

# WITTING OF PREVENTION OF SEXUAL HARASSMENT ACT

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## INTRODUCTION

Women are stepping towards success; Sexual harassment at workplace is hindering accessibility in the milestone of education, Indian discernment and an act of forcibly depriving women's to right and livelihood. Workplace harassment is a form of gender discrimination which violates woman's fundamental right to equality and right to life provided under article 14, 15 and 21. To abrogate the discernment against women, the convention on the elimination of all forms of discrimination (CEDAW) describes any distinction, exclusion or restriction on the basis of sex, which lessens or diminishes the recognition or validity of women's rights. In India; as stated under in the case *Vishaka & Ors V State of Rajasthan*, the *Vishaka's Guidelines* are:

- It is the duty of an employer to protect the safety of their employees.
- Sexual harassment includes unpleasant sexually determined behavior as;
  - a) Physical contact
  - b) Demand or requests for sexual favours
  - c) Sexual remarks
  - d) Showing pornography
  - e) Any other absurd verbal or non-verbal sexual demeanour

The act considers that sexual harassment compromises the dignity of a woman and is a violation of her fundamental rights, as well as put out a partial yielding on a woman to carry on a profession or business in a free environment.

## **PROTOCOLS & PROCEDURE FOR COMPLAINTS**

POSH Act sets up grievance redressal forum. The employer should set up an *internal complaints committee* at each office or organization which hires 10 or more employees, to hear and redress their violations, The ICC will be a four-member committee under the chairperson of senior woman employee and will include 2 members amongst the employees, preferably woman

And the district level, government has set *local complaints committee* to investigate and redress complaints of sexual harassment. The LCC has special relevance in cases of sexual harassment of domestic workers or where the complaint is against the employer himself or a third party who is not an employee.

A complaint for sexual harassment can be filed within the period of 3 months. This may be extended to another 3 months if the woman can prove that weighty circumstances prevented her from doing the same

## **PUNISHMENTS FOR AGGRIEVED**

The POSH Act specifies the punishments that may be imposed by the employer on the employee for getting involved into activities of sexual harassment.

- Punishments prescribed under the service rules of the organization.
- If the office does not have service rules, disciplinary action with written apology and warning will be taken as an action.
- Withholding of pay rise and promotion, termination of services, undergoing counselling or carrying out community service.
- Deduction of compensation to the aggrieved woman, from the salary of the employer who got indulges in the sexual harassment activities.

The POSH Act also ideates payment of compensation to the aggrieved woman. The compensation payable shall be determined based on the mental trauma, pain and emotional suffering caused to the aggrieved woman.

## **POSH ACT DURING WORK FROM HOME**

As in the existence of Corona Virus, in the time span of lockdown, the government has advised employees to work from home. The question arises here, that *will work from home will be considered as workplace under the POSH Act?*

In lieu of POSH Act, workplace is considered as an office or industry. As in the redundant times of Corona Virus, within the application of literal meaning of the POSH Act , under section 2(o) the act defines ‘workplace ‘and under its sub clause (vi) comprehend ‘dwelling place or house’

To enclose the unusual times of lockdown, in the scope of the act, home will be considered as a workplace, the meaning of workplace will encircle work from home under section 2(o)(vi).

Hence, consequently sexual harassment through online medium while working from home is identifier in the Prevention of Sexual Harassment at Workplace Act, 2013

### ***Whether the nature of non-physical contact will be recognized under the act?***

The relevant sub clauses here are sub clause ii, iii, iv and v of section 2(n) which deals with the expressed or implied unwelcome acts or behavior demanding or requesting sexual favors, making sexual remarks, showing pornography and any other unwelcome verbal or non-verbal plot of sexual nature.

Therefore, such exemplification of sexual harassment is includable under the Prevention of Sexual Harassment Act, 2013 which a person can confront through online grid medium while working from home.