National Seminar Women Setu-Women Empowerment

Organized by

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Awareness on :

Sexual Harassment of Women at workplace

Presented by :

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Need for Law on Sexual Harassment at Workplace

* Sexual Harassment violates women's right to equality(Article 14 & 15), right to life and live with dignity(Article 21) and right to practice any profession or to carry on any occupation, trade or business which includes right to safe environment free from sexual harassment (Article 19)
* Against human rights as well as fundamental rights guaranteed by the Constitution of India
* Creates insecure/hostile work environment
* Impacts women physically & mentally
* Discourages women's participation in workforce
* Adversely affects women's social & economic empowerment

Vishakha Guidelines set as procedural guidelines from Case Vishakha vs State of Rajasthan

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

By : CA Shweta Pathak

Section 3(1): Prevention of Sexual Harassment

* No **Women**
* shall be subjected to
* **Sexual harassment**
* At any **workplace**

Sexual Harassment u/s 2(n)

Unwelcome acts or behavior (whether directly or by implication)

- Physical contact and advances
- A demand or request for sexual favors
- making sexually coloured remarks
- showing pornography
- any other unwelcome physical, verbal or non-verbal conduct of sexual nature

Circumstantial Evidences u/s 3(2)

implied or explicit promise of preferential treatment in her employment

implied or explicit threat of detrimental treatment in her employment

implied or explicit threat about her present or future employment status

interference with her work or creating an intimidating or offensive or hostile work environment for her

humiliating treatment likely to affect her health or safety

कानून के अंतर्गत "कार्यस्थल पर महिलाओं का यौन उत्पीड़न"

"SEXUAL HARASSMENT" OF WOMEN AT WORKPLACE" UNDER THE LAW

वे परिस्थितियां जिन्हें यौन उत्पीड़न माना गया है।

- नौकरी में तरजीह–पूर्ण व्यवहार का अस्पष्ट/स्पष्ट आश्वासन;
- नौकरी में हानिकारक व्यवहार की अस्पष्ट/स्पष्ट धमकी;
- महिला की नौकरी की वर्तमान अथवा भावी स्थिति के संबंध में अस्पष्ट/स्पष्ट धमकी;
- उसके कार्य में हस्तक्षेप करना अथवा उसके लिए भयपूर्ण/अपमानजनक/विद्वेषपूर्ण माहौल बनाना; अथवा
- उसके स्वास्थ्य अथवा सुरक्षा को प्रभावित करने वाला अपमानजनक व्यवहार।

Circumstances Considered as Sexual Harassment

- Implied/explicit promise of preferential treatment in employment;
- Implied/explicit threat of detrimental treatment in employment;
- Implied/explicit threat about her present or future employment status;
- Interference with her work or creating an intimidating/offensive/hostile work environment for her; or
- humiliating treatment likely to affect her health or safety.

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

Aggrieved Women u/s 2(a)

In relation to a workplace

- A **woman**
- Of **any age,**
- Whether **employed or not**
- Who alleges to have been subjected to sexual harassment by the respondent

In relation to a dwelling place house

- A **woman**
- Of **any age,**
- Who is **employed** in such dwelling place or house.

Employee u/s 2(f)

* a person employed at a workplace
* for any work on
* regular, temporary, ad hoc or daily wage basis,
* either directly or through an agent, including a contractor,
* with or, without the knowledge of the principal employer,
* whether for remuneration or not, or
* working on a voluntary basis or otherwise,
* whether the terms of employment are express or implied and
* includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name

Workplace u/s 2(o)

* any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society

* any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainmental, industrial, health services or financial activities including production, supply, sale, distribution or service;

Workplace u/s 2(o) cont.

* hospitals or nursing homes;
* any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;
* any place visited by the employee arising out of or during the course of employment including transportation by the employer for undertaking such journey;
* a dwelling place or a house

Internal Complaints Committee u/s 4

ICC to be constituted by employer

- Presiding Officer
  - Women at senior level
- At least 2 members amongst employees
  - Committed to cause of women/ experience in social work/ legal knowledge
- 1 member from NGO
  - Committed to cause of women or familiar with cases of sexual harassment

At least half of total members shall be women

Local Complaints Committee

LCC to be constituted by the District officer to receive the complaints of sexual harassment of the concerned district

ICC not constituted as employees <10

If complaint is against employer

Complaint & Proceedings

Complaint to be filed in 3 months from incidence or last incidence

On request, transfer to other dept or leaves upto 3 months or any other relief

Upon conclusion of enquiry , compensation to the aggrieved women

Duties of Employer u/s 19

Provide safe working environment

Create awareness about ICC

Workshops & awareness programs about the provisions of the Act

Assist woman if she chooses to file complaint under IPC or any other law

Treat sexual harassment as misconduct under service rules

Assist ICC during proceedings and monitor timely submission of reports

Penalty for Non-Compliance of provisions u/s 26 on employer

First Conviction

- Fails to constitute ICC or fails to take actions or contravenes provisions
- Fine upto Rs 50,000

Subsequent conviction

- Twice the punishment on first conviction
- Cancellation of license

Recourses & Helplines

Helplines

Free Legal Aid to Women

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STAND UP AGAINST
SEXUAL
HARASSMENT
IN THE WORKPLACE