

सं. 132

दिनांक 12.05.2023

विषय: कार्यस्थल पर महिलाओं के यौन उत्पीड़न की रोकथाम हेतु दिशा-निर्देश

संदर्भ: (1) भारत का राजपत्र सं. 18 दिनांक 23.04.2013

(2) जीआईएल मुख्यालय का नोट सं. GILHQ/CON/SHW/23 दिनांक: 07.04.2023

कार्यस्थल पर महिलाओं के यौन उत्पीड़न(रोकथाम, निषेध और निवारण) अधिनियम 2013 (अधिनियम 14, 2013) एतदद्वारा जनहित में सूचनार्थ प्रकाशित की जाती है।

अधिनियम की प्रमुख व्यवस्थाएं निम्नानुसार हैं।

1. यौन उत्पीड़न
- 1.1 "यौन उत्पीड़न" में निम्नलिखित में से एक अथवा एक से अधिक अशोभनीय कृत अथवा आचरण (चाहे व प्रत्यक्ष हो या सांकेतिक) सम्मिलित है, जैसे-
 - (क) शारीरिक संपर्क और छेड़छाड़; या
 - (ख) यौन अनुग्रह के लिए माँग अथवा आग्रह; या
 - (ग) अश्लील फ्लिर्टिंग कसना; या
 - (घ) अश्लील चित्र/साहित्य दिखाना; या
 - (च) अश्लील/यौन प्रकृति का कोई अन्य अशोभनीय शारीरिक, मौखिक अथवा अमौखिक आचरण
- 1.2 यहाँ यह ध्यान दिया जाये कि "यौन उत्पीड़न" की उपर्युक्त परिभाषा व्यापक नहीं है। संदर्भों एवं परिस्थितियों के अनुरूप अन्य कोई भी कृता-कृत यौन उत्पीड़न हो सकता है।
- 1.3 अन्य परिस्थितियों के साथ साथ निम्नलिखित परिस्थितियों में से कोई भी कृत अथवा व्यवहार यदि यौन आचरण से जुड़ी हुई या संबंधित हों तो वह संदर्भ और परिस्थितियों के अनुरूप यौन उत्पीड़न हो सकता है।
 - (क) रोजगार अथवा कार्य के दौरान प्रत्यक्ष अथवा परोक्ष रूप से हितकारी व्यवहार का वचन देना; या
 - (ख) रोजगार अथवा कार्य के दौरान प्रत्यक्ष अथवा परोक्ष रूप से अहितकारी व्यवहार की धमकी देना; या
 - (ग) रोजगार अथवा कार्य के वर्तमान अथवा भविष्य की परिस्थितियों के प्रति प्रत्यक्ष अथवा परोक्ष रूप से भयभीत करना; या
 - (घ) महिलाओं के रोजगार अथवा कार्य में व्यवधान उत्पन्न करना अथवा धमकी देना अथवा अपमानकारी अथवा वैमनस्य का कार्य वातावरण उत्पन्न करना; या
 - (च) महिलाओं के स्वास्थ्य अथवा सुरक्षा को प्रभावित करने वाला अमर्यादित आचरण।

2. शिकायत समिति

मुख्यालय में आन्तरिक शिकायत समिति के निम्नलिखित सदस्य हैं

(क)	श्रीमती प्रतीक्षा सैनी	संयुक्त महाप्रबन्धक	अध्यक्ष
(ख)	श्री अम्बुज कुमार पाण्डेय	क.का.प्र.	सदस्य
(ग)	श्रीमती अनीता यादव	जेटीओ	सदस्य

3. शिकायत

- 3.1 यौन उत्पीड़न से पीड़ित कोई भी महिला घटना की तिथि से तीन माह की अवधि के अन्दर आन्तरिक शिकायत समिति को लिखित शिकायत कर सकती है।
- 3.2 विशेष परिस्थितियों जैसे पीड़ित महिला के शारीरिक या मानसिक अक्षमता अथवा मृत्यु की दशा में उसके वैध उत्तराधिकारी अथवा अन्य कोई भी प्राधिकृत व्यक्ति पीड़ित महिला की ओर से शिकायत दर्ज करा सकता है।
- 3.3 पीड़ित महिला के अनुरोध पर, शिकायत समिति मामले को परस्पर समझौते से निपटाने हेतु कदम उठा सकती है। ऐसे मामले में, आगे किसी और जाँच कार्यवाही की आवश्यकता नहीं होती है।
- 3.4 फिर भी, ऐसे मामलों में जहाँ सुलह के द्वारा समझौते की शर्तों तथा परिस्थितियों को अनुपालन प्रतिवादी द्वारा न किया जा रहा हो, जाँच की कार्यवाही की जा सकती है।
- 3.5 आन्तरिक शिकायत समिति उन मामलों में भी जाँच कार्यवाही कर सकती है जिनमें सुलह के द्वारा समझौते की शर्तों तथा परिस्थितियों का अनुपालन प्रतिवादी द्वारा न किया गया हो।

प्रतीक्षा
11/4/23
(प्रतीक्षा सैनी)

संयुक्त महाप्रबन्धक/जीआईएलएचक्यू
जीआईएल मुख्यालय, कानपुर

प्रतिलिपि:

1. आन्तरिक शिकायत समिति के सभी सदस्य (कार्यालय आदेश की प्रति)
2. अनुभाग प्रमुख/आईटी-मुख्यालय की वेबसाइट में प्रकाशन हेतु (कार्यालय आदेश की प्रति)
3. मुख्यालय के सभी अधिकारी एवं अनुभागाध्यक्ष



**ORDNANCE FACTORY BOARD
MINISTRY OF DEFENCE
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Dated : 25/07/2017

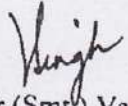
(Through : COMNET)

To
The Sr. General Manager(s) / General Manager(s)/ Head of Unit(s)
All Ordnance Factories/ Units

Sub : Implementation of the Sexual Harassment of women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 – Regarding.

A copy of Handbook on Sexual Harassment of Women at Workplace, issued by Govt. of India, Ministry of Women and Child Development is forwarded herewith for information and compliance at all OFs/Units accordingly.

Encl : As above


[Dr.(Smt.) Vani A. Singh]
Director/Admin
For Director General Ordnance Factories

Copy to :

All Members at OFB, Kolkata-1
The Secretary, O.F.Board, Kolkata-1
PPS to DGOF/Chairman/O.F.Board, Kolkata-1
All JCM Staff Side Members



सत्यमेव जयते



HANDBOOK

On

Sexual Harassment of Women at Workplace

(Prevention, Prohibition and Redressal) Act, 2013

for Employers / Institutions / Organisations/
Internal Complaints Committee / Local Complaints Committee



Towards a new dawn

Government of India
Ministry of Women and Child Development

NOVEMBER 2015

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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.

This handbook will serve as an important tool to make workplaces safe and benefit both workers and employers alike, leading to mutual gains.

1.1 THE MANDATE

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

1.2 THE GENESIS

In 1992, a rural level change agent, Bhanwari Devi, was engaged by the state of Rajasthan as a *Sathin*³ 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.

³ *Sathin'* means a friend



In a landmark judgment, *Vishaka vs. State of Rajasthan (1997)*⁴, 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.

1.3 THE ACT

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:

⁴(AIR 1997 Supreme Court 3011)



- ◆ 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.



1.4 PURPOSE OF THIS HANDBOOK

This handbook is meant for all workplaces/institutions/organizations to provide a basic understanding of sexual harassment at places of work. Additionally, it is designed to offer Internal Complaints Committee/s and Local Complaints Committee/s (Complaints Committee/s) established under the Act, with simple, user friendly information on sexual harassment; what is expected of Complaints Committee/s to redress a complaint; and what the inquiry process and outcome should include.

1.5 WHO IS THIS HANDBOOK FOR

This handbook informs the end user (an employee/worker) about workplace sexual harassment and their right to an informed complaint process in seeking redress as provided under the Act and Rules framed thereunder.

1.6 STRUCTURE OF THE HANDBOOK

This Handbook has 6 sections, with each containing information for women, male co-workers as well as their employers, on how to deal with sexual harassment at the workplace in the context of the Act.

Section 1 serves as an introduction, as it details the genesis of the Act and the history behind it, as well as provides a brief description of the Act itself. This section also describes the purpose of this handbook and who it is designed for.



3.1.2 WHO IS AN APPROPRIATE GOVERNMENT?

As per the Act, Appropriate Government means:

- i. In relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly—
 - a. By the Central Government or the Union Territory administration, the Central Government;
 - b. By the State Government, the State Government;
- ii. In relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government.

3.2 WHO IS A DISTRICT OFFICER (DO)?

State Governments will notify a District Magistrate/Additional District Magistrate/ Collector/ Deputy Collector as a District Officer at the local level. The District Officer will be responsible for carrying out the powers and functions under the Act at the district levels (including every block, taluka, tehsil, ward, and municipality).

3.3 RESPONSIBILITIES OF THE AFOREMENTIONED AUTHORITIES

Under the law the employer/DO is obliged to create a workplace free of sexual harassment. It is the responsibility of the Employer/District Officer in general to:

1. Create and communicate a detailed policy;
2. Ensure awareness and orientation on the issue;
3. Constitute Complaints Committee/s in every workplace and district so that every working woman is provided with a mechanism for redress of her complaint(s);
4. Ensure Complaints Committees are trained in both skill and capacity;
5. Prepare an annual report and report to the respective state government;
6. District Officer will also appoint a nodal officer to receive complaints at the local level.

3.2.1 Complaints Committee/s

The Act provides for two kinds of complaints mechanisms: Internal Complaints Committee (ICC) and Local Complaints Committee (LCC). All Complaints Committees must have 50 per cent representation of women. ICC or LCC members will hold their position not exceeding three years from the date of their nomination or appointment.

1) Internal Complaints Committee (ICC)

Every employer is obliged to constitute an ICC through a written order. The ICC will be composed of the following members:



No	Member	Eligibility
1.	Chairperson	Women working at senior level as employee; if not available then nominated from other office/units/ department/ workplace of the same employer
2.	2 Members (minimum)	From amongst employees committed to the cause of women/ having legal knowledge/experience in social work
3.	Member	From amongst NGO/associations committed to the cause of women or a person familiar with the issue of Sexual Harassment

Where the office or administrative units of a workplace are located in different places, division or sub-division, an ICC has to be set up at every administrative unit and office.

ICC/LCC ARE MANDATORY

The employee who had a fundamental right to a workplace free of sexual harassment, had complained about sexual harassment. According to the Court, had the organisation complied with the Vishaka Guidelines and set up such a Complaints Committee, the preventative benefit would have been three-fold:

1. Ensured a place where women employees could seek redress;
2. Sent a clear message to the workplace that such complaints would be enquired into by a specially designated committee with external expertise;
3. Prevented a series of litigation that followed.

Hence, the Madras High Court awarded Rs. 1.68 crores in damages to an employee for the non-constitution of a Complaints Committee by the employer, as per the Vishaka Guidelines (at the time of the complaint, the Sexual Harassment of Women at Workplace Act 2013 had not been enacted).

Ms. G v. ISG Novasoft Technologies Ltd. Madras High Court (CrI.R.C.No.370 of 2014 order dated 02.09. 2014. Original Petition No.463 of 2012

2) Local Complaints Committee (LCC)

The District Officer will constitute an LCC in every district so as to enable women in the unorganised sector or small establishments to work in an environment free of sexual harassment. The LCC will receive complaints:

1. From women working in an organisation having less than 10 workers;
2. When the complaint is against the employer himself;
3. From domestic workers.



No	Member	Eligibility
1.	Chairperson	Nominated from amongst the eminent women in the field of social work and committed to the cause of women
2.	Member	Nominated from amongst the women working in the block, taluka or tehsil or ward or municipality in the district
3.	2 Members	Nominated from amongst such NGO/associations/persons committed to the cause of women or familiar with the issues relating to sexual harassment, provided that: <ul style="list-style-type: none"> • At least one must be a woman • At least one must have a background of law or legal knowledge
4.	Ex Officio member	The concerned officer dealing with social welfare or women and child development in the district

*One of the nominees shall be a woman belonging to the SC/ST/OBC/Minority community notified by the Central Government.

3) External Members on the Complaints Committee/s

The Act refers to external members, which generally means persons who have expertise with the issue of sexual harassment. Given the largely intangible nature of workplace sexual harassment, there are a range of complexities involved in responding effectively to workplace sexual harassment complaints. For this reason, external third party/ members on the Complaints Committee/s (from civil society or legal background) should possess the following attributes:

1. Demonstrated knowledge, skill and capacity in dealing with workplace sexual harassment issues/complaints;
2. Sound grasp and practice of the legal aspects/implications.

Such expertise will greatly benefit Complaints Committees in terms of fair and informed handling of complaints to lead to sound outcomes. These external third party members shall be paid for their services on the Complaints Committees as prescribed.

Criteria for the External Member

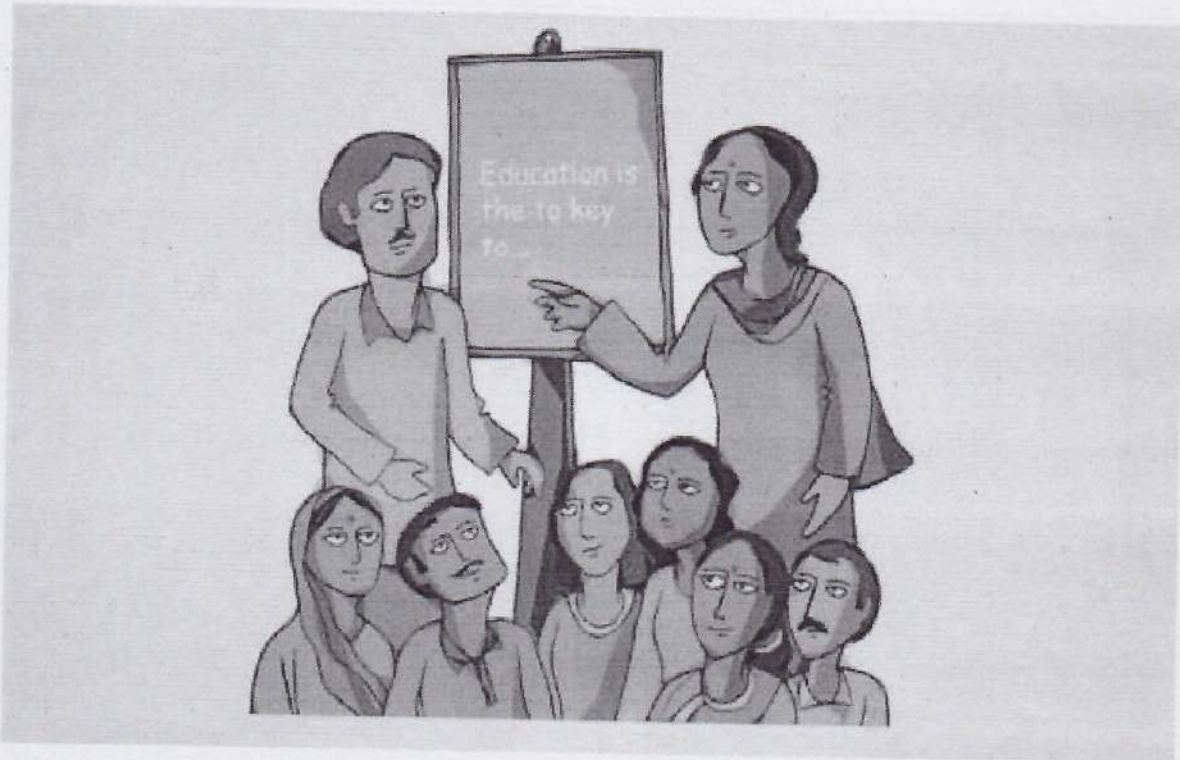
A 'person familiar with issues relating to women' would mean such persons who have expertise in issues related to sexual harassment and may include any of the following:

- At least 5 years of experience as a social worker, working towards women's empowerment and in particular, addressing workplace sexual harassment;
- Familiarity with labour, service, civil or criminal law.



3.2.2 Sexual Harassment at Workplace Policy

Employers/District Officers are responsible for complying with prohibition, prevention and redress of workplace sexual harassment. In practice, this means having a policy that: (1) prohibits unwelcome behaviour that constitutes workplace sexual harassment; (2) champions prevention of workplace sexual harassment through orientation, awareness and sensitization sessions; and (3) provides a detailed framework for redress.



3.2.3 Dissemination of Information and Awareness Generation

Employers/ District Officers have a legal responsibility to:

1. Effectively communicate a policy that prohibits unwelcome behaviour that constitutes workplace sexual harassment, and provides a detailed framework for prevention, and redress processes.
2. Carry out awareness and orientation for all employees.
3. Create forums for dialogue i.e. Panchayati Raj Institutions, Gram Sabhas, Women's Groups, Urban Local Bodies or like bodies, as appropriate.
4. Ensure capacity and skill building of Complaints Committees.
5. Widely publicize names and contact details of Complaints Committee members.