

# SEXUAL HARASSMENT OF WORKING WOMEN AT WORK PLACE AS VIOLATION OF GENDER EQUALITY AND DIGNITY : A CRITICAL EVALUATION

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With rapid industrialization and economic development, the employment of women has increased many fold. But it has germinated to many evils such as gender discrimination, physical and mental harassment and more specifically sexual harassment at work place. The problem of sexual harassment of women and girls has acquired menacing proportions. A report of the International Labour Organisation has estimated that 1/3 of the women in industrialized society are sexually harassed at workplace.

The Three judge Bench of Supreme Court in *Vishaka & Others vs. State of Rajasthan & Others*<sup>1</sup>, while dealing with the incident of sexual harassment of working women at work place observed that each such incident results in violation of the fundamental rights of gender equality and the “Right to life and personal liberty”. It is a clear violation of Art. 14, 15 and 21 of the Constitution<sup>2</sup>, as well as violation of her right under Art. 19(1) ‘g’ -- ‘to practice any profession or to carry out any occupation, trade or business’. Such violations, therefore attract the remedy under Art. 32 for the enforcement of these fundamental rights of women. In the instant case, the Court referred to the Convention on the Elimination of all Forms of Discrimination against women (CEDAR). As a result of this judgement, any woman employee, who is subjected to sexual harassment of any kind can take recourse to initiate criminal proceedings, disciplinary action and also seek compensation from the guilty employer and other persons responsible for the harassment. The supreme Court further observed that ‘primary responsibility for ensuring such safety and dignity through suitable legislation and creation of a mechanism for its enforcement is of the legislature and executive. When however, instances of sexual harassment resulting in violation of fundamental right to gender equality and dignity are brought before us for redress under Art. 32, An effective redressal requires that some guidelines should be laid down for the protection of these rights to fill the legislative vacuum.

The Supreme Court in the instant case laid down the following guidelines to be strictly observed at all working places for preservation and protection of Gender equality. These directions and guidelines would be binding and enforceable in law until suitable legislation is enacted to occupy the field. These directions and guidelines are –

**(i) Duty of the employer :**

It shall now be the duty of the employer or other responsible person in work places or other institutions to take necessary steps to prevent the commission of such acts and provide for the resolution, settlement, deter the commission of such acts and provide for the resolution, settlement and prosecution of acts of sexual harassment.

**(ii) Preventive steps :**

All employers or persons incharge of work place whether in public or private sector should take appropriate steps to prevent sexual harassment. Express prohibition of sexual harassment at the work place should be notified, published and circulated. Further, the rules/regulations of Govt. and public sector bodies relating to conduct and discipline should include rules prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.

**(iii) Disciplinary action :**

Where the act of sexual harassment of an accused amounts to misconduct under the relevant service rules, the employer should initiate a disciplinary action in accordance with the rules.

**(iv) Complaint mechanism :**

Employer is required to create an appropriate complaint mechanism in his organization for redressal of the complaints made by the victim. Such complaint mechanism should ensure time bound disposal of complaint.

The above guidelines issued by the Court had force of law till 2013. The Sexual Harassment at Work Place (Prevention, Prohibition and Redressal) Act 2013 is a legislative Act in India that seeks to protect women from sexual harassment at their place of work<sup>4</sup>.

*Rupan Deol Bajaj vs. K.P.S. Gill*<sup>5</sup> is another case of sexual harassment of woman at work place. In this case a senior I.A.S. officer filed a complaint with I.G. police, Chandigarh alleging sexual harassment and molestation by a senior police officer in Punjab. It took 17 years to get justice and the accused was convicted. The newly passed Act of 2013 has implementational handicap due to which sexual harassment of women at work place is still on the rise.

**CONCLUSION**

In short, it may be said that despite being a number of constitutional and statutory safeguard against the sexual exploitation of working women at work places, the incident of their sexual exploitation is on the increase. There is a need to fight against a system and social mindset on gender based issues deeply ingrained in the minds of not only the executive but also the judiciary, who all suffer from age old attitudes adopted by society towards women.

***References***

- 1- AIR 1997, SC 3011
- 2- Constitution of India, Articles 14, 15 and 21.
- 3- Ibid, Article 32.

- 4- The Sexual Harrasment at Work Place (Prevention, Prohibition and Redressal) Act 2013
- 5- (1995) SCC (Cr.) 1059.

