



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

VISHAKHA AND ORS. VS. STATE OF RAJASTHAN AIR 1997 SUPREME COURT 3011¹

Decided: August 13, 1997

Court: Supreme Court of India

Bench: Justices J.S. Verma, Sujata V. Manohar and Justice B.N. Kirpal

Citation: AIR 1997 SCC 3011

Parties: Non-governmental Organization under the banner of Vishakha (Petitioners) vs. State of Rajasthan and the Union of India (Respondents)

George N. Taylor

BACKGROUND AND FACTS OF THE CASE

The *Vishaka v. State of Rajasthan case (1997)* originated from the gang rape of social worker Bhanwari Devi in Rajasthan for opposing child marriage, exposing a legal void for workplace sexual harassment in India. Filed as a Public Interest Litigation (PIL) by NGOs, it highlighted the failure of justice and existing laws, prompting the Supreme Court to issue landmark guidelines (Vishaka Guidelines) to protect working women's fundamental rights (*Articles 14,19,21*)² until specific legislation (the *Posh Act, 2013*)³ was enacted.

BACKGROUND AND FACTS

Bhanwari Devi, a social worker with Rajasthan's women's Development program, tried to prevent the child marriage of minor girl.

¹ Vishaka and Ors. vs. State of Rajasthan and Ors. AIR 1997 SC 3011

² Indian Const. art. 14 (right to equality), art. 19 (1)(g) (to practise any profession, or to carry on any occupation, trade or business) art. 21 (Right to Life and Personal Liberty)

https://www.indiacode.nic.in/bitstream/123456789/15240/1/constitution_of_india.pdf

³ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
<https://www.indiacode.nic.in/handle/123456789/2104>

After her intervention, she faced social boycott and in retaliation, was gang rape by men from the involved family in front of her husband, as detailed in this article.

The accused were acquitted by the trial court due to lack of evidence and police/medical negligence, frustrating efforts for justice.

Women's groups (like Sakshi) filed a PIL in the Supreme Court, arguing this failure violated women's fundamental rights and demanded enforceable guidelines against workplace sexual harassment.

KEY ISSUES AND RULING

The primary issue was the absence of specific laws against workplace sexual harassment.

The core legal questions in *Vishaka v State of Rajasthan* (1997) were whether sexual harassment at the workplace violates women's fundamental rights (Articles 14, 15, 19(1)(g)), and in the absence of specific legislation, if the Supreme Court could create binding guidelines to enforce these rights, relying on international covenants like CEDAW. The Court found it was a violation, necessitating the creation of the Vishaka Guidelines to ensure a safe dignified working environment until parliament passed a formal law.

KEY QUESTIONS OF LAW

1. Does sexual harassment at the workplace infringe upon a woman's constitutional rights to equality (Article 14), non-discrimination (Article 15), freedom to practice profession (Article 19(1)(g)), and life with dignity (Article 21)?
2. In the absence of a specific law, is it the judiciary's duty to step in and provide effective remedies to protect these fundamental rights?
3. Can international conventions, like the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979*⁴, be used to interpret and enforce fundamental rights in India when domestic law is silent?
4. What is the responsibility of employers to ensure a safe, harassment-free environment for women?

THE COURT'S RULING

⁴ Convention on the Elimination of All Forms of Discrimination Against Women (CEDWA), 18 Dec. 1979: OHCHR

<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

The Supreme Court held that sexual harassment is indeed a violation of these fundamental rights, recognizing the right to work with dignity as part of Article 21.

It acknowledged the legislative gap and issued legally binding guidelines (the Vishaka Guidelines) to prevent and address sexual harassment, making them enforceable until parliament enacted specific legislation (which later became the POSH Act, 2013).

PETITIONERS ARGUMENTS

The court recognized sexual harassment as a violation of women's rights to equality, dignity and a safe working environment (Articles 14, 19, 21).

The Supreme Court, referencing international conventions, formulated binding guidelines for employers, establishing complaint committees and procedures, effectively filling the legislative gap

LEGACY

The guidelines served as the primary legal framework for over 15 years.

It paved the way for India's comprehensive *Sexual Harassment of Women at workplace (Prevention, and Redressal) Act, 2013 (POSH Act)*. In *Vishaka v State Rajasthan*, petitioners argued that sexual harassment at the workplace violated women's fundamental rights under Articles 14 (Equality), 19(1)(g) (Freedom to Practice Profession) and 21 (Life and Dignity), citing a legislative void and the lack of legal safe guards, promoting the Supreme Court to frame the landmark

KEY ARGUMENTS BY THE PETITIONERS

1. Sexual harassment creates an unusual environment, discriminating against women based solely on sex violating their right to equality.
2. Harassment makes workplaces unsafe, hindering women's ability to freely practice any profession or occupation.
3. The fear and trauma from sexual harassment infringe upon a woman's fundamental right to live with dignity.
4. There was no specific law addressing workplace sexual harassment, creating a gap that employers often used to escape responsibility.

5. Due to this lack of legislation, the petitioners requested the Supreme Court to issue binding guidelines to fill this void and enforce gender justice.

CONTEXT

The case was a Public Interest Litigation (PIL) filed by social activists and NGOs following the brutal gang rape of social worker Bhanwari Devi in Rajasthan.

The court acknowledged these arguments and in the absence of specific laws, laid down the Vishaka Guidelines in 1997, which defined sexual harassment and mandated employer responsibilities, later replaced by the POSH 2013.

RESPONDENTS ARGUMENT

In this case, the respondents (State of Rajasthan and Govt. of India) did not strongly argue against the fundamental need for women's safety; rather, the case highlighted the absence of the specific legislation for workplace sexual harassment, leading the Supreme Court to step in via judicial activism, directing guidelines based on international norms and fundamental rights (Articles 14,15,19(1)(g), 21) to fill this legal vacuum until parliament acted, essentially agreeing on the problem but pushing for judicial solution due to legislative inaction.

HON'BLE SUPREME COURT DECISION

The Supreme Court's decision in Vishaka v. State of Rajasthan (1997) was a landmark ruling that established mandatory guidelines (Vishaka Guidelines) to address and prevent sexual harassment at the workplace in India, recognizing it as a violation of fundamental rights (Articles 14,15,19(1)(g),21). The Court filled a legislative void by directing all employers (public and private) to implement mechanisms like Internal Complaints Committees, defining sexual harassment and ensuring a safe environment, making these guidelines legally binding until specific laws were passed, which eventually led to the POSH Act 2013.

SIGNIFICANCE

This judgment was a crucial step for women's rights in India, empowering working women and establishing a legal framework for workplace safety. It drew from international conventions integrating human rights standards into India domestic law. It

paved the way for the Sexual Harassment of Women At workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act), which formalized these guidelines into law.

REFERENCES

Vishaka and Ors. vs. State of Rajasthan and Ors. AIR 1997 SC 3011

Indian Const. art. 14 (right to equality), art. 19 (1)(g) (to practise any profession, or to carry on any occupation, trade or business) art. 21 (Right to Life and Personal Liberty)

https://www.indiacode.nic.in/bitstream/123456789/15240/1/constitution_of_india.pdf

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

<https://www.indiacode.nic.in/handle/123456789/2104>

Convention on the Elimination of All Forms of Discrimination Against Women (CEDWA), 18 Dec. 1979: OHCHR

<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>