 2013 is as follows:

No. Member	Eligibility
1. Chairperson	Nominated from amongst the eminent women in the field of social work and committed to the cause of women
2. Member	Nominated from amongst the women working in the block, taluka or tehsil or ward or municipality in the district
3. 2 Members	Nominated from amongst such NGO/associations/persons committed to the cause of women or familiar with the issues relating to sexual harassment, provided that:• At least one must be a woman• At least one must have a background of law or legal knowledge
4. Ex Officio member	The concerned officer dealing with social welfare or women and child development in the district

Note: One of the nominees shall be a woman belonging to the SC/ST/OBC/Minority community notified by the Central Government.³⁶

Powers of the Committee

The Prevention of Workplace Sexual Harassment Act stipulates that the ICC and LCC shall, while inquiring into a complaint of workplace sexual harassment, have the same powers as are vested in a 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.³⁷

Where to Complain?

Generally, where there are less than ten workers, any woman employee can complain to the Local Complaints Committee with the support of the Nodal Officer, when required. It is the responsibility of the District Officer to designate a person as the Nodal Officer in every block, taluka and tehsil in rural or tribal areas and wards or municipalities in the urban areas, to receive the complaints of workplace sexual harassment from women. The Nodal Officer will forward all such complaints within seven days of its receipt to the concerned Complaints Committee for appropriate action.³⁸ In other workplaces, a woman employee can make a complaint to the Internal Complaints Committee. The Act provide the flexibility in regard to filing the complaint and if the aggrieved person is not able to file it, the same can be filed by someone else on her behalf as prescribed by the Act.³⁹

Complaint Process

An aggrieved woman who intends to file a complaint is required to submit six copies of the written complaint, along with supporting documents and names and addresses of the witnesses to the ICC or LCC,⁴⁰ within 3 months from the date of the incident and in case of a series of incidents, within a period of 3 months from the date of the last incident. The ICC/LCC can extend the timeline for filing the complaint, for reasons to be recorded in writing, by a period of 3 months.⁴¹ The law also makes provisions for friends, relatives, co-workers, psychologist, psychiatrists, etc. to file the

complaint in situations where the aggrieved employee is unable to make the complaint on account of physical incapacity, mental incapacity or death.⁴² An aggrieved woman is allowed to request for conciliation in order to settle the matter although monetary settlement should not be made as a basis of conciliation.⁴³

Timelines under the Act:

The Act provides a clear timeline for the speedy justice to the victim of sexual harassment at workplace. Written complaints (six copies) along with supporting documents and names and addresses of witnesses have to be filed within 3 months of the date of the incident and in case of a series of incidents, within a period of three months from the date of last incident. Timeline extendable by another three months for the reasons to be recorded in writing, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period. Upon receipt of the complaint, one copy of the complaint is to be sent to the respondent within seven days.⁴⁴

Upon receipt of the copy of complaint, the respondent is required to reply to the complaint along with a list of supporting documents, and names and addresses of witnesses within ten working days. The Inquiry has to be completed within a total of 90 days from the receipt of the complaint. The Inquiry report has to be issued within 10 days from the date of completion of inquiry. The employer is required to act on the recommendations of the ICC/LCC within 60 days of receipt of the Inquiry report.⁴⁵ Appeal against the decision of the committee is allowed within 90 days from the date of recommendations⁴⁶. (For the summary of timeline see the table below)

S.No.	Subject	Timeline
1.	Submission of Complaint	Within 03 Months of the last incident
2.	Notice to the Respondent	Within 07 days of receiving copy of the complaint
3.	Completion of Inquiry	Within 90 days
4.	Submission of Report to ICC/LCC to employer or District officer	Within 10 days of completion of the enquiry
5.	Implementation of Recommendation	Within 60 days
6.	Appeal	Within 90 days of the recommendations

Relief to the Victim

The Act provides interim and permanent relief to the victim. At the request of the complainant, the ICC/LCC is empowered to, recommend to the employer to take the following interim measures:

- Transfer of the aggrieved woman or the respondent to any other workplace
- Granting leave to the aggrieved woman up to a period of 3 months in addition to her regular statutory/ contractual leave entitlement⁴⁷
- Restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, which duties may be transferred to other employees.⁴⁸

Further, the Act prescribes the following punishments that may be imposed by an employer on an employee for indulging in an act of sexual harassment:

- Punishment prescribed under the service rules of the organization;
- If the organization does not have service rules, disciplinary action including written apology, warning, reprimand, censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service, undergoing a counselling session, or carrying out community service; and
- The statute also envisages payment of compensation to the aggrieved woman.⁴⁹

The compensation payable to the victim shall be determined based on various grounds such as: the mental trauma, pain, suffering and emotional distress caused to the aggrieved employee; the loss in career opportunity due to the incident of sexual harassment; medical expenses incurred by the victim for physical/ psychiatric treatment; the income and status of the alleged perpetrator; and feasibility of such payment in lump sum or in instalments.⁵⁰ In the event that the respondent fails to pay the aforesaid sum, ICC may forward the order for recovery of the sum as an arrear of land revenue.⁵¹

Confidentiality of the Matter

Recognising the sensitivity attached to matters pertaining to sexual harassment, the Prevention of Workplace Sexual Harassment Act prescribes significant importance to ensure the confidentiality of complaint and connected information. The statute specifically stipulates that information pertaining to workplace sexual harassment shall not be subject to the provisions of the Right to Information Act, 2005. The statute further prohibits dissemination of the following information to the public, press and media in any manner:

- Contents of the complaint;
- Identity and addresses of the complainant, respondent witnesses, any information relating to conciliation and inquiry proceedings;
- Recommendations of the ICC/LCC;
- Action taken by the employer/District Officer.⁵²

Breach of the obligation to maintain confidentiality by a person entrusted with the duty to handle or deal with the complaint or conduct the inquiry, or make recommendations or take actions under the statute, is punishable in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed.⁵³

Malicious Complaints

In order to ensure that the protections envisaged under the statute are not misused, provisions for action against "false or malicious" complainants have been included in the statute. It provides that if the ICC/LCC concludes that the allegation is false or malicious or the complaint has been made knowing it to be untrue or forged or misleading information has been provided during the inquiry, disciplinary action in accordance with the service rules of the organisation can be taken against such complainant.

Where the organisation does not have service rules, the statute provides that disciplinary action such as written apology, warning, reprimand, censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service, undergoing a counselling session, or carrying out community service may be taken.⁵⁴ The statute further clarifies that the mere inability to substantiate a complaint or provide adequate proof need not mean that the complaint is false or malicious.⁵⁵

Employer's Duties and Obligations

The Prevention of Workplace Sexual Harassment Act, in addition to requiring an employer to set up an ICC and ensure redressal of grievances of workplace harassment in a time bound manner, imposes certain duties upon the employer which are as follows:

- provide a safe working environment;
- formulate and widely disseminate an internal policy or charter or resolution or declaration for prohibition, prevention and redressal of sexual harassment at the workplace;
- display conspicuously at the workplace, the penal consequences of indulging in acts that may constitute sexual harassment and the composition of the ICC;
- declare the names and contact details of all members of the ICC;
- organize workshops and awareness programmes at regular intervals for sensitizing employees on the issues and implications of workplace sexual harassment and organizing orientation programmes for members of the ICC;
- provide necessary facilities to the ICC for dealing with the complaint and conducting an inquiry;
- cause to initiate action, under the Indian Penal Code, 1860 ("IPC") or any other law in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;
- provide assistance to the aggrieved woman if she so chooses to file a complaint in relation to the offence under the IPC or any other law for the time being in force;
- treat sexual harassment as a misconduct under the service rules and initiate action for misconduct;
- prepare an annual report with details on the number of cases filed and their disposal and submit the same to the District Officer;
- monitor the timely submission of reports by the ICC.⁵⁶

If an employer fails to constitute an ICC or does not comply with the requirements prescribed under the Prevention of Workplace Sexual Harassment Act, a monetary penalty of up to INR 50,000 may be imposed.⁵⁷ A repetition of the same offence could result in the punishment being doubled and / or de-registration of the entity or revocation of any statutory business licenses.⁵⁸ It is also pertinent to note that all offences under Prevention of Workplace Sexual Harassment Act are non-cognizable.⁵⁹

Conclusion

Despite government's untiring efforts to stop discrimination against women at the workplace, it is still widely practiced in India. Since patriarchy prevails in a developing country like India where being a female is no less than facing a challenge every day. In this regard, there is an indispensable need for proper training programs for the employees as well as the employers. This would ensure a healthy atmosphere for both, males and females. The Internal and the local sexual harassment cells should function actively in ensuring a dignified life for the females.

The victim shall be provided with professional counselling with utmost care and protection. Female employees should be encouraged to raise their voice against any

such harassment as soon as possible. The complainant's safety and protection shall be taken care of. It would ensure active participation of females in public and private sectors and thus would lead towards empowerment in the true sense. An effective implementation of the Act will contribute to the realization of their right to gender equality, life and liberty, equality in working conditions everywhere.

The sense of security at the workplace will improve women's participation in work, resulting in their economic empowerment and inclusive growth. Thus, combating sexual harassment involves developing understanding of what is sexual harassment and change of attitudes in all-be it employees, colleagues, friends, administrators, employers or the law makers.

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1. Vishaka and Others v. State of Rajasthan and Others (JT 1997 (7) SC 384)
2. In the case of Vishaka v. State of Rajasthan, the Supreme Court of India took note of the fact that the present civil and penal laws in India did not adequately provide for specific protection of women from sexual harassment in work places and that enactment of such legislation will take considerable time, It was necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women.
3. The Constitution of India recognises gender equality and the rights to live with dignity in its article 14, 15, 21: Article 14: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth; Article 15 (3) Nothing in this article shall prevent the State from making any special provision for women and children
4. Article 21: No person shall be deprived of his life or personal liberty except according to procedure established by law.
5. UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <http://www.refworld.org/docid/3ae6b3970.html> [accessed 27 April 2016]
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12. Article 5, ILO Decent Work for Domestic Workers Convention, 2011 (No. 189).
13. Rina Mukerjee @ Rina Jameshedji v. The State of West Bengal & Ors. W.P. 24935(W) OF 2013
14. Mrs. RupanDeol Bajaj & Anr v. Kanwar Pal Singh Gill & Anr 1996 AIR 309
15. Bhanwari Devi, a social worker in state of Rajasthan was gang raped by a group of upper

- class, influential men, because she had tried to stop the insidious practice of child marriage. Bhanwari Devi was determined to get justice and lodged a case against the offenders. However, the accused was acquitted by a trial court. This appalling injustice, together with the fighting spirit of Bhanwari Devi, inspired several women's groups and NGOs to file a petition in the Supreme Court under the collective platform of Vishakha (Vishakha and others V. State of Rajasthan and others, 1997). They demanded justice for Bhanwari Devi and urged action against sexual harassment at work place.
16. Since 1997 the Supreme Court of India laid down detailed guidelines to deal with the problem of sexual harassment at workplace. It was only in 2007 when a draft Protection of Women against Sexual Harassment at Workplace Bill, 2007 was approved by the Cabinet but introduced in the Lok Sabha in 2010. In 2012 the bill was amended and reintroduced in Lok Sabha. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 came into effect in December 09, 2013.
 17. Article 3 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
 18. Preamble of the Sexual Harassment of Women at Workplace Act, 2013
 19. Section 2 (o) of the Sexual Harassment of Women at Workplace Act, 2013
 20. Section 2 (n) of the Sexual Harassment of Women at Workplace Act, 2013
 21. Punita K. Sodhi v. Union of India & Ors., W.P. (C) 367/2009 & CMS 828, 11426/2009
 22. Section 3 (2) of the Sexual Harassment of Women at Workplace Act, 2013
 23. Section 2 (o) of the Sexual Harassment of Women at Workplace Act, 2013
 24. Section 2 (p) of the Sexual Harassment of Women at Workplace Act, 2013
 25. Section 2 (a) of the Sexual Harassment of Women at Workplace Act, 2013
 26. Section 2 (f) of the Sexual Harassment of Women at Workplace Act, 2013
 27. Section 2 (g) of the Sexual Harassment of Women at Workplace Act, 2013
 28. Section 2 (f) of the Sexual Harassment of Women at Workplace Act, 2013
 29. Section 2 (h) of the Sexual Harassment of Women at Workplace Act, 2013
 30. Section 2 (i) of the Sexual Harassment of Women at Workplace Act, 2013
 31. Section 4 (3) & Article 7 (2) of the Sexual Harassment of Women at Workplace Act, 2013
 32. Section 4 of the Sexual Harassment of Women at Workplace Act, 2013
 33. Ms. G v. ISG Novasoft Technologies Ltd. Madras High Court (CrI.R.C.No.370 of 2014 order dated 02.09. 2014. Original Petition No.463 of 2012
 34. Section 6 of the Sexual Harassment of Women at Workplace Act, 2013
 35. Section 6 (1) of the Sexual Harassment of Women at Workplace Act, 2013
 36. Section 7 of the Sexual Harassment of Women at Workplace Act, 2013
 37. Section 7 (1) (c) of the Sexual Harassment of Women at Workplace Act, 2013
 38. Section 11 (3) of the Sexual Harassment of Women at Workplace Act, 2013
 39. Section 6 (2) of the Sexual Harassment of Women at Workplace Act, 2013
 40. Section 9 (2) of the Sexual Harassment of Women at Workplace Act, 2013;
 41. Section 7 Sexual Harassment at the Workplace (Prevention, Prohibition and Redressal) Rules, 2013
 42. Proviso of Section 9 (1) of the Sexual Harassment of Women at Workplace Act, 2013;
 43. Section 6 Sexual Harassment at the Workplace (Prevention, Prohibition and Redressal) Rules, 2013
 44. Section 10 of the Sexual Harassment of Women at Workplace Act, 2013;
 45. Section 7 (2) Sexual Harassment at the Workplace (Prevention, Prohibition and Redressal) Rules, 2013
 46. Section 13 (4) of the Sexual Harassment of Women at Workplace Act, 2013.
 47. Section 18 of the Sexual Harassment of Women at Workplace Act, 2013.

49. Section 8 of Sexual Harassment at the Workplace (Prevention, Prohibition and Redressal) Rules, 2013
50. Section 13 (3) of the Sexual Harassment of Women at Workplace Act, 2013.
51. Section 15 of the Sexual Harassment of Women at Workplace Act, 2013.
52. Proviso of Section 13 (3) of the Sexual Harassment of Women at Workplace Act, 2013.
53. Section 16 of the Sexual Harassment of Women at Workplace Act, 2013.
54. Section 17 of the Sexual Harassment of Women at Workplace Act, 2013.
55. Section 14 of the Sexual Harassment of Women at Workplace Act, 2013.
56. Proviso of Section 14 of the Sexual Harassment of Women at Workplace Act, 2013.
57. Section 19 of the Sexual Harassment of Women at Workplace Act, 2013.
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