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SEXUAL HARASSMENT AT WORKPLACE

Khushi Sharma

INTRODUCTION: -

“You can tell the condition of a nation by looking at the status of its women”¹

Pandit Jawaharlal Nehru

Sexual Harassment is a global issue rooted in gender discrimination & power imbalances. It violates the human rights, dignity and gender equality. In India, the participation of women in all professional sectors increased due to rapid globalization and industrialisation, yet the workplace safety is a major concern. In India, a woman faces harassment in every 12 minutes. The term “sexual harassment” originated from U.S. & spread worldwide. In India, the concept of sexual harassment officially recognised by the Supreme Court of India in the case of *Vishaka v. State of Rajasthan*, 1997.

In the absence of existing laws, the Supreme Court established strict guidelines for the protection of women in workplace. The major focus of the Court is the fundamental right to practice any trade or profession should depend entirely on safe work environment. The gender equality & human dignity (found under Article 14, 15, 19(1)(g) & 21)², wholly relied on International conventions & constitution. The Supreme Court used its power under Article 32 & declared these guidelines as binding law across the nation under Article 141.

BACKGROUND OF THE CASE: -

- This case revolves around the social worker named “Bhanwari Devi” who was working for Rajasthan government program against child marriage. She tried to stop an illegal child marriage in a family. Even after so many protests, the marriage took place.
- Ramakant Gujjar, the main perpetrator for taking revenge from Bhanwari Devi along with five other men brutally gang-raped her in front of her husband in 1992.

¹ Binu Hazarika Kashyap & Hiren Chandra Nath, Sexual Harassment at Workplace: Understanding Its Frequency, Causes, Proactive Prevention, And Effective Management Approach at Workplace, 12 Int'l J. Creative Res. Thoughts e584 (2024), <https://ijcrt.org/papers/IJCRT2403559.pdf>.

² INDIA CONST. art. 14., INDIA CONST. art. 15., INDIA CONST. art. 19(1)(g)., INDIA CONST. art. 21.

- After all of this, she tried to file a complaint but the police put up barriers, & refused to log the FIR properly & left her for severe mistreatment & humiliation.
- The trial court acquitted the accused when the case gone in Court.
- After this, a strong network of female social workers helped Bhanwari Devi & file a writ petition in Supreme Court under the banner of an NGO named “Vishaka”.

VISHAKA GUIDELINES³: -

In response of the petition, the Supreme Court created the famous Vishaka Guidelines which led to the establishment of The Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act, 2013⁴.

- **Prevention & Action: -**

Employers are bound to prevent harassment and must provide a system to resolve complaints if something like this took place.

- **Definition of Harassment: -**

The definition includes: unwelcome physical contacts, sexual favors, suggestive remarks, pornography, or any unwanted sexual behaviour (verbal or non-verbal).

- **Duties of employer: -**

Employer must clearly ban harassment, update rules & ensure safe, equal, & non-hostile workplace environment for women.

- **Legal Support: -**

Strict actions must be taken If a crime came under the purview of criminal law (like the BNSS), then the employer must help the victim to report it to the authorities & protect them.

- **Internal Grievance System: -**

Every organisation must have their own process & rules to handle complaints other than criminal courts.

- **Complaint Committee: -**

A special committee must be created led by a woman, with woman making up at least half the members, along with outside experts. It must offer counselling, provide relief & report annually to government.

- **Open Meetings: -**

Employer must arrange regular meetings allowing workers to speak up about safety & harassment issues.

- **Spreading Awareness: -**

³ Joni Hersch, Sexual Harassment in the Workplace, IZA World of Labor, Sept. 2015, Art. No. 188, doi.org.

⁴ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, INDIA CODE (2013).

It is the responsibility of the employers to take steps to create a system for awareness & educate everyone about this.

WHAT AMOUNTS TO SEXUAL HARASSMENT?

The Prevention of Sexual Harassment (POSH) Act⁵ adopts Vishaka definition, it cleared the definition of sexual harassment including –

1. Unwelcome Behaviour Including
2. Physical contact,
3. Sexual favor Demands,
4. Suggestive Remarks
5. Pornography
6. Unwanted sexual conduct

Harassment also includes employment threats, preferential promises, hostile environment, or humiliating health risks. It also covers quid pro quo blackmailing and offensive working atmosphere. The harassment is subjective across different genders. The Internal Committee evaluates specific facts, by saying that conduct to a woman may be viewed wrongly by men as mere social interaction.

TYPES OF SEXUAL HARASSMENT OF WOMEN AT WORKPLACE: -

The workplace sexual harassment mainly falls into two categories: -

1. Quid Pro Quo (This for That): -

This category tells about when a person on higher authority demand sexual favours and compliances from an employee in exchange of promotions, higher pay and career growth. And if the employee rejects such demands then it will lead to demotions, pay cuts, firing and termination. To prove this claim, a victim must show that they faced unwelcome sexual advances and the response given by them directly impacted their job benefits, wages, or promotion. Particularly in developing countries like India, where there is widespread unemployment & poverty gap the women faces this type of sexual harassment. These employment consequences can be:

- **Tangible:** - Visible changes like firing, demotion, pay cuts, or reduction in responsibilities.
- **Intangible:** - Emotional stress or psychological pressure from the environment.
- **Hostile Work Environment:** -

This environment created when a workplace becomes toxic due to constant insults, teasing & unfair treatment based on gender. Here, even if there are no direct threats to a person's pay or job, the atmosphere which is abusive makes the surroundings so uncomfortable & stressful that it becomes impossible for the victim to do their job peacefully.

⁵ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, No. 14 of 2013, INDIA CODE (2013).

CONCLUSION: -

The story of Bhanwari Devi is a struggle which is really painful which led to the historic move of Vishaka guidelines and change the history of Indian law. Workplace harassment violates the women's self-respect, rights and fairness which is a crime.

“Even though the laws & safety committees have made for the safety of women but there are still some problems which can't be fixed only by one rule. The change in mindset is the only thing which are needed to remove these unfair power gaps & to make sure no one tolerates bad behaviour. Companies, leaders & society must respect boundaries to build a safe, respectful environment for women.