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SEXUAL HARASSEMENT AT WORKPLACE: LAW ON PAPER, FAILURE IN REALITY

- By RINKI

ABSTRACT

This article does not merely attempt to define the concept of workplace sexual harassment, as society today is already aware of its meaning and impact. Instead, it focuses upon the growing need for stronger implementation of workplace safety laws and greater institutional accountability in India. Although workplace safety guidelines on the POSH Act, 2013 were introduced to ensure safer working environments, lack of awareness, and institutional negligence continue to remain serious concern.

It highlights the practical difficulties faced by victims while reporting harassment, including fear of authority, victim-blaming, workplace pressure, social stigma, and lack of confidence in complaint mechanisms. It further discusses how many women silently tolerate harassment, leave employment opportunities, or avoid reporting incidents due to fear and insecurity. The article also emphasizes the need for stronger Internal Complaints Committees (ICC), faster response systems, effective action on complaints within twenty-four hours in urgent situations, awareness programmes, victim support mechanisms, and safer workplace environments. It concludes that ensuring dignity and safety for women should not remain the sole responsibility of women themselves but must become a collective responsibility of society, institutions, and the legal system.

KEYWORDS

Workplace Sexual Harassment, POSH Act 2013, Workplace Safety, omens Rights, Vishaka Guidelines, Victim Protection, and Implementation Failure.

INTRODUCTION

The purpose of this article is not merely to define the term “sexual harassment” as most people already aware of what the term signifies. The real concern is that despite legal protections and social development, women in India continue face harassment and unsafe working conditions in different sectors. Reports relating to crimes against women continue to reflect the alarming frequency of harassment faced by women in everyday life¹. Many women choose to become financially independent not only for economic stability, but also to gain dignity, recognition, and equal standing in society so that they are not merely viewed as objects through a patriarchal lens.

Today, women are contributing in every field, from defense and corporate sectors to science and space exploration, yet many still face humiliation, inappropriate behavior, and exploitation at workplaces. Workplace harassment is not restricted to large companies or corporate offices alone. Women working in factories, shops, private institutions, and informal sectors also experience similar forms of harassment and fear while trying to earn a livelihood and secure and independent identity in society.

One of the most significant incidents highlighting this issue was the case of Bhanwari Devi, a social worker from Rajasthan who faced sexual violence while performing her duties against child ²marriage. The injustice suffered by her exposed the absence of proper legal protection for women at workplaces and eventually led to the landmark judgment of Vishaka v. State of ³Rajasthan. Through this judgment, the Supreme Court for the first time recognized sexual harassment at workplace as a violation of the fundamental rights guaranteed under Articles 14, 15, 19 and 21 of the ⁴Constitution. The court also introduced the Vishaka Guidelines to ensure safer working conditions for women until a proper legislation was enacted.

¹ National Crime Records Bureau, Crime in India (Latest available statistics relating to crime against women).

²See generally the background facts relating to Bhanwari Devi and the events leading to Vishaka v. State of Rajasthan, (1997) 6 SCC 241.

³ Vishaka v. State of Rajasthan, (1997) 6 SCC 241.

⁴ INDIA CONST. arts.14, 15, 19 & 21.

If women are contributing equally towards the growth and development of the nation, ensuring them a safe and dignified working environment is not merely a legal obligation but also a social responsibility. As rightly observed by Jawaharlal Nehru, ‘You can tell the condition of a nation by looking at the status of its women⁵.’

MEANING AND FORMS OF SEXUAL HARASSEMENT AT WORKPLACE

Sexual harassment at workplace refers to any unwelcome act, behavior, or conduct of a sexual nature that violates the dignity, safety, or comfort of an individual at the workplace. Such harassment may be direct, implied, verbal, non – verbal, physical, or digital in nature. It includes acts such as demanding sexual favors , making sexually colored remarks ,sending inappropriate messages ,images or videos , unwanted physical contact , showing pornography , or creating an intimidating and hostile work environment for ⁶women. In many situations, women are forced to tolerate such behavior due to fear of losing opportunities, social stigma, or workplace pressure.

Sexual harassment is not limited to corporate offices or professional institutions alone. From domestic workplaces to commercial sectors, incidents of harassment continue to increase in different forms. In several cases, women are subjected to ‘quid pro quo’ harassment, where professional benefits, promotions, or opportunities are linked with sexual ⁷favors. Such acts not only affect the physical and mental well-being of women but also violate their constitutional right to equality, dignity, and safe working conditions.

The Criminal (Amendment) Act, 2013 and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 widened the legal understanding of sexual harassment and recognized different forms of misconduct faced by women at ⁸workplaces. These legislations aimed to provide safer working environments and stronger legal remedies against workplace exploitation and abuse.

CONSTITUTIONAL AND LEGAL FRAMEWORK: AN ANALYSIS

The Constitution of India guarantees equality, dignity, and freedom to every individual without discrimination. The spirit of the Constitution, including the ideas reflected in the Preamble,

⁵ Statement attributed to Jawaharlal Nehru regarding the condition of women and national progress.

⁶ The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, No.14 of 2013 ,s 2(n) , Acts of Parliament ,2013 (India).

⁷ Id.

⁸ Criminal Law (Amendment) Act, 2013, No.13 of 2013, Acts of Parliament, 2013 (India).

recognizes justice, equality, and equal protection for all human beings irrespective of gender. Although discussions relating to workplace sexual harassment are generally centered on women because of the large number of cases reported against them, harassment can affect men as well. The Constitution does not differentiate the dignity or value of an individual on the basis of gender and ensures equal protection of laws to every ⁹person.

Constitutional provisions such as Articles 14, 15, 19, and 21 play a significant role in protecting individuals from workplace harassment and discrimination. Article 14 guarantees equality before law, Article 15 prohibits discrimination on the basis of sex, Article 19 protects the freedom to practice any profession, and Article 21 ensures the right to live with dignity and personal ¹⁰liberty. Sexual harassment at workplace violates these constitutional guarantees as it creates an unsafe and hostile environment that affects dignity, mental well-being, and professional growth.

Even before the enactment of specific legislation relating to workplace harassment, the judiciary had emphasized the importance of gender equality and non-discrimination in employment. In *C.B. Muthamma v. Union of India*, the Supreme Court criticized discriminatory service conditions imposed on women and highlighted the importance of equal treatment at ¹¹workplaces. Similarly, legal scholar Catharine A. MacKinnon viewed sexual harassment as a form of sex-based discrimination that violates equality and dignity at ¹²workplaces.

The issue gained national attention after the incident involving Bhanwari Devi, a social worker from Rajasthan who faced sexual violence while performing her duties against child marriage. The injustice suffered by her exposed the absence of proper legal protection for women at workplaces and eventually led to the landmark judgment of *Vishaka v. State of Rajasthan*¹³. Through this judgement, the Supreme Court for the first time recognized sexual harassment at workplace as a violation of the fundamental rights guaranteed under Articles 14, 15, 19, and 21 of the Constitution¹⁴. The Court also introduced the Vishaka Guidelines and directed employers

⁹INDIA CONST.pmbi.

¹⁰INDIA CONST.arts. 14, 15, 19&21.

¹¹ *C.B. Muthamma v.Union of India*, (1979) 4 SCC 260.

¹² Catharine A.Mackinnon, *Sexual Harassment of Working Women* (1979).

¹³ See generally the background facts relating to Bhanwari Devi and the events leading to *Vishaka v.State of Rajasthan*, (1997) 6 SCC 241.

¹⁴ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

and institutions to ensure safer working environments for women until a proper legislation was enacted.

Subsequently, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was enacted to provide a legal mechanism for prevention and redressal of workplace ¹⁵harassment. The Act became necessary because many women faced harassment while pursuing education, employment, and personal growth, often without any effective remedy or support system. The legislation imposed responsibilities upon employers to maintain a safe workplace and mandated the establishment of an Internal Complaints Committee (ICC) in organizations to address complaints relating to workplace ¹⁶harassment. Ensuring safety and dignity at workplaces is therefore not merely a legal obligation but also an essential step towards achieving equality and social development.

LANDMARK JUDICIAL PRONOUNCEMENTS

Despite the recognition of workplace sexual harassment as a violation of fundamental rights and the introduction of legal safeguards, incidents of harassment continue to rise in different sectors. Even after judicial guidelines and statutory protections were introduced, many women still unsafe working environments, misuse of authority, and institutional negligence. The judiciary has therefore played an important role in strengthening legal protection relating to workplace harassment through various landmark decisions.

One of the most significant judgments in this field is *Vishaka v. State of Rajasthan*. The case emerged after the incident involving Bhanwari Devi, a social worker from Rajasthan who was subjected to sexual violence while attempting to prevent child marriage during the Course of her duties.¹⁷ The incident exposed the absence of effective legal mechanisms for protecting women at workplaces. Recognizing workplace sexual harassment as a violation of Articles 14, 15, 19, and 21 of the Constitution, The Supreme Court introduced the Vishaka Guidelines and directed employers and institutions to ensure a safe and dignified working environment for women until a proper legislation was ¹⁸enacted. The judgment became a turning point in Indian legal history and laid the foundation for future workplace harassment laws.

¹⁵ The Sexual Harasmment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No.14 of 2013, Acts of Parliament, 2013(India).

¹⁶ Id.S.4.

¹⁷ See generally the background data facts relating to Bhanwari Devi and *Vishaka v.State of Rajasthan*, (1997) 6 SCC 241.

¹⁸ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

Another important judgment was *Apparel Export Promotion Council v .A.k.Chopra*, where a senior officer was accused of sexual harassing a female employee working under ¹⁹him. The case demonstrated that even after the Vishaka judgment, incidents of workplace harassment continued to occur. The Supreme Court upheld the dismissal of the accused employee and emphasized that physical contact alone is not necessary to constitute sexual harassment. The judgment further highlighted the need for strict implementation of workplace safety measures and stronger institutional accountability.

In *Medha Kotwal lele v. Union of India*, the Supreme Court once again addressed the weak implementation of the Vishaka ²⁰Guidelines. The petition highlighted that several institutions and organizations had failed to properly comply with the guidelines issued by the Court despite the continuing increase in workplace harassment cases. Concerns were also raised regarding the absence of effective complaint mechanisms and inadequate support provided to victims. The Court therefore directed stricter compliance and implementation of workplace harassment protections across institutions and workplace.

Judicial intervention relating to dignity and gender equality can also be seen in cases such as *C.B.Muthamma v.Union of India*, where discriminatory service conditions imposed upon women were criticized by the Supreme ²¹Court. Such decisions reflected the constitutional commitment towards equality and non-discrimination in professional environments.

Even today, recent incidents continue to reflect the gap between legal protections and practical reality. Reports relating to the alleged workplace harassment and POSH compliance failures at a TCS-linked office in Nashik highlighted concerns regarding abuse of authority, unsafe working environments, and ineffective institutional ²²mechanisms. Such incidents demonstrate that despite judicial developments, statutory protections, and awareness regarding workplace harassment, proper implementation and accountability still remain major challenges in ensuring safety and dignity at workplaces.

LAW ON PAPER, REALITY ON GROUND

Despite constitutional guarantees, judicial developments, and the enactment of the POSH Act, workplace harassment continues to remain a harsh reality for many women in India. Women

¹⁹ *Apparel Export Promotion Council v. A.K.Chopra*, (1999) 1 SCC 759.

²⁰ *Medha Kotwal lele v.Union of India*, (2013) 1 SCC 297.

²¹ *C.B.Muthamma v.Union of India*, (1979) 4 SCC 260.

²² National Commission for Women findings for Women findings relating to alleged workplace harassment and POSH compliance concerns at a TCS-linked office in Nashik.

have struggled for decades to secure recognition of their fundamental and human rights, yet the practical benefits of these protections often remain limited due to weak implementation and social attitudes. Although the Sexual Harassment at Women Workplace (Prevention, Prohibition, and Redressal Act, 2013) was introduced as a strong legal mechanism to ensure workplace safety and dignity, incidents of harassment and abuse continue to rise in different ²³sectors.

In many situations, women still hesitate to report harassment because of fear, social pressure, and lack of institutional trust. Victims often believe that their complaints will not be heard against individuals holding authority, influence, or financial power. As a result, many women silently tolerate harassment, resign from their jobs, or withdraw from professional opportunities instead of approaching legal authorities. Even women who choose to file complaints frequently face retaliation, workplace humiliation, victim-blaming, or termination from employment. Such realities reflect the continuing gap between legal protection and practical enforcement.

The problem is not limited to physical harassment alone. Sexual harassment also exists through inappropriate behavior, gestures, comments, repeated staring, online misconduct, or the creation of an uncomfortable and hostile work environment that affects the dignity and mental well-being of women. In several cases, victims experience secondary harassment during complaint procedures themselves, where insensitive questioning and institutional behavior discourage them from pursuing justice ²⁴further.

Although the POSH Act mandates the establishment of Internal Complaint Committee (ICC) to address workplace harassment, such mechanisms often remain limited to formal compliance in many ²⁵organizations. Protecting institutional reputation is sometimes prioritized over ensuring justice and accountability for victims. The lack of awareness regarding workplace rights, particularly in rural and informal sectors, further weakens effective implementation of legal safeguards.

The continuing increase in incidents of workplace harassment also affects the social and professional growth of women. Families often become fearful regarding the safety of women

²³ The Sexual Harassment of Women at Workplace (prevention, Prohibition and Redressal) Act, No.14 of 2013, Acts of Parliament, 2013 (India).

²⁴ See generally workplace harassment studies and underreporting concerns relating to fear of retaliation and victim-blaming in India.

²⁵ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No.14 of 2013, Acts of Parliament, 2013 (India).

at workplaces, particularly during late night shifts or unsafe conditions. This fear and insecurity discourage many talented women from pursuing professional opportunities freely. Laws may exist on paper, but without proper implementation, awareness, accountability, and institutional sensitivity, ensuring genuine workplace safety and dignity for women remains a continuing challenge.

MORE THAN JUST LAWS

The existence of law alone cannot ensure workplace safety unless such laws are implemented properly and effectively. The increasing number of workplace harassment cases reflects the need to move beyond legal formalities and focus upon stronger enforcement, accountability, and victim support. Merely creating laws on paper becomes meaningless if victims continue suffer fear, insecurity, and lack of confidence in the justice system.

There is a need for stricter punishment for offenders along with proper support mechanisms for victims. Many women face emotional trauma, anxiety, and professional insecurity after workplace harassment. Therefore, counselling facilities, trauma-support programmes, and psychological assistance should be made available to help victims recover and continue their professional lives with dignity.

Awareness programmes are equally necessary so that women feel secure while pursuing employment opportunities and families do not discourage them because of safety concerns. Greater awareness regarding workplace rights and complaint mechanisms can encourage victims to report harassment without fear or hesitation.

The functioning of Internal Complaint Committee (ICC) must also become more transparent, independent, and accountable. In many organizations, such committees remain limited to procedural formalities and often prioritize institutional reputation over justice, the inclusion of trained professionals, women members, legal experts, police representatives, or other independent authorities within such committees may help ensure fairer inquiry mechanisms and greater confidence among ²⁶victims.

Dedicated workplace complaint units or special safety helplines should also be established specifically for workplace harassment cases so that complaints can be addressed and immediate action may be taken within twenty –four hours wherever urgent intervention is required. States

²⁶ The Sexual harassment of Women at Workplace (Prevention ,Prohibition and Redressal) Act,No.14 of 2013 ,S 4, Acts of Parliament ,2013 (India).

should also consider introducing stronger and more effective workplace safety laws according to their individual requirements in order to improve implementations at the local level.

Additional safety measures are equally important for women working during late hours. Increased police patrolling, security assistance, and safer transportation facilities in isolated areas can help women feel safer while traveling to and from workplaces. Effectively implementation, awareness, accountability, and institutional sensitivity are therefore essential to transform legal protections into practical realities.

CONCLUSION

It can be concluded that although society today is aware of what sexual harassment means, the real concern lies in the challenges, fear, insecurity, and discrimination continuously faced by women at workplaces. Landmark judgments such as *Vishaka v. State of Rajasthan*, and legislations like the POSH Act, 013 became important steps towards workplace safety, yet weak implementation and lack of accountability continue to remain major ²⁷problems. Merely discussing laws and rights is not sufficient unless proper action is taken to ensure safer workplaces, stronger complaint mechanisms, victim support, awareness, and stricter implementation of legal protections. A truly progressive society can only be achieved when women are able to work dignity, equality, and freedom from fear.

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