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(I.S.S.N 2321- 6417 (Online))

Ph: +919310053923 Website: journal.lawmantra.co.in

E-mail: info@lawmantra.co.in contact@lawmantra.co.in

SEXUAL HARASSMENT AT WORKPLACE *

Sexual Harassment & Its Kinds

What is Sexual Harassment? Why is it prevalent in our society? Why only women face the problem of sexual harassment? All these questions which arise in the society nearly have a common answer. To understand this, basically we need to understand the fact that what really sexual harassment is? So let us understand the concept:

Sexual Harassment is an evil practice prevalent in our society due to some ill mentalities. Sexual Harassment (typically of a woman) in a workplace, or other professional or social situation, involving the making of unwanted sexual advances or obscene remarks, which basically affects and impacts the mental and physiological abilities of women. Women have continuously been abused, maltreated or disadvantaged in the society in comparison with men and such abuse, disadvantage or maltreatment which a woman does not deserve is indeed illegitimate or unjustified in the society.

Sexual harassment is a type of sex discrimination and is illegal under¹ title VII of the Civil Rights Act of 1964.² According to the Equal Employment Opportunity Commission (EEOC), there are two types of sexual harassment that take place in the workplace: quid pro quo and hostile work environment.

Quid Pro Quo Sexual Harassment

* Ms. Perna Jha & Samreen Sayed, B.A.LLB. (Hons.), 2nd Year, School of Law, Jagran Lakecity University, Bhopal, Madhya Pradesh.

¹Civil Rights Act, 1964 (title VII).

² Types of Sexual Harassment, available at <https://www.legalmatch.com/law-library/article/types-of-sexual-harassment.html>.

Quid pro quo sexual harassment typically involves someone in a supervisor-type role who asks or hints at sexual favors in exchange for any type of employment benefit. This could mean that, in return for some type of sexual favor, the employee would receive more pay, a higher-ranking job, or more seniority within the company. Quid pro quo and hostile work environment sexual harassment can happen to women and men, and the victim and perpetrator can be of the same or differing sex.

Hostile Environment Sexual Harassment

Hostile work environment sexual harassment can consist of intimidating or threatening comments, jokes, and repeated sexual advances that impact the ability of an employee to do his or her job. This type of sexual harassment is more centered on the hostility and offensiveness that pollute the workplace environment when an individual or groups of individuals harass a colleague or a group of colleagues.

Examples of hostile environment sexual harassment may include:

- Repetitious telling of dirty jokes or sexual anecdotes;
- Drawings, images, statues, pictures, dolls, or icons that are of a sexual nature or undertone;
- Written communications such as memos or emails that are sexual in nature;
- The use of insults or derogatory remarks that are sexual in nature; and/or
- Repeated behavior that is inappropriate, such as touching, rubbing, or groping. This sexually-oriented behavior is not welcomed or done with permission, or, it is consented to, but it creates a hostile work environment for others.

Another type of Harassment also co-exists with these two kinds of Harassment and that is Non-Direct Harassment.

Non-Direct Harassment

The above-mentioned examples of sexual harassment are common instances of direct sexual harassment. Non-direct (indirect) sexual harassment occurs when a secondary victim has been offended by auditory or visual conduct.

For instance, if a bystander hears something offensive that wasn't aimed at him or her, indirect sexual harassment may have occurred. This could take place by overhearing a lewd joke, seeing an email or letter that was sexual in nature, or coming across pictures on a screen saver that are deemed sexually offensive. Non-direct sexual harassment can also involve a person witnessing the harassment of someone else.

Cause of Sexual Harassment

³Sexual harassment can vary depending on the situation and the persons involved in the conduct. Some types of behavior that are considered sexual harassment are:

- Unwelcomed sexual advances or touching
- Requests for sexual favors
- Direct and indirect threats for sexual activity
- Bribe offers of sexual favors
- Sexually offensive comments or jokes,
- Unwelcomed brushing or intentional touching
- Displays of sexually illicit materials or graphic content

⁴Women in Pre-Vedic Period

Historical studies and the scriptures indicate that Indian woman enjoyed a comparatively high status during the early Vedic period (2000 B.C. to 1000 B.C.), surpassing contemporary civilizations in ancient Greece and Rome. The Aryans, who were mostly busy fighting wars, regarded woman as useful and productive members of society. The condition of Vedic Woman was good. Woman also enjoyed religious status like that of men, especially in Vedic initiation and studies. The Rig Veda provides ample evidence to prove the concept of equality of woman with men as regards access and capacity to acquire the highest knowledge, even the absolute knowledge. The Rig Veda had rendered the highest social status to qualified woman of those days. But status

³ Kinds of Behavior considered as Sexual harassment, available at <https://www.legalmatch.com/law-library/article/types-of-sexual-harassment.html>.

⁴Women in pre-vedic period available at, shodhganga.inflibnet.ac.in/bitstream/10603/123356/8/08_chapter2.pdf

of woman fell in the later Vedic and Epic period. They were not at all treated equally with men or we can say that they were not enjoying equal rights and privileges as compared to men.

Though the woman participated in each family ceremony with men but they only played a role as a silent observer not an active participant. As per Manu, men always enjoy unchallenged authority over their wives. Child marriages, Polygamy and Sati were prevalent at that time. Still out of all these things woman at that time were respected by the society. However, changes into the status of woman introduced in 15th century. Saints and supporters of bhakti movement were expounded and spoken about equality of woman with men.⁵ During these period men were polygamous and widow burning was an accepted norm. Arthashastra imposed more stigmas on woman as Kautilya dismissed woman's liberation. They were not free even to go elsewhere without husband's permission. They became worse off in the Gupta period. But in Vedic period position of woman was not worse as that of today. Our history shows that woman in Vedic period was also on strong footage as compare to men and therefore they were not subjected to 'Female Foeticide' and Infanticide or people never think about that. Though the overall position of women was lower than men, yet on the whole the position of woman was good. In the post Vedic period, woman started being discriminated on the ground of education and other rights. The 'Child Marriage', emphasis on physical chastity of woman and their unquestioned obedience to husband lead's to progressive deterioration of their position. Thus, a contradiction in the rules of treatment to woman was there. Manu's system continued for long after the Mauryan period in the Indian society. However, the upper class woman enjoyed freedom and were respected in society. Besides these women, a vast majority worked in the fields and homes. Their condition worsened in the 20th century.⁶

The condition of women declined thereafter and then improved gradually and attained stability in the society by 21st century but still we see that crimes against women is increasing due to the increase in the ill-mentalities and it has no become very difficult for the government to control it. People are losing the respect and reverence for women, they should have same respect for the women outside that they are having for the women living with them.

⁵<http://www.importantindia.com/2954/status-of-woman-in-vedic-age/> Posted in Essays, Paragraphs and Articles by VikashMehra On February 17, 2014.

⁶ Posted in Essays, Paragraphs and Articles by Karan Malhotra On August 21, 2014 cited at <http://www.importantindia.com/2954/status-of-woman-in-vedic-age/>.

Women from the beginning itself had a pitiful condition and lived a miserable life. They always were the sufferers and victims of the situations and conditions of the time; still they have managed to move forward with pride and their families. Man is only considered as the economic provider but a woman is a homemaker, she values her family and always wants that her family should prosper. She has been the connecting link in the families of the Indian societies. They always find happiness in others and work hard to keep everyone happy.

History basically teaches about the mistakes that were done in the past which should not be repeated in the future for the betterment of the society. Every gender should be given equal importance and should always try to make the world a better place to live in.

Offences under the Indian Penal Code and relevant punishments

Section 354A Sexual harassment is: unwelcome physical contact and advances, including unwanted and explicit sexual overtures, a demand or request for sexual favours, showing someone sexual images (pornography) without their consent, and making unwelcome sexual remarks.

Punishment: Up to three years in prison, and a fine.

Section 354B Forcing a woman to undress.

Punishment: From three to seven years in prison, and a fine.

Section 354C Watching or capturing images of a woman without her consent (voyeurism).

Punishment: First conviction – one to three years in prison and a fine. More than one conviction – three to seven years in prison and a fine.

Section 354D Following a woman and contacting her or trying to contact her despite her saying she does not want contact. Monitoring a woman using the internet or any other form of electronic communication (stalking).

Punishment: First conviction – up to three years in prison and a fine. More than one conviction – up to five years in prison and a fine.

13 Section 509 Insulting the modesty of a woman by saying any word or sound or making any gesture which intrudes on her privacy.

Punishment: Up to three years in prison and a fine.⁷

Sexual Harassment at Workplace in India and Prominence of this Activity

Indian Constitution provides right to equality to both women and men. Women have equal right to choose any profession and area of work or business activity. But in practice women are discriminated against both in their homes and outside their homes. Discrimination, on most of the times, includes elements of harassment and violence against women. Furthermore, the said harassment can be both mental as well as physical. More often than not physical harassment takes the form of sexual harassment or Sexual violence. Sexual harassment in general and sexual harassment at workplace in particular is the hard reality which is faced by working girls and women in day to day life.⁸

Sexual Harassment has been defined under the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 in section 2(n) as “Sexual harassment includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely-

- i. physical contact and advances; or
- ii. a demand or request for sexual favours; or
- iii. making sexually coloured remarks; or
- iv. showing pornography; or
- v. any other unwelcome physical, verbal, or non-verbal conduct of sexual nature;⁹

⁷Law on Sexual Harrasment in India, available at <http://www.lawyerscollective.org/wp-content/uploads/2014/04/>.

⁸ Sexual Harassment at Workplace in India, *available at*, <https://www.indiacelebrating.com/social.../sexual-harassment-of-women-at-workplace>.

⁹Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013, Section 2(n).

WHAT IS SEXUAL HARASSMENT AT WORKPLACE

In simple terms it can be understood as unwanted direct or indirect sexual contact, remarks or conduct on part of the male colleagues against their women colleagues at any workplace. Thus, sexual harassment at workplace includes both physical as well as mental aspects.¹⁰ Though it is difficult to define what constitutes sexual harassment at workplace but the Supreme Court of India has defined it in the case of *Vishakha v. State of Rajasthan, 1997*¹¹ as:

“Any unwelcome sexually determined behavior (whether directly or by implication) as physical contact and advances, a demand or request for sexual favors, sexually colored remarks, showing pornography or any other unwelcome physical, verbal or non-verbal conduct of sexual nature.”

Thus the above definition makes it very clear that any unwelcome sexually colored behavior by a male against a female employee will be treated as sexual harassment at workplace.

Vishakha vs. State of Rajasthan & Others, 13 August 1997

A writ petition was filed by a group of woman for the enforcement of fundamental rights of working woman under Article 14, 19 and 21 of the Constitution in view of the prevailing climate in which the violation of these rights is not uncommon. With the increasing awareness and emphasis on gender justice, there is increase in the effort to guard such violations; and the resentment towards incidents of sexual harassment is also increasing. The present petition has been brought as a class action by certain social activists and NGOs with the aim of focussing attention towards this societal aberration, and assisting in finding suitable methods for realisation of the true concept of 'gender equality'; and to prevent sexual harassment of working women in all work places through judicial process, to fill the vacuum in existing legislation.

BACKGROUND

BHANVARI DEVI CASE

¹⁰What is sexual harassment at workplace, available at, <https://www.indiacelebrating.com/social.../sexual-harassment-of-women-at-workplace>.

¹¹*Vishakha v. State of Rajasthan* AIR 1997 SC 3011.

In 1992 Bhanwari Devi a social worker in Rajasthan was brutally gang raped by a number of upper caste men, because she had tried to stop a 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.

Each such incident results in violation of the fundamental rights of 'Gender Equality' and the 'Right of Life and Liberty'. It is clear violation of the rights under Articles 14, 15 and 21 of Constitution. One of the logical consequences of such an incident is also the violation of the victim's fundamental right under Article 19(1)(g) 'to practice any profession or to carry out any occupation, trade or business'. Such violations, therefore, attract the remedy under Article 32 for the enforcement of these fundamental rights of women. This class action under Article 32 of the Constitution is for this reason. A writ of mandamus in such a situation, if it is to be effective, needs to be accompanied by directions for prevention; as the violation of fundamental rights of this kind is a recurring phenomenon. The fundamental right to carry on any occupation, trade or profession depends on the availability of a "safe" working environment. Right to life means life with dignity. The primary responsibility for ensuring such safety and dignity through suitable legislation, and the creation of a mechanism for its enforcement, is of the legislature and the executive. When, however, instances of sexual harassment resulting in violation of fundamental rights of women workers under Articles 14, 19 and 21 are brought before us for redress under Article 32, an effective redressal requires that some guidelines should be laid down for the protection of these rights to fill the legislative vacuum.

SUPREME COURT DECISION

In the absence of domestic law occupying the field, to formulate effective measures to check the evil of sexual harassment of working women at all work places, the contents of International Conventions and norms are significant for the purpose of interpretation of the guarantee of gender equality, right to work with human dignity in Articles 14, 15 19(1)(g) and 21 of the Constitution and the safeguards against sexual harassment implicit therein.

GUIDELINES ISSUED BY THE COURT

The GUIDELINES and NORMS prescribed herein are as under:-

HAVING REGARD to the definition of 'human rights' in Section 2(d) of the Protection of Human Rights Act, 1993, TAKING NOTE of the fact that the present civil and penal laws in India do 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 is 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:

1. Duty of the Employer or other responsible persons in work places and other institutions:

It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

2. Definition:

For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- a) physical contact and advances;
- b) a demand or request for sexual favours;
- c) sexually coloured remarks;
- d) showing pornography;
- e) any other unwelcome physical verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection

would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

3. Preventive Steps:

All employers or persons in charge of work place whether in the public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:

- (a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.
- (b) The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
- (c) As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.
- (d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

4. Criminal Proceedings:

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. Disciplinary Action:

Where such conduct amounts to mis-conduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

6. Complaint Mechanism:

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

7. Complaints Committee:

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counsellor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its member should be women.

Further, to prevent the possibility of any under pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the government department concerned of the complaints and action taken by them. The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

8. Workers' Initiative:

Employees should be allowed to raise issues of sexual harassment at workers meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

9. Awareness:

Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in suitable manner.

10. Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

11. The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.

12. These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.

Accordingly, we direct that the above guidelines and norms would be strictly observed in all work places for the preservation and enforcement of the right to gender equality of the working women. These directions would be binding and enforceable in law until suitable legislation is enacted to occupy the field. These Writ Petitions are disposed of, accordingly.

REASONS OF SEXUAL HARASSMENT AT WORKPLACE

¹²Reasons for sexual harassment of women at workplace are many; some reasons are of generally prevailing in the society as a whole but some are specific to workplace. A few among them will be discussed below:

¹² Reasons for sexual harassment at workplace, available at, <https://www.humanrightscommission.vic.gov.au/...workplace/sexual-harassment-at->

Patriarchal Structure: We live in a male dominated society and that is most important factor after all this happenings.

Sexual Perversion: Apart from this, sexual perversion of mind among certain individuals is also one of the major reasons of sexual harassment of women at workplace. While more and more female employees are being recruited by both public and private sectors, such men have got an easy access to indulge in sexually perverted behaviors.

Jealousy at Workplace: Jealousy at workplace is also a reason for such crimes against women employees; a male employee would not like to see his female colleague to get success, promotion or incentives by the employer. And in jealousy, he would harass her through sexually perverted behavior. It is also linked to perceived superiority feeling among men that a woman could never become better than them.

Feeling of Contempt and Disrespect: Apart from these reasons, a general feeling of contempt and disrespect for women among male species is also a prominent reason whereby women are considered only as an object to fulfill sexual desires of men. We might respect women in our homes but other women in the society are not treated as such. Women at workplace is no different; male colleagues consider them as their object of play, vulgar comments and jokes, obscene gestures, gossips of sexual nature etc. are the norms of any workplace. Though, in our society we claim to respect and worship women but in reality various types of crimes committed against women shows that our claim is nothing but a falsity.

Male Superiority: Thus, there can be several and varied reasons for sexual harassment of women at workplace but the essential elements of all such reasons is the deep rooted feeling of Male Superiority among men in general. The social conditioning of men in a patriarchal system reinforces such feeling generation after generation which creates the base for crimes like sexual harassment at workplace.

There are laws made by the legislature to control the situation, but this evil practice still exist in the society and increasing day by day.

Analysis of Tarun Tejpal Case

Facts

Tarun Tejpal was accused of rape by one of his junior colleagues on November 7, 2013. She alleged that Tejpal assaulted her in the elevator of the Grand Hyatt in Panaji, where Tehelka held its annual Think Fest

The Supreme Court has deferred the hearing in the sexual assault case against former Tehelka editor-in-chief Tarun Tejpal to October 30.

Tejpal was accused of rape by one of his junior colleagues on November 7, 2013. She alleged that Tejpal assaulted her in the elevator of the Grand Hyatt in Panaji, where Tehelka was holding its annual Think Fest.

The case came to light when a number of media houses published a leaked trail of emails exchanged between the woman, Tejpal and the managing editor of Tehelka, Shoma Chaudhary. This further led Tejpal to step down from his post of editor-in-chief of the media house for six months to 'recuse' himself.

Based on the media reports, the crime branch of the Goa Police launched a preliminary probe leading to an FIR against Tejpal on three charges of sexual assault harassment and rape.

Tejpal arrived at Goa from Delhi on November 30, where he was denied anticipatory bail and arrested by the police. He was lodged in the Sada sub-jail in Goa's Vasco. He was charged with rape, sexual harassment and outraging the modesty of his colleague on February 17, 2014.

On 1 July 2014, the Supreme Court granted him bail. After years of delay, the trial against the Tehelka's former editor-in-chief finally started in Goa's Mapusa in February this year.

Analysis

The problem of sexual harassment in work place is increasingly coming out of the closet. The case of Tarun Tejpal, managing editor of the news magazine Tehalka is a case in point. This particular case has brought this issue on the center stage as more victims are gathering courage to complain such offences. After of Tarun Tejpal's case a public debate is raging in the country how to control

the such incidents in future. This is because the sexual dimension such cases have implications on personal, psychological, moral and marital status of an individual.¹³

¹⁴**Agency and the law:** The other argument advanced to support *Tehelka*'s handling of the case is that a complainant has "agency," the capacity to take her own decisions, and that therefore if she chooses not to report the crime to the police and chooses other ways of finding justice or even remaining silent, that is her business and should be respected. The assertion of agency by a rape victim in relation to the action to take against her tormentor requires that she has full information of the different laws, that she has the time to think things through, the pros and cons of not going to the police to file a complaint. Was she informed that the 2013 Act against sexual harassment deals with offences of a lesser nature? Was she informed that the punishment under the Act could not in any way match the crime that was inflicted on her? Did she know that her job was protected by the law? Was she offered the best legal advice and support to fight for justice? Without such a framework, the use of the argument of agency ends up as a shield to protect the accused from being prosecuted under the anti-rape laws.

In cases such as *Tehelka*, it is essential for the organisation and management to advise the victim to file a case with the police and to provide all legal help, which would better help her make an informed choice. Men in positions of power, who use that position to exploit women employees for sexual gratification, cannot be allowed to get away with it and such kind of culprits should not be bailed by the Indian Courts and must be punished by rigorous imprisonment.

Why this malpractice prevails in our society? The way in which men and women are brought up in India strongly influences their behavior in an organization. Women often lack self-confidence because of the way they have been socialized and are customized to suffer in silence.¹⁵

¹³ Essay about sexual harassment in India, available at, <https://www.civilserviceindia.com/.../Essay/sexual-harassment-in-workplace-causes-an>

¹³ alexis.org.in/tarun-tejpal-case-a-critical-analysis.

¹³ Why sexual harassment prevails in our society, available at, <https://www.fastcompany.com/.../why-sexual-harassment-is-still-an-issue>.

Women are vulnerable to sexual harassment because they more often lack power and often work in an insecure positions. Due to the fear factor women often resign to their fate rather than raise their voice against sexual harassment. Since they do not know where to go for complain and how their complains would be treated, they often keep quit and suffer in ignominy. Sometimes sexual harassment is also seen as a power game, where man insists on sexual favors in exchange of benefits he can dispense with due to his prevailed position. The 'casting couch' is probably the best-known example of such power game.

As recent economic and social changes have changed power relations between men and women in the Indian society, men are feeling a sense of insecurity. With women now being empowered, some men feel threatened by their career advancement. To overcome such insecure feelings, some men resort to harassing women in the work place.

Sometimes men are stressed in the work place because even after putting their best, they do not get proper recognition, whereas women with little talent are preferred for being fair sex in an organization. This sometimes causes frustration and such men resort to sexual harassment to overcome their stress.

SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013¹⁶

The Act came into effect on 9th of December, 2013. As the name suggests its objective is to prevent, prohibit and in case of violation, to provide redressal to the victim.

This Act contains almost all of the directives given by the SC in Vishakha case and it also consists of several other provisions such as: the Complaint Committees have been granted the powers of Civil Courts in garnering evidences; if the employers fail to comply with the provisions of the Act they will be liable for penalties up to Rs. 50,000; also, the Act includes in its purview workers of un-organized sectors such as daily wage laborers working in construction business or maids working in homes etc.

Thus, the Act is an attempt to provide working women a mechanism to counter the menace of sexual harassment at workplace. However the Act has few loopholes also such as it has not specifically made conduct of sexual harassment as crime but only a civil wrong which is a major

¹⁶Prohibition of Sexual Harassment at workplace Act, 2013.

flaw; when the victim is willing to initiate criminal proceeding only then a criminal complaint would be filed; also there is a possibility of senior male employee or boss of the victim might force her to withdraw her complaint. Thus, the Act can be said to be a right step but it is not entirely free of flaws and there still is a scope of improvement in it. Even now, the victim has to seek criminal remedy under the Indian Penal Code to get full justice. And again the criminal complaint would be initiated under Section 354 which does not specifically deal with sexual harassment at workplace but is a general provision.

Remedies

In order to check sexual harassment, an organization should have clear cut policy to register complaints of such nature and procedure for taking disciplinary action. Such guidelines is already available through Supreme Court judgment, it's only its implementation that is required. It is very important for an organization to work accordingly and also it is the responsibility of the organization to maintain the public order.

Every organization should have an effective employment policy that should ensure well planned career paths based on merit to reduce the vulnerability of individuals and harassment by those who abuse their power and authority. There should be awareness among the staff members about sexual harassment and the consequences they may face if they indulge in such an act. The staff member subjected to sexual harassment must first complain to the committee members constituted for such purposes in the organization, before going to the police.¹⁷

Conclusion

Sexual harassment in a work place is a sensitive issue. It cannot be checked merely providing staff members information about the sexual harassment policy or relying on disciplinary action. The organization must play proactive role, provide behavioral support and discuss this aspect as a part of the work routine. The staff must nurture an inclusive, supportive, and respectful environment in

¹⁷Remedies, available at, <https://www.civilserviceindia.com/.../sexual-harassment-in-workplace-causes-and-remedies>.

the office in order to build a congenial working atmosphere. There must be a respectful environment for both the genders.

Equally important is that the organization must support the victim of sexual harassment, and help to overcome the negative effects of such an experience.

Finally, every working woman must know that it is high time to stand up and fight for such injustices. Its only then sexual harassment in work place can be checked.

It can be said that though we now have a specific law to prohibit sexual harassment at workplace apart from already existing landmark guidelines of the Supreme Court of India but the menace cannot be controlled until and unless the mentality of males in general would not change. Till the basic human dignity of women is not recognized and respected by men, no law will be effective. It is important that constitutionally guaranteed principles of equality among men and women do not remain only empty words and should be upheld in practice.

