



PREVENTION OF SEXUAL HARASSMENT AGAINST WOMEN AT WORKPLACE: A BRIEF OVERVIEW

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Abstract: There are so many crimes committed against women in the form of dowry, violence, rape, stalking, sexual harassment, etc. and the most common problem now a days faced by the working women at work place is Sexual harassment. Although the Constitution has provided the equal status to the women but still it is on the paper and not in the reality. After the landmark judgment of Vishakha, by understanding the need of hour The Sexual Harassment Act, 2013 came into existence to protect the rights of women at workplaces.

The Act is the wonderful piece of legislation because it not only provides protection to the women at work place but also it provides the redressal committee to hear and entertain the complaints of working women at workplace. If there is any truth in the complaint made by the women then it follows the appropriate procedure in providing justice to the women. An effort is made by the researcher to summarize the content of the Sexual harassment Act and tries to find out the reason that why the Act is unsuccessful in achieving its objective.

Index Terms - Sexual harassment, Meaning of Workplace, Sexual Harassment Act, Quid pro quo, Hostile work environment.

INTRODUCTION

“I was under unwelcome pressure. I could feel this pressure. I was doing all such unwanted things for which I was asked. I understood that how this pressure would lead in a form of violence on me”

This situation was told by women to a social worker of a holistic redressal centre for women; because of continuous support she could speak out about her situation with clarity and understanding. This is not only a one incidence. There are many women who have been facing the pain of sexual harassment due to pressure of morality. The surroundings and the culprits are against the women. Being women they bear all kind of harassments without a word of pain. If ever they deny suffering such pains, a whole lot of false blames are to be put on them.

Regarding these issues, perception and views of men is changing gradually. They have started revolting against such unlawful acts. Articles which were describing such cases like *Susheela Nagar* were also being published in the newspaper and complaints committee against sexual harassment were being set up in the offices. The knowledge regarding gender based violence has been started to spread among general public.

Supreme Court's guideline in the Vishakha Judgement, draft bill prevention against sexual harassment, prepared by NCW and alternative bill is the important steps towards combating sexual harassment at workplace. The basis of Supreme Court guideline and bill is the Convention on the Elimination of All forms of Discrimination against Women (CEDAW).

The Truth about Sexual Harassment

Women's individuality and her privacy are often compromised in our society. She is forced to feel that she doesn't own her body. Though she is a victim but whatever violence she has undergone is blamed upon her. Living with this dilemma, the woman facing violence is being looked down upon.

In this reference our society is very rigid and adamant. In a silent way society gives permission to male to have control over women's body and play with their emotions. Because of these unknowing actions of society she develops dilemma which weakens her. Gradually women steps further and starts tolerating sexual harassments. The process of socialization permits men to control women's body like those branches of trees that act as parasites. Those who suffer sexual harassment outside home or at workplace show various kinds of behavioural changes. Their shaky mental state pulls them far from their normal behaviour. Different circumstances affect each individual differently but often women and they:

- Remain quite
- Talk in a different manner
- Feel repulsive from their own body
- Gets emotionally weaken and loose self respect
- Lose confidence
- Feel incapable in going out
- Lives a life of fear, hesitation and vulnerability
- Emotional disorders
- Gets occupied by annoyance, frustration and irritation
- Feels worthless
- At times attempts suicide

Sexual Harassment: Legal Context

The constitution of India contains certain provisions which ensures the protection and security of woman, however the specific cases of Sexual Harassments at workplace does not get covered. This promoted the Supreme Court to refer back to International Convention and promulgate a law, in the form of guidelines in the Vishakha Judgement.

The provisions within the Constitution are:

Article 14: Equality before law

Article 15: Prohibition of Discrimination on ground of religion, Race, caste, Sex, or Place of birth

Article 16: Equality of opportunity in Matters of Public Employment

Article 19: Protection of certain rights Regarding Freedom of Speech etc.

Article 21: Protection of Life and Personal Liberty.

Article 39: Equal Opportunity of livelihood

Article 42: Provisions for just and Humane Conditions of Work and Maternity relief

As per these Articles every women has the right to live violence free life. Our constitution formulated during post dependence, guides to our life and available justice system. Therefore the constitution, Supreme Court's guidelines and labour laws combat and prevent to sexual harassment.

Sexual Harassment: Vishakha Judgement¹

Vishakha is a milestone in itself. Especially this judgement decides the sequential process (drill) of prevention and protection from sexual harassment at workplace. If we see its historical context, since 1984, women development programme was running in 10 districts of Rajasthan. Under this programmes "sathins" did work at village level. The main work of "saathin" was bringing awareness about social issues and aware community about social evils. When one saathin of Bassi block tried to stop child marriage then 5 people of the same village raped her as a result of revenge. Saathin got full support of women groups, public groups and organisations. With the help of sathin many complaints were made at various levels. When saathin did not get justice anywhere she filed her complaint in the court. Even Court of Rajasthan failed to provide her justice. In 1992, Vishakha and other organisations of the country together filed Public Interest Litigation (PIL) in Supreme Court. The verdict on PIL was pronounced on 13th August 1997.

The two important features of this judgement are:

- Firstly- Workplace was defined in a very nuanced and explicit manner.
- Secondly- System and procedures for complaint committees against sexual harassment was included.

Defining Sexual Harassment

What is Sexual Harassment?

Sexual harassment has traditionally been divided into two well known forms:

- Quid pro quo
- Hostile work environment

'Quid pro quo' literally means "this for that". Applying this to sexual harassment, it means seeking favours or advances in exchange for work benefits such as promises of promotions, higher pay, academic advancements etc.

'Hostile work environment' is a less clear yet more pervasive form of sexual harassment. It commonly involves conditions of work or behaviour towards a women which make it unbearable to be there.

The supreme court guidelines for sexual harassment attempt to capture both these forms of sexual harassment through an exhaustive definition as "such unwelcome sexually determined behaviour (whether directly or by implication) as:

- Physical contact and advances;
- Sexually coloured remarks;

¹ AIR 1977 SC 3011.

- A demand or request for sexual favours;
- Showing pornography;
- Any other unwelcome physical, verbal, non-verbal conduct of sexual nature.
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What is the Workplace?

It is important to understand that the Supreme Court has taken a broad interpretation of what constitutes “the workplace”. It does not limit the workplace to a geographical location such as the organisation offices or premises. For the purpose of defining sexual harassment at workplace, “work place” means either in context of workplace relationships or whilst fulfilling professional duties. This means that even if the harassment takes place outside working hours and outside the premises of the organisation, it is considered to be sexual harassment at the workplace.

Prevention and prohibition:

- At workplace clear knowledge about how to revolt against sexual harassment should be disseminated (notified, published or circulated in appropriate ways).
- These rules regarding combating sexual harassment should be included in code of conduct of all organisations and department. The one who break the rule should be punished.
- In legislation of industrial rules or standing order these rules should be added.
- As per the appropriate work, environment-work, rest, health, sanitation-no women should feel that she is less powerful or disadvantaged in connection with her employment.
- What can women do who is suffering from sexual harassment?

In the Vishakha judgement the Supreme Court not only defines sexual harassment but also provides methods to prevent and ways for complaint. Whatever be the platforms of complaints what is important is that the woman is able to speak up about her problem; and for this self-confidence is essential. To stop sexual harassment any woman suffering from it can follow the below points:

- Don't ignore sexual harassment in the hope that it will go away. It won't.
- Say 'no' loudly and clearly and challenge it.
- Don't blame yourself. Sexual harassment is a violence against you. The culprit is at fault.
- Avoid isolation and make friends.
- Keep records of your experiences as it may help further
- Talk to others about it.
- Reveal the name of the culprit.
- Application should be given to complaint committee

CEDAW: Making Women Human

Only by providing human rights to women will not suffice the purpose, in fact there was there was immediate emergence to make multiple special Laws for women which proves fruitful for promotion and protection of

women in each and every aspect of life. A special law helps in focusing from general standard to specific condition and group. The *Convention on the elimination of all Forms of Discrimination against Women*, CEDAW is not only focus on human rights of women but also able to interpret it according to the need, necessity, situation and applicability of it. The main objective behind this is to protect the women from every difficulties and hurdles of their life.

CEDAW leaves from the general human rights instruments that address 'sex-based segregation' in nonpartisan terms, by naming women as the gathering distraught from sex-based separation along these lines broadening the utilization of human rights to the private circle for women, and all the more significantly, featuring the association of the open circle with the private circle. The disparity of women inside the family, the working environment and in open life gets its ideological premise from the social development of women's capacities and jobs.

Journey towards Equality

All the efforts made at international level for women before CEDAW, is evident and focus on the various difficulties faced by the women in every phase or path of their life. Unequal status of women and the violence against them in every field drag the attention of international body towards these issues, albeit in a piecemeal manner, as is obvious from the previous treaties made for women. CEDAW is the reflection of the step taken at international level in regards with gender discrimination or it is not wrong if I say specifically for granting human rights to every human being. The movement in regards with rights of women has played a vital role in taking this journey forward.

State Accountability

It is state's constitutional responsibility that every individual live violence free life. State and Central Government cannot get rid of their responsibilities. Supreme Court gave directions for formation of complaint committee against sexual harassment and doing bi-monthly or quarterly meetings in this regards.

Like in Rajasthan, It is trying to establish Zila mahila Sahayta samiti as a big platform for combating violence against women. The Mahila Shah evam Suraksha Kendras, running in Rajasthan with the collaboration of police are also a part of this chain.

Brief Analysis of POSH ACT, 2013:

After Vishakha's case, long time of 16 years were taken by the government to make law for the protection of Women from sexual harassment at work place. The Law enacted with the sole purpose of protection of women and also providing them for prevention and redressal of complaints in regards with sexual harassment at work place and others matter related to it.

While concluding I can say that although the Act was in existence since 2013, but regarding its effectiveness women are not aware and therefore unable to protect themselves. The Act proves to be fruitful only when women herself can recognise their right to get protected against this heinous crime and no doubt in achieving this target men needs to be more sensible and responsible about his behaviour towards his female colleague at workplaces.

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