



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.

VISHAKA & ORS. V. STATE OF RAJASTHAN & ORS.

~*Surbhi Tripathi*

1. INTRODUCTION

The judgment delivered by the Hon'ble Supreme Court of India in *Vishaka & Ors. V. State of Rajasthan & Ors.*¹ on 13th August 1997. It has been one of the most transformative judicial pronouncements in the history of gender justice and workplace rights. This landmark judgment resulted in a turning point in the fight against sexual harassment at the workplace and recognised the right of women to a safe and dignified working environment.

The Hon'ble Supreme Court, by virtue of this notable judgment, not only acknowledged workplace sexual harassment but also stepped forward beyond traditional adjudication to lay down binding guidelines. These guidelines, famously known as the Vishaka Guidelines, played a decisive role in the enactment of India's first comprehensive Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013².

2. FACTS OF THE CASE

The genesis of the case lies in the brutal gang rape of Bhanwari Devi, who was a social worker in Bhatari, Rajasthan, in 1992. Later, the acquittal of perpetrators by the Rajasthan High Court led to the grave aggression of several women's rights organisations and NGOs across India, who filed a Public Interest Litigation (PIL) under Article 32 before the Supreme Court, demanding the enforcement of fundamental rights and the laying down of guidelines to prevent sexual harassment of working women.

In accordance with this case, the Supreme Court considered precisely the violations of fundamental rights, including Articles 14, 15, 19(1)(g), and 21 of the Constitution of India. Furthermore, there was a harmonious interpretation of various International Conventions and

¹ *Vishaka & Others v. State of Rajasthan*, AIR 1997 SC 3011; (1997) 6 SCC 241.

² Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, India Code.

norms of great significance in recognising gender equality, protection from sexual harassment, and the right to work with dignity.

3. ISSUES BEFORE THE COURT

The core issues before the court were:

- Whether the sexual harassment of women at the workplace amounts to the violation of fundamental rights guaranteed under the Constitution of India?
- Whether, in the absence of specific legislation, the judiciary can frame guidelines predicated on international conventions and treaties to which India is a signatory?
- What are the genuine obligations of the State and employers in addressing safe working conditions for women?

4. THE JUDGMENT AND LEGAL REASONING

In its landmark judgment, the Hon'ble Supreme Court, ruled that sexual harassment at the workplace is a violation of fundamental rights guaranteed under Articles 14, 15, 19(1)(g), and 21³ of the Constitution of India. The court mindfully observed that gender equality and the right to life connote the right to work with dignity. It emphasised that the absence of a statutory framework does not mean that women's rights can remain unprotected and unheard.

Remarkably, the Court has exercised its power under Articles 32 and 141⁴ to lay down binding guidelines, popularly known as the 'Vishaka Guidelines', that were to be treated as law and implemented by all workers, both in public and private sectors, until the Parliament enacts comprehensive, suitable legislation.

A major aspect of this judgment was the proactive role played by the judiciary in filling the legislative vacuum by prescribing binding guidelines. This case is a classic example of judicial activism where the judiciary proactively recognised the violation of fundamental rights in the absence of any legislative framework.

5. THE VISHAKA GUIDELINES

³ India Consti. arts. 14, 15, 19(1)(g), 21.

⁴ India Consti. arts. 32, 141.

The court directed comprehensive guidelines drawn upon international conventions for effectively addressing sexual harassment of women at the workplace. The key directions include:

- Sexual harassment was defined broadly to include any unwelcome physical, verbal or non-verbal determined behaviour of a sexual nature encompassing physical contact, undue sexual advances, sexually coloured remarks, showing pornography, and any other unwelcome conduct.
- Every employer should take affirmative steps to prevent and deter sexual harassment and to provide mechanisms for complaint and redressal.
- In every establishment having 10 or more employees, the employers must constitute a complaints committee headed by a woman, with at least half of its members being women and including a third-party NGO representative to ensure impartiality.
- Employers were obliged to sensitise employees through awareness and support mechanisms.
- These guidelines are extended to both public and private sector establishments.

6. THE ROLE OF INTERNATIONAL CONVENTIONS

A defining feature of the Vishaka judgment is the deliberative and demonstrative role of international norms in the constructive interpretation of rights protecting against sexual harassment and enhancing human rights law. In view of filling the legislative vacuum effectively, the Supreme Court drew exclusively upon the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)⁵, ratified by India in 1993. The court significantly scrutinised Article 11 of the CEDAW that specifically obligates the State parties to take crucial measures to prevent sexual harassment and discrimination against women in employment, while General Recommendation No. 19(1992)⁶ directed by the CEDAW Committee expressly recognised gender-based violence, including sexual harassment at work, as a form of discrimination that hinders the true principle of gender equality.

The Court also took reference from the Beijing Platform for Action (1995), which called upon the states to take concerted action in the elimination of sexual harassment and violence against women in the workplace. The Court crucially examined these international norms and held that

⁵ Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13 (CEDAW).

⁶ UN Committee on the Elimination of Discrimination Against Women, General Recommendation No. 19: *Violence Against Women*, U.N. Doc. A/47/38 (1992).

in the absence of domestic law, it was justified to give effect to the rights guaranteed under the CEDAW by conjointly reading them with the fundamental rights under Part III of the Constitution of India. This way of interpretation reflects the principle enunciated in Article 51(c)⁷ of the Constitution, which directs the State to foster respect for international law and treaty obligations.

7. SIGNIFICANCE OF THE JUDGMENT

The *Vishaka v. State of Rajasthan* is a revolutionary judgment and is considered a milestone for several reasons:

1. This has been acknowledged very significantly by the court that sexual harassment is no longer a social evil but a constitutional violation.
2. The court has indeed initiated judicial activism by laying down guidelines and has been the sentinel of human rights.
3. This judgment facilitated the progress of gender justice by providing an effective mechanism of redress.
4. This judgment has valuably formed the basis of the Sexual Harassment of Women at Workplace (Protection, Prohibition, and Redressal) or POSH Act, 2013, by mandating the Vishaka guidelines into the legislative framework.
5. This ruling harnessed the very idea of gender justice, the right to safe working conditions and protection from sexual harassment.
6. It is pertinent to mention that in *Medha Kotwal Lele v. Union of India* (2012)⁸, The Hon'ble Supreme Court has stressed the need for strict compliance with these guidelines.

8. CONCLUSION

In conclusion, *Vishaka v. State of Rajasthan*⁹ is not just a judicial precedent but a beacon of judicial commitment towards gender justice. The case has been symbolic of India's legislative achievement in tackling the issue of sexual harassment through the enactment of the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013¹⁰,

⁷ India Consti. art. 51(c).

⁸ *Medha Kotwal Lele v. Union of India*, (2013) 1 SCC 297.

⁹ *Vishaka & Others v. State of Rajasthan*, (1997) 6 SCC 241.

¹⁰ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, India Code.

popularly known as the POSH Act. By virtue of this landmark ruling, the Supreme Court recognised sexual harassment as a violation of women's dignity, and the adoption of international norms such as CEDAW reflects the transformative potential of human rights protection.

The transition from the Vishaka Guidelines to the POSH Act reflects the evolution of the Indian legal jurisprudence in the domain of gender-based discrimination. But the measure of its dominance would be the effectiveness of its implementation at the grassroots and not the mere existence of the legal framework. This case offers guidance to the courts, policymakers and society at large on the edge of the right to safe working environments at the workplace.