

**GUIDELINES AND NORMS LAID DOWN BY THE HON'BLE SUPREME COURT
OF VISHAKA AND ORS. V. STATE OF RAJASTHAN & ORS. [JT 1997(7) SC 384]**

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 whereunder 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 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 misconduct 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 undue pressure of 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 a suitable manner.

10. Third Party Harassment

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.



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Date :18.01.2010

A Complaints Committee consisting the following is constituted at Regional Office level to attend the complaint related to gender harassment of women employees as per the guidelines and norms laid down by the Hon'ble Supreme Court.

The Committee will function under the Chairmanship of Dr.Vidyut Bhagwat, Director, Women's Studies Centre, University of Pune.

1. Dr.(Mrs.) Vidyut Bagwat, - **Chairperson**
Director, Kranti Jyoti Savitribai Phule
Womens Studies Centre,
University of Pune.
2. Shri K.S.N.Bhat, - Member
Deputy Commissioner,I/C,
NVS, RO, Pune.
3. Mrs. Kalpana Gupte, - Member
Dy. Director, IGNOU, Pune
4. Smt. S. Vimala, - Member
Principal,
JNV Solapur, (M.S.)
5. Dr.Mrs.Asha Dubey - Member
Principal,
JNV Osmnabad
6. Shri K.Sivraman - Member Secretary.
Asstt.Commissioner (Admn),
NVS, RO, Pune.

The Committee shall accept/hear complaints from the employee posted in Pune Region and take appropriate action for timely redressal of complaints.

The Complaints Committee will submit an Annual Report to the Samiti on the complaints received during the year along with the action taken report. It will be the responsibility of the Member Secretary to co-ordinate the functioning of the Committee Members and make an Annual Report .

A Member Secretary will also arrange Secretarial Assistance to the Committee.

(K S N BHATT)
Deputy Commissioner

Copy along with the guidelines and norms laid down by the Hon'ble Supreme Court forwarded to :

1. Dr.(Mrs.) Vidyut Bagwat, Director, Kranti Jyoti Savitribai Phule Womens Studies Centre, University of Pune.
2. Mrs. Kalpana Gupte, Dy. Director, IGNOU, Pune
3. Shri K.S.N.Bhat, Deputy Commissioner, NVS, RO, Pune.
4. Smt. S. Vimala, Principal, JNV Solapur, (M.S.)
5. Dr.Mrs.Asha Dubey, Principal, JNV Osmnabad
6. Shri K.Sivraman, Asstt. Commissioner (Admn), NVS, RO, Pune.
7. The Jt. Commissioner (Pers), NVS, Hqrs., New Delhi.
8. The Asstt. Commissioner (Pers.), NVS, Hqrs. New Delhi
9. Principals of all JNVs under Pune Region : with the direction to forward all such cases immediately so as to reach the undersigned on or before 25.01.2010 before the Committee ,shortly.
10. D A concerned
11. PA to D.C
12. All Asstt. Commissioners/Officers , NVS, R.O., Pune
13. Office Order file/guard file.
14. Notice Board


Deputy Commissioner
15-1-10