

**Report
on
Awareness Program
on
Sexual Harassment of Women at Workplace
(Prevention, Prohibition and Redressal)
Act 2013**



December 9, 2021

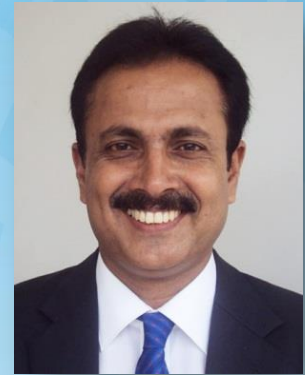
Organised by

**Centre for Training, Orientation & Capacity Building
Rajiv Gandhi National Institute of Youth Development,**
Institution of National Importance by the Act of Parliament No.35/12
Ministry of Youth Affairs and Sports,
Government of India,
Sriperumbudur – 602 105, Tamil Nadu.



Preface

“Equality of status and opportunity” must be secured for all and equality of every person is guaranteed by the Constitution of India. It is highly imperative to enable all the employees at workplace to understand need for Prevention of Sexual Harassment (PoSH) at workplaces and the provisions of the Sexual Harassment of Women at Workplace, (Prevention, Prohibition and Redressal) Act, 2013.



Creating awareness on sexual harassment with a concrete understanding about PoSH and enlightening the employees on the Sexual Harassment of Women at Workplace, (Prevention, Prohibition and Redressal) Act, 2013 is a mandate as per this Act.

The employees have to be educated on the elements of handling and prevention of unacceptable behaviour through various sensitization programmes. Such periodic awareness programmes will enable the employees to know how you can handle sexual harassment issues and complaints and help the victims of such heinous crimes appropriately.

Implementing the instructions of the Ministry, the Centre for Training, Orientation and Capacity Building conducted a one-day programme on 9th December for all the employees of the Institute including regular, contractual and outsourced employees on Prevention of Sexual Harassment of Women at Work Place and the Sexual Harassment of Women at Workplace, (Prevention, Prohibition and Redressal) Act, 2013.

The one-day programme had two important lecture sessions handled by highly accomplished women who assume great activism on women empowerment issues – one hailing from legal background and the other a Journalism professional. The programme enabled the employees of RGNIYD to understand 'What is sexual harassment?' and various actions that comes under the category of sexual harassment. The programme also refreshed the understanding on various duties of the employer / employee to curb harassment and informed the participants how the redress mechanism works to handle sexual harassment complaints.

I commend all those who took the responsibility to organise this programme in a successful manner for creating an enabling working environment, particularly for the women employees and to help in maintaining a positive work environment.

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Introduction

As enshrined in the Preamble to the Constitution of India, “equality of status and opportunity” must be secured for all its citizens; equality of every person under the law is guaranteed by Article 14 of the Constitution.

A safe workplace is therefore a woman’s legal right. Indeed, the Constitutional doctrine of equality and personal liberty is contained in Articles 14, 15 and 21 of the Indian Constitution. 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 Women (CEDAW), which was adopted by the UN General Assembly in 1979 and which is ratified by India. Often described 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 underlines that discrimination and attacks on women’s dignity violate the principle of equality of rights.

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. 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.

To further compound the matter, deep-rooted socio-cultural behavioural patterns, which create a gender hierarchy, tend to place responsibility on the victim, thereby increasing inequality in the workplace and in the society at large. Though sexual harassment at the workplace has assumed serious proportions, women do not report the matter to the concerned authorities in most cases due to fear of reprisal from the harasser, losing one’s livelihood, being stigmatized, or losing professional standing and personal reputation.

Across the globe today, workplace sexual harassment is increasingly understood as a violation of women's rights and a form of violence against women. Indeed, the social construct of male privileges in society continues to be used to justify violence against women in the private and public sphere. In essence, sexual harassment is a mirror reflecting male power over women that sustains patriarchal relations. In a society where violence against women, both subtle and direct, is borne out of the patriarchal values, women are forced to conform to traditional gender roles.

These patriarchal values and attitudes of both women and men pose the greatest challenge in resolution and prevention of sexual harassment. Workplace sexual harassment, like other forms of violence, is not harmless. It involves serious health, human, economic and social costs, which manifests themselves in the overall development indices of a nation.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 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. 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.

The full scale of the problem is not known given the difficulties in documenting the experience of those who have experienced workplace sexual harassment. However, available studies on sexual harassment show that it is certainly prevalent in India today. This is why the legislation is an important step forward within the larger architecture of women's rights, as it tackles this issue to secure the rights of women workers across the country.

While the official figures for women's work participation are low, much of the work that women do is not captured in official data accounts. It is argued that where this is to be captured, women's overall work participation would be 86.2 per cent. While the official data² shows that women's work participation rate is around 25.3 per cent in rural areas and 14.7 per cent in the urban areas, estimates indicate that there is a huge workforce of women, therefore there is a need to secure their workplace and entitlements. Given, that 93 per cent of women workers are employed in the informal sector, they remain unprotected by laws. With no laws or mechanisms to protect them, proactive measures are required to make their workplaces safe.

It is well established that ensuring safe working conditions for women leads to a positive impact on their participation in the workforce and increases their productivity, which in turn benefits the nation as a whole. Economically, empowered women are key to the nation's overall development and this can only be achieved if it is ensured that women's workspaces across all sectors and all over the country have a safe and secure environment for work.

It is important as well to ensure that the emphasis is on prevention rather than punitive action. This calls for widespread awareness on the Act among employers, managers and the workers themselves. Frequently, women workers may face sexual harassment but may not be aware that it is a breach of their rights and that there is something they can do about it. They need to know that they can do something about it. Then there are others, who may believe that it is a personal matter that needs to be resolved by the people involved. In order to change this order of things, it is urgent that measures are taken to change mind-sets and attitudes by creating awareness about what constitutes sexual harassment and the steps that can be taken to address it.

Mandate for Safety of Women at Workplace

Today, all workplaces in India are mandated by law to provide a safe and secure working environment free from sexual harassment for all women.

Background of the Act

In 1992, a rural level change agent, Bhanwari Devi, was engaged by the state of Rajasthan as a Sathin to work towards the prevention of the practice of child marriages. During the course of her work, she prevented the marriage of a one-year old girl in the community. Her work was met with resentment and attracted harassment from men of that community. Bhanwari Devi reported this to the local authority but

no action was taken. That omission came at great cost – Bhanwari was subsequently gang raped by those very men.

The Bhanwari Devi 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.

In a landmark judgment, *Vishaka vs. State of Rajasthan* (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).

It included:

- A definition of sexual harassment
- Shifting accountability from individuals to institutions
- Prioritizing prevention
- Provision of an innovative redress mechanism

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.

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 Complaints Committees were mandated to be headed by a woman employee, with not less than half of its members being women and provided for the involvement of a third party person/NGO expert on the issue, to prevent any undue pressure on the complainant.

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. Workplaces must now own their responsibility within this context and ensure that women can work in safe and secure spaces.

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Having raised the bar of responsibility and accountability in the Vishaka Guidelines, the Supreme Court placed an obligation on workplaces, institutions and those in positions of responsibility, to uphold working women's fundamental right to equality and dignity at the workplace. Three key obligations were imposed on institutions to meet that standard, namely:

- Prohibition
- Prevention
- Redress

In 2013, the Government of India notified the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (referred to as Act hereinafter). Consistent with the Vishaka judgment, the Act aspires to ensure women's right to workplace equality, free from sexual harassment through compliance with the above mentioned three elements. It is important to note that the Act provides a civil remedy to women and is in addition to other laws that are currently in force. Consequently, any woman who wishes to report instances of sexual harassment at the workplace has the right to take recourse of both civil and criminal proceedings.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is a legislative act in India that seeks to protect women from sexual harassment at their place of work. It was passed by the Lok Sabha (the lower house of the Indian Parliament) on 3 September 2012. It was passed by the Rajya Sabha (the upper house of the Indian Parliament) on 26 February 2013. The Bill got the assent of the President on 23 April 2013. The Act came into force from 9 December 2013. This statute superseded the Vishaka Guidelines for Prevention Of Sexual Harassment (POSH) introduced by the Supreme Court (SC) of India. It was reported by the International Labour Organization that very few Indian employers were compliant to this statute. Most Indian employers have not implemented the law despite the legal requirement that any workplace with more than 10 employees need to implement it. According to a FICCI-EY November 2015 report, 36% of Indian companies and 25% among MNCs are not compliant with the Sexual Harassment Act, 2013. The government has threatened to take stern action against employers who fail to comply with this law.

Preamble

An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

WHEREAS sexual harassment 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 life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

Major features of the Act

- The Act defines sexual harassment at the work place and creates a mechanism for redressal of complaints. It also provides safeguards against false or malicious charges.
- The Act also covers concepts of 'quid pro quo harassment' and 'hostile work environment' as forms of sexual harassment if it occurs in connection with an act or behaviour of sexual harassment.
- The definition of "aggrieved woman", who will get protection under the Act is extremely wide to cover all women, irrespective of her age or employment status, whether in the organised or unorganised sectors, public or private and covers clients, customers and domestic workers as well.
- An employer has been defined as any person who is responsible for management, supervision, and control of the workplace and includes persons who formulate and administer policies of such an organisation under Section 2(g).
- While the "workplace" in the Vishakha Guidelines is confined to the traditional office set-up where there is a clear employer-employee relationship, the Act goes much further to include organisations, department, office, branch unit etc. in the public and private sector, organized and unorganized, hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by the employee during the course of employment including the transportation. Even non-traditional workplaces which involve tele-commuting will get covered under this law.
- The Committee is required to complete the inquiry within a time period of 90 days. On completion of the inquiry, the report will be sent to the employer or the District Officer, as the case may be, they are mandated to take action on the report within 60 days.
- Every employer is required to constitute an Internal Complaints Committee at each office or branch with 10 or more employees. The District Officer is required to constitute a Local Complaints Committee at each district, and if required at the block level.
- The Complaints Committees have the powers of civil courts for gathering evidence.

- The Complaints Committees are required to provide for conciliation before initiating an inquiry, if requested by the complainant.
- The inquiry process under the Act should be confidential and the Act lays down a penalty of Rs. 5000 on the person who has breached confidentiality.
- The Act requires employers to conduct education and sensitisation programmes and develop policies against sexual harassment, among other obligations. The objective of Awareness Building can be achieved through Banners and Poster displayed in the premises, eLearning courses for the employees, managers and Internal Committee members, Classroom training sessions, Communication of Organizational Sexual Harassment Policy through emails, eLearning or Classroom Training. It is recommended that the eLearning or Classroom Training be delivered in the primary communication language of the employee.
- Every organization must file an Annual Report to the District Officer every calendar year as prescribed in the Rule 14 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.
- Penalties have been prescribed for employers. Non-compliance with the provisions of the Act shall be punishable with a fine of up to ₹ 50,000. Repeated violations may lead to higher penalties and cancellation of licence or deregistration to conduct business.
- Government can order an officer to inspect workplace and records related to sexual harassment in any organisation.
- Under the Act, which also covers students in schools and colleges as well as patients in hospitals, employers and local authorities will have to set up grievance committees to investigate all complaints. Employers who fail to comply will be punished with a fine of up to 50,000 rupees.

Penal Code and the POSH Act, 2013

Through the Criminal Law (Amendment) Act, 2013, Section 354 A was added to the Indian Penal Code that stipulates what consists of a sexual harassment offence and what the penalties shall be for a man committing such an offence. Penalties range from one to three years imprisonment and/or a fine. Additionally, with sexual harassment being a crime, employers are obligated to report offences.

Need for Awareness Program on Sexual Harassment Act at RGNIYD

As per communication received from the Secretary, Ministry of Women and Child Development, GoI D.No.13016/2/2017-WW-Part (1) dated 25th November 2021 forwarded by the Ministry of Youth Affairs, Government of India, RGNIYD was mandated to organise an orientation programme for all the employees of the Institute to generate awareness about the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

One-day Orientation Programme on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

The Centre for Training, Orientation and Capacity Building (CTOCB), RGNIYD organised a **One-Day Awareness Program on Sexual Harassment Act on 9th December 2021 at RGNIYD** in commemoration of the 8th anniversary of notification of the landmark "Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act, 2013".

Details about the Awareness Programme

With a view to raise the awareness among the employees of RGNIYD, two Special Lectures were organised separately for the Teaching, Non-Teaching & Contractual Employees of RGNIYD in the RGNIYD Seminar Hall.

1. Lecture for the Outsourced Employees

The first lecture titled “**Challenges faced by Working Women in Work Places and Mechanisms for Prevention of Sexual Harassment among Women**” was held for the Contractual Staff (All outsourced workers – Gardening, Maintenance etc.) in which a total of 70 persons participated.

Dr. P. Muralidassan welcomed the guest and the participants and detailed about the objectives of the programme as follows:

- To orient all the employees of RGNIYD on the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
- To sensitize the employees on protecting the dignity of women employees and creating a safe working environment
- To create awareness about the mechanisms for grievance redressal regarding various forms of sexual abuse
- To inform the employees about the procedures for making a genuine complaint
- To explain the legal course of action for the victim and the perpetrator



Later Prof. K. S. Ravichandran, Registrar, RGNIYD spoke on the importance on creating a hassle-free work environment which is free from problems arising out of abuse against women. He cited various statistical information on various problems young women and women in general face at work-place and the effects it plays on the lives of women. He called for a renewed attitude among the employees of RGNIYD to empower women contribute effectively in the workplace and to uphold the rights and dignity of women co-workers. He mentioned about a survey which was conducted among women on how safe they feel at their workplace and revealed shocking results of the survey which necessitates the need to generate



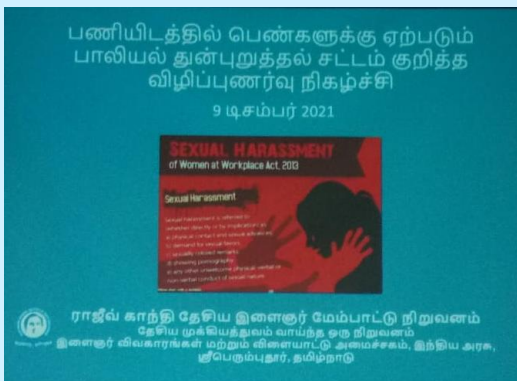
awareness among the employees of every organisation to safeguard and respect women. He spoke on the need to adopt appropriate etiquette and morale at workplace so that there is no scope for misconduct and victimization of women workers. He finally reiterated that the women employees should be assertive and take this Act as a tool for their protection and safety against all sorts of sexual exploitations at workplace.

Ms. Sugirtha Saranraj, Associate Editor of News 7 Tamil Television Channel delivered the lecture on ***“Challenges faced by Working Women in Work Places and Mechanisms for Prevention of Sexual Harassment among Women”***. During the lecture she spoke on various challenges that the women face at work place including various forms of sexual abuse. She outlined the trauma and psychological effects that women may face as a result of such abuses. She further detailed about the remedies that are available for women facing different types of abuses at the workplace under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. She detailed the mechanisms for prevention of sexual reassessment among women and explained the procedure for complaints and redressal mechanisms under the Act.



While explaining the different forms of sexual harassment in the workplace for women, she mentioned that according to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, any of the following circumstances, if it occurs or is present with or connected with any act or behaviour of sexual harassment may amount to sexual harassment:

- Implied or explicit promise of preferential treatment in her employment.
- The implied or explicit threat of detrimental treatment in her employment.
- Interferes with her work or creating an intimidating or offensive or hostile work environment for her.
- Humiliating treatment is likely to affect her health or safety.



She also reiterated that sexual harassment will also include undesirable sexually gritty behaviour like:

- Physical contact
- Demand or request for sexual favours
- Sexually coloured remarks
- Showing pornography
- Any other unwelcome physical, verbal or non-verbal

conduct of a sexual nature

She later explained about the **duties and responsibilities of Employers** such as:

- Providing a safe working environment at the workplace including safety from the persons coming into contact at the workplace;
- Displaying at any conspicuous place in the workplace, the penal consequences of sexual harassments. Under sub-section (1) of section 4 of the Act, every employer of a workplace should by an order in writing, constitute an “Internal Complaints Committee”: Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices;
- Organizing workshops and awareness programmes at regular intervals for sensitizing the employees with the provisions of the Act;
- Organizing orientation programmes for the members of the Internal Committee in the prescribed manner;
- Providing necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an enquiry;
- Assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;
- Making available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under sub-section (1) of section 9;
- Assisting the woman if she so chooses to file a complaint about the offence under the Indian Penal Code or any other law for the time being in force;
- Causing to initiate action, under the Indian Penal Code, 1860 or any other law for the time being 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;
- Treating sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
- Monitoring the timely submission of reports by the Internal Committee.



While speaking about the structural mechanism for filing complaints by the aggrieved women due to sexual harassment at work place, she mentioned that forming and implementing the roles of the **Internal Complaint Committee** is mandatory under the Act as follows:

Under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, all employers are required to constitute an Internal Complaint Committee at a workplace by an order in writing. In case the employer has multiple branches or factories or offices, an Internal Committee must be constituted at all administrative units or offices.

The Internal Committee must consist of the following members, nominated by the employer:

- A Presiding Officer who shall be a woman employed at a senior level at the workplace from amongst the employees.
- Not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge.
- One member from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.
- The Internal Complaint Committee must have at least one-half of the total Members as women at all times. The Presiding Officer and every Member of the Internal Committee can hold office for a period not exceeding three years, from the date of their nomination.



She later delineated the powers that the Internal Complaint Committee vests with as per the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 similar to the Civil Court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters:

- Summoning and enforcing the attendance of any person and examining him on oath.
- Requiring the discovery and production of documents.
- Any other matter which may be prescribed.

Based on the enquiry that the Internal Complaint Committee conducts as per the procedures stipulated by the Act, the Committee can recommend the following actions to the employer by submitting a detailed written report of the enquiry proceedings:

- Grant such other relief to the aggrieved woman as may be prescribed.
- Transfer the aggrieved woman or the respondent to any other workplace.
- Grant leave to the aggrieved woman up to three months.

Towards the end of her talk, she explained to the participants about the **standard procedure for filing compliant as per the Act**. She mentioned that the aggrieved woman must make a complaint on sexual harassment at the workplace within three months from the date of occurrence of an incident and in case of a series of an incident, within three months from the date of the last incident. The complaint should be in writing and submitted to the Internal Complaint Committee and be sent either by post or given in person. The Internal Complaint Committee also has the powers to extend the time-limit for reporting by not more than three months, if it is satisfied that the circumstances were such which prevented the employee from filing a complaint within the three months. In case the victim is unable to make a written complaint by herself on account of her physical incapacity, a complaint can be filed by:

- Her relative or friend.
- Her co-worker.
- An officer of the National Commission for Women or State Women's Commission.
- Any person who knows about the incident, with the written consent of the aggrieved woman.

If an aggrieved woman is unable to make a written complaint by herself on account of her mental incapacity, a complaint can be filed by:

- Her relative or friend.
- A special educator.
- A qualified psychiatrist or psychologist.
- The guardian or authority under whose care she is receiving treatment or care.
- Any person who knows about the incident jointly with her relative or friend or special education or qualified psychiatrist or psychologist or guardian or authority under whose care she is receiving treatment or care.

She concluded by saying that if the victim of sexual abuse at workplace is unable to make a written complaint by herself on account of her mental incapacity or physical incapacity or death, a complaint can be filed by her legal heir also.

During the Question and Answer session, the participants sought various clarifications from the Resource Person. She quoted by citing classic case-studies that appeared both in print and electronic media and the preventive action that followed. She also shared some path-breaking cases based on the talk-shows and debates she conducted.

2. Lecture for the Teaching and Non-Teaching Employees (Regular and Contractual)

The second Lecture in the series was organised for the teaching and non-teaching employees of RGNIYD. At the beginning of this lecture session, Dr. Vasanthi Rajendran, Professor and Head, Centre for Training, Orientation and Capacity Building welcomed the speaker and the participants of the programme. She quoted Father of our Nation Pandit Nehru's famous quote stating that 'You can tell the condition of a nation by looking at the status of its women' and therefore highlighted the need for empowerment of women in all respects. While there are several affirmative actions taken by the Government of India to empower the women, the Sexual Harassment of Women



at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is a landmark legislation passed by the Parliament of India with the Presidential assent which turned out to be a powerful tool to curb the menace of sexual abuses at workplaces where working women spend considerable amount of time in their places of work. This is a unique Act which tries to promote the status of women. The Act will ensure that women are protected against sexual harassment at all the work places, be it in public or private. This will contribute to realisation of their right to gender equality, life and liberty and 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. She mentioned that the Act was essentially derived from the Vishaka Guidelines. The Vishaka Guidelines were certain procedures to be followed in cases of workplace sexual abuse. Providing a background to the Act, she mentioned that these guidelines were formulated after the landmark case Vishaka and others v. State of Rajasthan. This case was brought to the Supreme Court because of the sheer inability of the High Court

of Rajasthan to provide justice to Bhanwari Devi who was part of Women's Development Program of the Rajasthan Government. She was brutally gang raped for stopping a child marriage being conducted in a town. This was a part of her duties as a member of the Development Program to stop any illegal activity conducted against children and women. Moreover, this Act uses the definition of sexual harassment laid down by the Supreme Court in Vishakha and others v State of Rajasthan.

She mentioned that at the instructions of the Ministry of Youth Affairs and Sports, Government of India, RGNIYD has organised this programme to increase the understanding on this Act and its provisions so that each employee becomes more aware and treat their women co-workers with respect and reverence.

While delineating the details of the programme, she mentioned that the programmes of this sort is mandated by the Government of India and has to be periodically conducted for empowerment of women employees thereby creating safe environment and to enable them protect themselves and commendably contribute to the country. While empowerment is an iterative process, this is one key component for creating an enabling environment towards empowerment of women. She concluded by stating that ensuring the safety of women and girls is the vested responsibility of every citizen of the country and the women need to assert themselves by taking confidence in such legislative mechanisms created exclusively for their protection.

Prof. Sibnath Deb, Director, RGNIYD later addressed the participants and brought out the need for creating safe spaces for women employees in the Institute so that they can dispense their responsibilities effectively. He emphasised the fact that violation of individual rights should be given equal importance and sexual abuse tantamount to gross violation against women. Referring to the research studies that he had conducted on adolescent girls and young women, he mentioned that women belonging to marginalized sections of the society are more vulnerable for such abuses. Creating awareness on the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is the need of the hour as the country needs to be more responsible for preventing violence against women.



He presented the perils young tribal women in particular who face gross violence based on his exclusive research titled “The Untold and Painful Story of Survival: The Life of Paniya Tribal Adolescent Girls of Kerala”. He mentioned that Paniya tribe, an ethnic group predominantly found in Wayanad District of Kerala state that also constitutes the single largest Scheduled Tribe. Sexual exploitation by strangers and community members is widespread among Paniya girls, and unwed mothers below 18 years of age. Despite POCSO Act (Protection of Children from Sexual Offences Act, 2012) has evolved as an effective deterrent to sexual exploitation and harassment of minors, its ruthless textual implementation



in the tribal belts in Kerala has evoked concern in recent times. Many tribesmen, ignorant about the stringent provisions under the Act, have wed minor girls keeping with their traditional community practice and ended up in jail on rape charges. Incidentally, most cases are registered without any formal complaint from the minor girl or her parents.

In this backdrop, he called for massive awareness drives among the tribal communities across the country including the educated non-tribal youth who are still ignorant of the provisions of these legislations. Tracking the recent trends, he mentioned that besides women, men and the members of third gender are also at equal risk of being abused sexually.

While these types of abuses are on the rise, quoting the numbers of the National Crime Records Bureau (NCRB) he called for greater social awareness and advocacy among all sections of the society, irrespective of age and gender for curbing these types of social evils which can potentially ensure creation of a harassment-free society for each citizen. Contrarily, there are also reported cases of using these legislations to victimize and defame others for self-benefit which should be discouraged. The impact of false complaints on the accused persons can play a great havoc on the career, family and even can take toll of several lives. Therefore, he underpinned that the provisions of the Act needs to be understood in right spirit and to be used judiciously.

Following the address of the Director, RGNIYD, Mrs. Adhilakshmi Logamoorthy, Advocate, High Court Madras and Social Activist delivered a detailed lecture on the “Legal Aspects of Sexual Harassment Act” for the Teaching and Non-Teaching Staff (Regular and Contractual).



She detailed about the legal position of the sexual harassment with reference to the Constitution of India (Article 14 & 15, Article 19(1)(g) and Article 21), Indian Penal Code, 1860, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), The Criminal Law (Amendment) Act, 2013, and the Vishakha Guidelines.

She explained the myths and facts of sexual harassment as per the details given below:

| Myth | Facts |
|---|--|
| Women enjoy eve-teasing (or) sexual harassment | Eve-teasing (or) sexual harassment is humiliating, intimidating, and painful |
| Eve-teasing is harmless flirtation | Unwelcome behaviour cannot be considered as harmless (or) funny |
| Women who say “NO” actually mean “YES” | This is the common myth used by the respondent to justify their one sided sexual advances and sexual aggression |
| When women visit only unwelcome place then they should expect sexual harassment | Sexual harassment may happen anywhere and at any place |
| “Simple Compliment (Or) Teasing” Is Not Sexual Harassment. | It amounts to Sexual Harassment |
| Only victim can complain of sexual harassment | Any One Can Complain On Behalf Of The Victim |
| A Single Comment (or) act which is Not continuous is not Sexual Harassment. | Any Act Whether single (Or) Continuous Is Sexual Harassment |
| A Compliment Cannot Be Sexual Harassment. | A compliment with asexual meaning is sexual harassment |
| Sexual Harassment Always Involves A | It Involves Verbal and Non Verbal Too |

| | |
|---|---|
| Physical Act. | |
| A Subordinate Cannot Sexually Harass a superior | Hierarchy Doesn't Count |
| Sexual Harassment Can Be Committed Only By A Man Against A Woman. | Respondent Can Be Anyone Under This Act |
| Existing Policy In An organisation Is Fine | A Policy In Consciences With 2013 Act Is Needed |
| Internal Committee Is Under The Control Of The Appointing Body | Internal Committee Is A Independent Body Has The Powers Of The Civil Court |
| An Organisation Having Multiple Units At Different Location Can Function Under One Internal Committee | Each Administrative Units (Or) Location Needs A Internal Committee according to this Act |
| “No Women Employee” ,”No Internal Committee” | 10 Person (Or) More Of Any Gender employee- Internal Committee is the must |
| Any One Can Be Part Of A Internal Committee | Anyone Interested In Working To Cause Of Women To Be Part Of Internal Committee |
| External Member Can Be From Any NGO | External Member- anyone Associated A NGO Working For The Cause Of Women, <ul style="list-style-type: none"> • Association Working For The Cause Of Women. • Anyone having the legal knowledge. |
| Senior Most Women Not Available In Organisation No Need For Internal Committee | Can Get A Senior Women For Outside For Internal Committee |
| Character Of A Complainant Does Play A Role | Character Of A Complainant Doesn't Play A Role |
| Motive (Or) Intention Is Important | It Is not Important |
| Compliant before the internal committee- no complaint anywhere | Complaint before <ul style="list-style-type: none"> • Local Committee • National commission/state commission • Police Station |
| Lodging A Complaint Before in Police station –Employees Personal Role | Internal Committee helps the women in taking the complaint forward |
| Internal Committee Meetings Is Conducted Only During The Time Of Compliant | Internal Committee meetings Shall Be Conducted Periodically As Per Act |
| Internal Committee Has To Report Each And Every Proceedings To The HR (Or) The Top Management | Confidentiality Is the Rule |
| Working Knowledge Of General Law Is Not Needed To The Members Of Internal Committee | Working Knowledge Of General Law Is Needed To The Members Of Internal Committee |
| Awareness Session Is Not Compulsory | Awareness Session Is Mandated By Law |
| Employer Does Not Have Any Major Role | Section 19 Says About The Duties Of The Employer |

| | |
|---|---|
| Failure Of Having Internal Committee And Submitting Of The Annual Report Is Not A Serious Offence | <ul style="list-style-type: none"> • Fine • Cancellation/Withdrawal • Non-Renewal Of The License |
| Government Officials Does Not Have A Major Role | They Can call for information and inspection of record at anytime |

Later she spoke about the category of women employees covered as per the Section 2(f) of the Act which are listed as follows:

- Regular
- Temporary
- Ad Hoc
- Daily Wage Basis
- Directly or Agent/Contractor
- Probationer
- Remuneration or not
- Working on a voluntary basis
- Trainee
- Apprentice

With reference to the Employer (as per section 2(g)(ii)), she mentioned that the Employer is responsible for:

- Management
- Supervision, and
- Control of the workplace

With regard to the Work Place (as per Section 2(o)) of the Act, she defined the term “Work place” which includes any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey.

Later she explained the term Sexual Harassment as per section 2(n) which includes the following:

- Physical contact and advances
- A demand or request for sexual favour
- Making sexually coloured remarks
- Showing
- pornography
- Unwelcome physical, verbal or non-verbal conduct of sexual nature

She then detailed about the aspects relating to Section 3 of the Act which deals with Prevention of Sexual Harassment which states that “No woman shall be subjected to sexual harassment at any workplace by in any act or behaviour”,

- implied or explicit promise of preferential treatment in her employment(or)

- implied or explicit threat of detrimental treatment in her employment (or)
- threat of detrimental treatment in present or future employment status (or)
- interference or creating an intimidating or offensive work environment (or)
- humiliating treatment likely to affect her health or safety.

Later she detailed about the Internal Committee as per Section 4 of the Act:

- Mandatory for establishments employing 10 or more employees
- IC to be appointed by an order in writing
- IC to be constituted at all administrative units across locations
- IC to prepare and submit an annual report to employer and District Officer



The she spoke on the Conciliation Process as per Section-10 of the Act as follows:

- Allegation against the respondent
- At the request of the aggrieved woman
- No monetary settlement

In case of Settlement:

- Record and forward it to employer
- No further inquiry shall be conducted by the IC

In case of no settlement

- Record and forward it to employer or district officer
- Complainant can go back to the committee

As regards the action against False or Malicious Complaint (as per Section 14, rule 10), she detailed the meaning of malicious or false complaint as the complaint which is Misleading or made with a Malicious intention. Mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section, she added.

She mentioned about the following factors to be considered which needs to be kept in mind while 'Determining Compensation for the Aggrieved Woman' (as per Section 15):

- The mental trauma, pain, suffering and emotional stress caused to the aggrieved woman
- The loss in the career opportunity due to the incident of sexual harassment

- Medical expenses incurred by the victim for physical or psychiatric treatment
- The income and financial status of the respondent
- Feasibility of such payment in lump sum or in instalments

She then discussed about the Confidentiality aspects as per Section 16 of the Act as follows:

- Identity and addresses of the aggrieved woman, respondent and witnesses
- Any information relating to conciliation and inquiry proceedings
- Recommendations of the Internal Committee or the Local Committee
- Action taken by the employer or the District Officer

She also detailed about Section 19 of the Act which deals with the Duties of the Employer who shall be responsible to provide:

- safe working environment
- display the penal consequences of sexual harassments and order constituting, IC u/s 4(1);
- workshops and awareness programmes
- necessary facilities to the IC for dealing with the complaint and for inquiry;
- assist in securing the attendance of respondent and witnesses before the IC
- information to IC regard to the complaint made u/s 9(1)
- provide assistance to the woman if she chooses to file a complaint under the Indian penal code (45 of 1860) or any other law
- cause to initiate action, under the Indian penal code (45 of 1860) or any other law in force (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;
 - treat sexual harassment as a misconduct under the service rules and initiate action
 - monitor the timely submission of reports by the internal committee.

While talking about the requirements of the roles of the organisations, she mentioned that the preparation of Annual Report is mandatory as per Section 21, rules 14 and the details the Annual report should contain the following details:

- No. of sexual harassment recd.
- No. of disposed off during the year
- No. of cases pending more than 90 days
- No. of workshops carried out
- Nature of Action taken by employer

She explained the ways and means to prevent sexual harassment of women at workplace by having the following services:

- Developing an exclusive Policy for Sexual Harassment.
- Implementing a culture of No Tolerance towards Sexual Harassment
- Creating awareness among the Employees periodically

- Defining and structuring the responsibilities and roles of Managers and Supervisors in prevention of sexual harassment of women at work place
- Providing counselling services to women at workplace
- Developing standard procedure to tackle grievances of the aggrieved women at workplace due to sexual harassment
- Ensuring proper reporting and disciplinary action mechanisms

Finally, she explained the manner of action to be taken as follows:

- A Written Apology.
- Warning, Reprimand or Censure.
- With-holding of Promotion.
- With-holding of Pay Right or Increment.
- Terminating from Service.
- Attending Counselling.
- Carrying out Community Service.

She later interacted with the participants and during the Question and Answer session, the teaching and non-teaching staff raised many questions and sought clarification from the Resource Person. The Resource Person while clarifying the doubts and answering the queries of the participants cited various examples, case-studies, case-laws etc. to substantiate her response. The lecture session was concluded with Vote of Thanks by Ms. Avinu Veronica Richa, Assistant Professor, Department of Sociology, RGNIYD.

Annexure – 1

One-Day Awareness Program on Prevention of Sexual Harassment of Women at Work Place Act 2013 9 December 2021



Program Schedule

| Time | Session Title |
|--|---|
| Session @ Seminar Hall for Contractual Staff of RGNIYD | |
| 11:00 – 11:05 am | Welcome and About the Program by Consultant Admn. Dr P Muralidassan |
| 11:06-11:15 am | Address by Registrar Prof. K S Ravichandran |
| 11:15 – 1:00 pm | Special Lecture on Challenges faced by Working Women in Work Places by Ms. Sugitha Sarangaraj, Associate Editor, News7 Tamil Television Channel |
| 1:01 – 1:15 pm | Q&A Session |
| 1:16 – 1:20 pm | Vote of Thanks by Shri David Paul, Training Officer |
| Session @ Conference Hall for Teaching & Non-Teaching Staff of RGNIYD | |
| 3:15 – 3:20 pm | Welcome and About the Program by Prof. Vasanthi Rajendran, Head CTO&CB |
| 3:20 – 3:30 pm | Address by Prof. Sibnath Deb, Director, RGNIYD |
| 3:30 – 4:30 pm | Special Lecture on Legal Aspects of SH Act by Mrs.Adhilakshmi Logamurthy, SeniorAdvocate, High Court Madras |
| 4:30 – 4:45 pm | Q&A Session |
| 4:45 – 4:50 pm | Vote of Thanks by Ms Veronica , Asst. Professor RGNIYD |

Annexure – 2

Profiles of the Resource Persons

Ms. K. S. Sugitha Sarangaraj

Associate Editor, News 7 Tamil Television Channel

E2 Surya Apartments, Kamarajar Salai

Virugambakkam Extn, Saligramam, Chennai 600 093.

Mob: 9962136496 /7708108796

E-mail id: sugitha6@gmail.com

K.S.SUGITHA SARANGARAJ was born in a small hamlet kallampatty near pattukkottai which is located at thanjavur district. She is working as a journalist for more than 13 years. She previously worked for DINAMALAR, SUN TV, KALAI GNAR TV. Presently she is working as an ASSOCIATE EDITOR in a leading Tamil television channel “NEWS - 7”. She has been professionally writing articles and doing journalism since 2000 . Her primary areas are teaching of journalism, online media, public relations, media law, and media ethics, women in media etc. She specialized in child rights, women rights and environmental rights. She regularly conducts awareness programs, motivational classes at schools, colleges, education institutions and corporates on these topics of importance. She won laadli media awards hatrick, for her feministic writings about gender equality .she received lots of awards for her popular debate show KELVINERAM. She is presently the Chairperson of the Vishaka Committee at NEWS 7 TAMIL channel .



She has hosted more than 2000 programs in various titles. She also works as a Columnist and Journalist in various print media. Her writing predominantly focusses on promotion and protection of child rights , violence against children, child labour, denial and distress of children health and hygiene , About juvenile homes and juvenile laws. Her article raises voice against Good governance for children. She strongly trusts if we want to create meaningful change for children and this requires political leadership and accountability across the various state authorities and institutions. Therefore, she writes lots of articles about women in politics. She had attended a journalist conference about child rights conducted by UNICEF at Thiruvananthapuram and Chennai. She is conducting seminar about gender sensitivity and children health and nutrition at ESI HOSPITAL nurses all over southern India on quarter basis.

As an English literature graduate, her first book was a poem collection about love romance and nature titled “oru kaadhalum oru sombu thanneerum”. Her second book was a compilation of essays on social and political awareness titled “samoogamum thesiya virubamum”. She got a prestigious honour from Tamil weekly magazine “Ananda Vikatan”. She is also the brand ambassador of Ananda Vikatan’s project “ARAM SEIYA VIRUMBU” for supporting the cause of poor and needy.

Ms. Adhilakshmi Logamurthy
Advocate / Social Activist
Legal Consultant / Trainer
Chennai

Presently practicing in almost all fields of law with special interest towards Social beneficial legislations including Labour Laws, Family Laws, Issues relating to Women, Children, Senior Citizens, Transgenders, Differently abled... Appearing before Labour Courts, Family Courts, Mahila Courts, Criminal Courts, State and District Women's commission, Juvenile Justice Board, Appellate Courts, etc.,



Qualifications

1. Academic Qualifications
2. B.L., (5 Year Integrated Course) (1988-1993) Dr.Ambedkar Government Law College, Chennai (University of Madras)
3. P.G.Diploma in Industrial Relations & Personnel Management (1995 -1996) Bharatiya Vidya Bhavan, Chennai. Diploma in Juvenile Justice and Psychology (2018-2019) University of Madras

Professional Offices

- Vice Chairman National Institute of Personnel Management (NIPM) Madras Chapter
- Senior Panel Lawyer of Tamil Nadu State Legal Services Authority
- Trainer / Guest Faculty, Police Academy - Tamil Nadu Advisor, Ooruni Foundation
- Former Secretary of Women Lawyers' Association, High Court, Madras
- Former Vice-President of Women Lawyers Association, High Court, Madras
- Panelist in imparting legal literacy - programme organized by State Resource Centre for the benefit of District Nodal Officers.

Memberships

- Life Member - National Federation of Women Lawyers
- Life Member - International Federation of Women Lawyers (FIDA)
- Life Member - National Institute of Personnel Management (NIPM)
- Founder and Honorary Director - "Sriraksha"(A wing of Management Labour Academy, Registered NGO under Society's Registration Act)
- Hony. Secretary - Management Labour Academy, Chennai and Pollachi
- Life Member - The Indian Society for Training and Development (ISTD)

External member – IC: Presently holding the post of External member in IC – Internal Committee in various Companies and Organizations:

- ❖ Larsen & Toubro (Member Apex Committee) Southern Region
- ❖ Ashok Leyland Limited, Ennore

- ❖ Chennai Petroleum Corporation Limited, Manali, Chennai
- ❖ Indian Additives Limited, Chennai
- ❖ Petrofac Engineering and Consulting Service, Chennai & Gurgaon (Delhi)
- ❖ Alten Calsoft Lab Co. Ltd.
- ❖ Ball Beverage Packaging India Pvt Ltd
- ❖ Fives India Engineering & Projects Pvt. Ltd.
- ❖ Solartis Technology Services Private Limited
- ❖ Tata Bluescope Steel Limited
- ❖ Micro, Small and Medium Scale Enterprises (OP-I) Department Govt of Tamilnadu
- ❖ Member Gender Sensitisation and Internal Complaints Committee of the Subordinate Courts at Chennai
- ❖ Deccan Plaza, Chennai / Deccan's Park, Ooty
- ❖ Sheraton Grand Chennai Resorts and Spa Vedanamelli, Chennai

Has held the post of External member in Internal Committee:

- ❖ Venture Lighting India Limited, MEPZ, Tambaram.
- ❖ Employees State Insurance Corporation Model Hospital and Medical College, K.K.Nagar, Chennai
- ❖ Technip India Limited, Guindy, Chennai (Chennai – Mumbai)
- ❖ Prasar Bharathi Commercial Broadcasting Service, AIR, Chennai
- ❖ Courtyard Marriott Hotels, Chennai

Publications

Regularly ventilates her views on various legal and social issues through Media both print and Audio and Visual Media

Recent Awards

1. Indo – Russian Women Association - Women's Day Women Achiever Award 2015
2. Rotary International Women Achiever Award 2015-2016
3. Madras Developmental Society International Social Activist Award 2017

Training

1. Participated and conducted lot of seminars, workshops, presented papers and given talks on issues relating to women, children, transgender and senior citizens.
2. Legal awareness, Counselling Gender sensitization programmes for Industries, Corporates, Schools and Colleges, for all age groups especially involving men, women and children.
3. Been a part of legal literacy programmes conducted by State Resource Centre to train the Tamil Nadu District nodal officers on various social welfare legislations.
4. Presently serving as Trainer / Guest Faculty, Police Academy - Tamil Nadu

Annexure – 3

Handout/Notes Prepared by the Resource Person for RGNIYD Employees

SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

Compiled by

Mrs. Adhilakshmi Logamurthy

Advocate, High Court Madras

Mobile : 9841014926 Email : advocateadhilogu@gmail.com

CHAPTER 1 – PRELIMINARY

Short Title: Sexual Harassment of women at workplace(Prevention, Prohibition and Redressal) Act, 2013.

Extent: Extends to the whole of India Commencement : 23.04.2013

Section 2 Definitions

Section 2(a)(i) - “Aggrieved women”

- *In relation to a work place*
- *A woman of any age*
- *Employed or not*
- *Subjected to an act of sexual harassment*

Section 2(a)(ii) - In relation to dwelling place or house

- *A woman of any age*
- *Employed there in*

Section 2(e) -“Domestic worker”

- *A woman employed to do the household works*
- *Remuneration whether cash or kind*
- *Directly or through an agency, temporary, permanent, part time or fulltime*
- *Does not include any member of the family*

Section 2 (f) - “Employee”

- *Employed at a work place*
- *Regular/Temporary/Ad hoc/Daily wage basis*
- *Either directly or through an agent including a contractor*
- *With or without the knowledge of the principal employer*

- For remuneration or not
- Working on voluntary basis
- Includes a co-worker/Probationer/Trainee/Apprentice

Section 2(g) - “Employer”

- In relation to any department – the head of
- Organization
- Undertaking
- Establishment
- Enterprise
- Institution
- Office
- Branch (or)
- Unit of the appropriate Government or local authority
- Any person responsible for management, supervisor and controller of the workplace

Dwelling place

A person who employs (or) benefits from employment

Section 2(n): “Sexual Harassment”

- Physical contact and advances
- A demand or request for sexual favours
- Making sexually coloured remarks
- Showing pornography
- Any other unwelcome physical, verbal sexual nature or non-verbal

Section 2(o) “Workplace”

- Any department /organization /undertaking/establishment /enterprise /institution /office/branch / unit established, owned controlled or wholly or substantially financed directly or indirectly by Government funds (or) local authority
- Government Company
- Corporation (or) co-operative society
- Private Sector undertaking
- Enterprise, institution, establishment, society Trust, NGO, Unit
- Service Provider
- Carrying on commercial, professional, vocational, educational, entertainment, industrial, health services, financial activities including production, supply, sale and distribution.
- Hospital/nursing home
- Sports institute
- Stadium
- Sports complex or competition

- A games venue - Whether residential or not. Used for training, sports or other activities relating thereto.
- Any place visited
- Arising out of or during course of employment Transportation provided
- Un organized sector Owned by individual Self-employed workers Engaged in production Sale of goods Providing service

Section 3: Prevention of Sexual Harassment

Section 3(1) - No woman shall be subject to sexual harassment at any place

Section 3(2) - Circumstances present in connection with any act or behaviour of sexual Harassment

- (i) Implied or explicit promise of preferential treatment in her employment
- (ii) Implied or explicit threat or detrimental treatment in her employment
- (iii) Implied or explicit threat about her present or future employment status
- (iv) Interference with her work or creating an intimidating or offensive or hostile work environment for her
- (v) Humiliating treatment like to affect her health or safety.

CHAPTER II - CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

Section 4: Constitution of Internal Complaints Committee

Section 4(1)

- Employer of a workplace
- By order in writing
- Constitute a Internal Complaints Committee

Section 4(2)

Internal committee consists of,

- Presiding officer (woman)
- Employed at senior level
- If not available, nominated from other officer or administrative level
- In the absence of senior level woman employee
- Any other work place of same employer/other department/association
- Not less than two members from employees
- Committed to cause of women
- Experience in social work
- Legal knowledge
- One member from non-governmental organization/Association committed to the cause of women

- Person familiar with issues relating to sexual harassment
- One half shall be women
- Internal committee hold office for a period of 3 years
- External member eligible for fees or allowances by the employer
- Removal of presiding officer or member only
 - contravenes Section 16 (confidentiality)
 - convicted of an offence inquiry pending
 - found guilty in any disciplinary proceedings
 - abuse his/her position

CHAPTER III - CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE

Section 5: Notification of District Officer

- Appropriate Government may notify
- District Magistrate/Additional District Magistrate/collector/Deputy Collector/District Officer
- Exercise power or discharge function

Section 6 :Constitution and Jurisdiction of Local Committee

- District officer Constitute - Local Committee
- receive Complaint
- where no Internal Committee
- Less than 10 employees
- Against employer himself

District Officer

- Shall designate one nodal officer in every block/Taluk/Tehsil
- In rural area
- ward/municipality
- Receive complaint
- Forward to Local committee within 7 days
- Local committee –extends to areas of Districts where it is constituted

Section 7: Composition, tenure and other terms and conditions of Local Committee

- Nominated by District Officer
- Chairwoman - eminent woman in the field of social work committed to their cause
- One member/among women working in Block/Taluk/Tehsil/ Ward/municipality
- Two members/one shall be women/from NGO's /Associations committed to the cause of women

- Person familiar with the issues relating to sexual harassment
- One Nominee background of law/legal knowledge
- One belonging to SC/ST
- Other Backward classes/minority community
- Notified by Central Government from time to time
- Officer dealing with Social welfare/ Women and child development/Ex-officio member.

Section 8: Grants and Audit

- Government grants
- Setting up Agency for payment of fees or allowances referred
- Accounts maintained and audited
- Accountant General of the state

CHAPTER IV – COMPLAINT

Section 9: Complaint of Sexual Harassment

- Aggrieved women
- Of sexual harassment to Internal committee or Local committee
- Within a period of 3 months from the date of incident
- Series of incident last of the incident
- Render all reasonable assistance for the women making the complaint in writing
- Extend time limit of 3 months if satisfied of circumstances
- Legal heir/representative can file complaint in case of physical/mental capacity/death/otherwise.

Section 10: Conciliation

- Before enquiry at the request of aggrieved woman
- Take steps to settle matter between parties
- No monetary settlement
- Internal committee/Local committee record settlement
- Forward the same to employer/District officer
- Copies of settlement to be provided to the complainant and respondent.
- No further inquiry

Section 11: Inquiry into Complaint

- The Internal committee or the local committee proceed to make inquiry
- As per service rule applicable to respondent
- Absence of such rules in such manner as may be prescribed
- Domestic worker – local committee

- Forward the complaint to the police within 7 days register case under Indian Penal Code.
- Failure to abide by Settlement conditions under Section 10

DURING INQUIRY

- Opportunity for both sides being heard
- Copy of findings made available to both parties
- Compensation awarded as per section 15
- Internal committee/Local committee have powers of Civil court
- Summoning and enforcing the attendance of any person and examining on oath.
- Requiring the discovery and production of documents
- Any other matter which may be prescribed
- The inquiry shall be completed within a period of 90 days

CHAPTER V - INQUIRY INTO COMPLAINT

Section 12: Action During Pendency Of Inquiry

- On written request by aggrieved women
- Internal Committee or Local Committee may
- Recommend transfer of aggrieved women/respondent
- Additional leave of 3 months to aggrieved women
- Leave in addition for whatever she is entitled for
- Any other relief

Section 13: Inquiry Report

- Internal committee/local committee prepare a report of the findings
- Within 10 days from the date of completion of inquiry
- Copy of reports for both parties
- Allegation against respondent has been proved
- To take action as a misconduct
- As per provisions of service rule, such a manner or has prescribed
- To deduct salary or wages
- Employer unable to deduct from salary - absent from duty or cessation of employment
- Direct the respondent to pay the aggrieved woman
- In case of failure Internal Committee or Local Committee forward the order of recovery
- Recovery of arrears has land revenue concerned District Officer
- Employer/District officer act upon within 60 days.

Section 14: Punishment For Malicious Complaint And False Evidence

- Internal committee, Local committee having knowledge of malicious complaint

- Aggrieve woman or other person making the complaint
- Forged or misleading document
- Recommend employer or district officer
- To take action as per service rules applicable or in manner as prescribed
- Mere inability to substantiate a complaint or provide adequate proof does not attract any action
- Internal committee, Local committee arrives at an conclusion
- Witness - given false evidence, produced forged misleading documents, - action according to services rules or manner as prescribed.

Section 15: Determination Of Compensation

- To the aggrieved women
- Compensation for
- Mental trauma
- Pain
- Suffering
- Emotional distress
- Loss in career opportunity
- Medical expenses- physical or psychiatric treatment
- Income and financial status of respondent
- Lump sum or instalment

Section 16: Prohibition of Publication

- The contents of the complaints
- The identity and address of aggrieved woman
- Respondent and witnesses
- Information or conciliation
- Inquiry proceedings
- Recommendations of Internal committee/Local committee
- Not be published/communicated or made known to public or media.

Section 17: Penalty For Publication

- Whoever contravenes Section 16
- Penalty according to service rules or as prescribed

Section 18: Appeal

- Any person aggrieved
- Recommendations by Internal Committee/Local committee
- May prefer appeal to the Court or Tribunal in accordance with service rules or law of time being in force
- Within 90 day of recommendations.

CHAPTER VI - DUTIES OF EMPLOYER

- Safe working environment
- Display in work place, the penal consequences of sexual harassment/policy
- Organize workshop and awareness programmes in regular intervals
- Orientation programmes for members of Internal committee
- Provide necessary facilities to Internal committee/Local committee - conducting an inquiry
- Assistance securing - attendance of the respondent and witnesses before Internal committee/Local committee
- Make available such information to Internal committee/Local committee
- Provide assistance to the women to file complaint under Indian Penal Code or any other law if she chooses
- Initiate action under the Indian Penal Code, if perpetrator is not an employee
- Treat sexual harassment as a misconduct under the service rules
- Monitor timely submission of reports by Internal Committee.

CHAPTER VII - DUTIES AND POWER OF DISTRICT OFFICER

- Monitor timely submission of reports by Local Committee
- Engage NGO for creation of awareness on rights of women

CHAPTER VIII - MISCELLANEOUS

Section 21: Committee to submit annual report

- Internal Committee, Local Committee prepare and submit annual report each calendar year to employer or District Officer
- District officer forward a brief annual report to state government

Section 22: Employer to include information in annual report

- Number of cases filed if any
- Number of disposed cases

Section 23: Appropriate Government to monitor and Implement

- Appropriate Government shall monitor and implement all the act
- Maintain data on the number of cases filed and disposed off.

Section 24: Appropriate Government to take measures to publicize the Act

- Develop and organize awareness programmes
- Formulate orientation training programmes for member of committee
- Subject to availability of financial and available resources

Section 25: Power to call for information and inspection of records

- Appropriate Government in the public interest
- Call upon employer/District Officer for information relating to sexual harassment
- Authorize any officer to make inspection of the records
- Inspection of workplace in relation to sexual harassment
- Submit inspection report within prescribed time
- Every employer, District Officer shall produce all the information, recorded documents in custody during inspection.

Section 26: Penalty for non-compliance with provisions of Act

- Failure of employer
 - To constitute Internal Committee as per Section 4(1)
 - Take action under Section 13,14 & 22
 - Contravene or attempts to contravene or about to contravene any provisions of the act
- Penalty upto Rs.50,000/-
- Second offence, twice the punishment – In case higher punishment prescribed under any law for time being
- Court shall take due cognizance of the same while avoiding punishment
- Cancellation or withdrawal, non-renewal of license
- Approval or cancellation of registration

Section 27: Cognizance of offence by Courts

- Court to take cognizance of complaint only on complaint by aggrieved woman or person authorized by Internal committee/Local committee
- Jurisdiction by Metropolitan Magistrate or Judicial Magistrate of First Class
- Offence - non-cognizable

Section 28: Not in derogation of any other law

- Act in addition to and not in derogation of any other law for the time being in force.

Section 29: Power of Appropriate Government to make rules

Section 30: Power to remove difficulties.

**SEXUAL HARASSMENT OF WOMEN AT WORKPLACE
(PREVENTION, PROHIBITION AND REDRESSAL) RULES, 2013**

1. Short title – commencement
2. Definition
3. Fees and allowances for members of Internal committee
4. Person familiar with issues relating to Sexual Harassment
5. Fees or allowance for Chairwoman and members of Local committee
6. Complaint of sexual Harassment
7. Manner of inquiry into complaint
8. Other relief to complainant during pendency of inquiry
9. Manner of taking action for Sexual Harassment
10. Action for false or malicious complaint or false evidence
11. Appeal
12. Penalty for contravention provisions of section 16
13. Manner to organize workshops etc.,
14. Preparation of Annual Report

CITATIONS

1. Vishaka & others Vs State of Rajasthan & Others 1997(6) SCC 241
2. Mrs. Rupan Deol Bajaj & Another Vs Kanwar Pal Singh Gill & another 1996 AIR 309, 1995 SCC (6)194
3. Ruchika Singh Chhabra Vs M/S. Air France India & another 2018(170) DRJ 609
4. K. Hema Latha Vs State Of Tamil Nadu, Represented By Its Secretary, Department Of School Education, Chennai and others 2018 MHC 3385
5. Dr. Varun Tyagi Vs Central Government Health Scheme, Bikaner House, New Delhi & Another LQ 2014 CAT 23551
6. Suresh Babu Vs The Regional Joint Labour Commissioner & another ILR 2018 (1) Kerala 468
7. S. Ranjini Vs State Of Tamilnadu, rep by its Secretary To Government, Home Department, Chennai & others 2017 MHC 7374
8. The State Of Maharashtra & Others Vs Hiralal Rama Jadhav 2018 (4) BOM CR 42
9. Sri Subrata Kumar Choudhury Vs State Bank of India and others on 3 September 2008
10. Saurabh Kumar Mallick V. The Comptroller & Auditor General of India & Another 151 (2008) DLT 261: **residing place of the complainant could not be treated as a ‘workplace’ as the place was meant for her residence and not a place of work.**
11. U.S. Verma, Principal, DPS, Faridabad & Others V. National Commission for Women & Others 163 (2009) DLT 557: **“sexual harassment is a form of discrimination projected through unwelcome sexual advances, the request of sexual favors and other verbal and physical conduct with sexual overtures, either directly or by implication”**
12. Kiran Lata V. State of Haryana (2003) 2 RCR criminal 239: **sexual harassment of women at work places results in violation of fundamental rights enshrined in our Constitution under Articles 14, 15 and 21.**
13. M.Rajasekaran V. The Chairman and Others LQ 2002 HC 9327: **Any punitive action which is taken should be just, fair and reasonable and not mechanical. FORMAL CHARGE should be formulated**
14. S.K. Srivastava S/o B.S. Bhaskar V. Shri S.S.N. Murthy: **Enquiry report without charge sheet is absolutely incorrect**

15. Shobha Goswami V. State of Uttar Pradesh & Others 2015 AWS 3910 All : **where the offices or administrative units of the workplace are located at different places or divisional or sub- divisional level, the Internal Committee shall be constituted at all administrative units or offices.**
16. Girishkumar Rameshchandra Soni V. State of Gujarat 2017 GHC 375, (2018) 3 GLR 1993: aggrieved woman may make, in writing, a complaint of **sexual harassment at workplace** to the Internal Committee or the Local Committee, within a period of three months from the date of incident
17. Shubham bhuwangiri goswami v. union of india and others M.A.T.NO.472 OF 2019; CAN NO.3439 PF 2019: Shopping Mall, is admittedly not a **workplace**.
18. Narayan parshad inspector v. state of Haryana Criminal Miscellaneous No. M-23596 of 2013 (O and M): **verbal and physical advances followed by rough behaviour and the same came within the definition of sexual harassment as defined by The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.**
19. Dr. M. Balamurugan V. The Hon'ble Vice-Chancellor, Pondicherry University 2019 MHC 1343: **the Committee is bound to conclude the enquiry, within a period of 90 days. If unable to be enquired into, within the time limit then must conclude the enquiry within a short span of period**
20. Patel Rajendrakumar Natavarla V. State of Gujarat & Others LQ 2016HC 2326: **The findings and the report of the Complaints Committee shall be treated as a finding / report in an inquiry into the misconduct of the delinquent.**
21. Linda Eastwood V. Union of India & Another LQ 2015HC970: **The employer is expected to develop clear and precise procedures to deal with the complaints of sexual harassment in an effective manner.**
22. Sunder Lal V. State of NCT of Delhi and Ors. 2016 XAD (Delhi) 392: **Mere delay in filing the application does not debar the applicant from seeking relief. The principle of "finality of litigation".**
23. Ayesha Khatun V. The State Of West Bengal & Others W.P. No. 905 of 2011: **Workplace cannot be given a restricted meaning but a broader and wider meaning so that the said guidelines can be applied where its application is needed even beyond the compound of the workplace** Ayesha Khatun V. The State Of WestBengal & Others W.P. No. 905 of 2011.
24. Dr. Malavika Desai V. Union of India (UOI) W.P.(C) No. (SH) 167of 2011: **Following normal procedure of departmental enquiry process cannot be the ground cannot be the disqualification of the inquiry process.**
25. Srinivas Rajan V. The Director of Matriculation Schools Office of the Directorate of Matriculation schools & Others Decided on 20.2.2012: **certain forms of verbal abuse, even**

if not patently sexual (use of the word “bitch” in this case, accompanied by certain other behaviour) may amount to sexual harassment.

26. **Ruchika kedia vs. internal complaints Writ Petition No. 690 of 2019: The court quashed the inquiry report of the defective Internal Committee and directed the Goa Institute of Management (“Institute”) to comply with their regulations and constitute an Internal Committee in compliance with the Regulations.**
27. **Vidya akhave vs. Union of India, department of women and children and others to 2017 LLR 357 (BOM.H.C): Reduction in to lower state by two stages that cumulative effect is a major penalty. no interference is required by High Court**
28. **Ashok Kumar Singh vs. University of Delhi and others.2017 LLR 366 (DELHI H.C): IC is empowered to enforce attendance of any person for deposition in the enquiry. Finding of the IC must be with definite conclusion of guilt.**
29. **Ashok Kumar Singh vs. University of Delhi and others.2017 LLR 366 (DELHI H.C): under section 13(3) of POSH Act, 2013. the report of IC respect of complaint of sexual harassment has to be conclusive and definitive and not merely prima facie findings.**
30. **Vidya akhave vs. Union of India, department of women and children and others to 2017 LLR 357 (BOM.H.C): it is the duty of the employer to ensure that the appropriate safeguard are provided to protect women from sexual harassment as provided under section 19 of POSH Act 2013.**
31. **Ashok Kumar Singh vs. University of Delhi and others.2017 LLR 366 (DELHI H.C): enquiry report of IC will not supporting when opportunity of cross examination and to lead defence evidence was denied and report only gives prima facie Conclusion and not definite.**
32. **Sri B K Mohanty VS. Hindustan Aeronautics Limited and others 2017 LLR 1085(KAR H.C): Enquiry report of IC cannot be challenged in writ and management take Final Decision on the Recommendation of the IC.**
33. **General Secretary, NSS. Medical Mission Hospital, PANDALAM vs. labour Court, kolam another.2017 ICLRP.744 (Ker H.C): Mere fact that the complaint suffered pain in that procedure would not make the technician guilty of sexual harassment at the time of taking X- RAY**
34. **Biplab Kumar Das vs. IDBI bank and others.2017 LLR 1148 (Gau. H.C): When Complainant and perpetrator were both on duty of attending a training program at Kolkata and incident happened it will be workplace.**
35. **Saurashtra Salt Manufacturing Co. v. Bai Valu Raja & Ors., AIR 1958 SC 881: on the applicability of the theory of ‘notional extension’ of the employer’s premises. There may be some reasonable extension in both time and place and a workman may be regarded as**


in the course of his employment even though he had not reached or had left his employer's premises."

- 36. Saurabh Kumar Mallick v. Comptroller & Auditor General of India, WP(C) No. 8649/2007: a narrow and pedantic approach cannot be taken in defining the term 'workplace' by confining the meaning to the commonly understood expression 'office'**
- 37. Medha Kotwal Lele vs. Union of India and others (2013) 1 SCC 297): non-compliance or of the Vishaka Guidelines, it would be open to the aggrieved persons to approach the respective High Courts.**
- 38. Women employees cannot be allowed to go scot-free without completing their assignments: Union of India v. Reema Srinivasan Iyengar, WP Nos. 10689, 24290 and 4339 of 2019, decided on 17-02- 2020.**

Annexure – 4

Instructions from the Ministry of Youth Affairs and Sports, Government of India for Organising the Programme

इन्दीवर पान्डेय, आई.ए.एस.
सचिव
INDEVAR PANDEY, I.A.S.
Secretary
Tel. : 011-23383586, 23366731
Fax : 011-23381495
E-mail: sacy.wcd@nic.in


सत्यमेव जयते

भारत सरकार
महिला एवं बाल विकास मंत्रालय
राजकी भवन, नई दिल्ली-110 001
Government of India
Ministry of Women & Child Development

Date: 25th November, 2021

D.No.13016/2/2017-WW-Part(1)

Sacy (YA)
FIS No. 191565
Date: 26-11-21
(S)

Dear Secretary,

As you are aware, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as the Act) has been notified on 9th December 2013 to provide a safe and secure environment to women at the workplace.

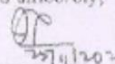
2. The Act upholds women's fundamental right to equality as guaranteed under Article 14 and 15 of the Indian Constitution, right to live with dignity under Article 21 and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe working environment free from sexual harassment as provided under Article 19 (1) (g) of the Indian Constitution.

3. With improved access to education and employment, millions of Indian women are entering the country's workforce. It is crucial that as a country we provide all women with safe and secure work environment. It is the responsibility of every employer to ensure compliance of the provisions of the Act as well as sensitise their employees towards the need to uphold the dignity of women and end gender stereotypes so as to encourage more and more women to participate in economic activities. This will contribute to realisation of gender equality and result in inclusive growth for the benefit of the nation as a whole.

4. This year, the Ministry of Women and Child Development has decided to commemorate the eighth anniversary of notification of this landmark legislation that is 9th December, 2021 by requesting all central Ministries/Departments to conduct awareness generation exercise around the Act for their employees.

5. I, therefore, request you to kindly issue necessary instructions to all concerned Officers of your Ministry/ Department as well as autonomous bodies/ PSUs and other organisations to conduct one day awareness programmes on the SH Act on 9th December 2021. It would be appreciated, if a report of this exercise held on that day in your Ministry/ Department is provided to this Ministry by 15th December, 2021.

With regards

Yours sincerely,

(Indevvar Pandey)

Secretary of all Ministries/Departments of Government of India

Copy to: US (Admin) / US (NY RS) / R/Minis / US (NLS) for necessary
Action

Dr. Manantra
Pl. arrange for
one-day awareness
program.
26/11/21
Seen by
SVA/ Ram
JS(YA)

27-11-21
DS (CDN)
US (CDN)
8.11.2021

Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi-110 001
Website : <http://www.wcd.nic.in>

About RGNIYD

Rajiv Gandhi National Institute of Youth Development (RGNIYD), Sriperumbudur, Tamil Nadu, is an Institution of National Importance by the Act of Parliament No.35/12 and a premier organisation of the Ministry of Youth Affairs and Sports, Government of India. RGNIYD functions as a vital resource centre with its multi-faceted functions of conducting training programmes for youth functionaries across the country, besides offering academic programmes at post graduate and doctoral levels, engaging in seminal research in the vital areas of youth development and extension and outreach initiatives across the country.



For More Details Contact:



RAJIV GANDHI NATIONAL INSTITUTE OF YOUTH DEVELOPMENT

An Institution of National Importance by the Act of Parliament No.35/12
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Sriperumbudur – 602 105.

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