

## VISHAKA GUIDELINES

"Vishaka Guidelines" were stipulated by the Supreme Court of India, in Vishaka and others v State of Rajasthan case in 1997, regarding sexual harassment at workplace.

The court issued a writ of mandamus and the following directions for prevention –

1. It shall be the duty of the employer or other responsible persons in workplaces or other institutions to prevent sexual harassment and to provide for the resolution and settlement mechanism.
2. The court defined what constitutes sexual harassment. For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:
  - a) physical contact and advances;
  - b) a demand or request for sexual favours;
  - c) sexually coloured remarks;
  - d) showing pornography;
  - e) any other unwelcome physical verbal or non-verbal conduct of sexual nature.

### 3. Preventive Steps:

All employers should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation, they should take the following steps:

- a) Express prohibition of sexual harassment as defined above at the workplace should be notified, published and circulated in appropriate ways.
- b) The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
- c) As regards private employers' steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.
- d) Appropriate work conditions should be provided in respect of work, leisure, health, and hygiene to further ensure that there is no hostile environment towards women at workplaces.

#### **4. Criminal Proceedings:**

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law the employer shall initiate appropriate action as per the law. The employer should file or assist the aggrieved in filing the complaint with the appropriate authority. In particular, it should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek the transfer of the perpetrator or their own transfer.

#### **5. Disciplinary Action:**

Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

## **6. Complaint Mechanism:**

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for effective redressal of such complaints. Such a complaint mechanism should ensure the time-bound treatment of complaints.

## **7. Complaints Committee:**

The complaint mechanism, referred to in point (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counsellor or other support services, including the maintenance of confidentiality.

- a) The Complaints Committee should be headed by a woman and not less than half of its members should be women. Further, to prevent the possibility of any under pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other bodies who are familiar with the issue of sexual harassment.
- b) The Complaints Committee must make an annual report to the government department concerned with the complaints and actions taken by them. The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

**8. Workers' Initiative:**

Employees should be allowed to raise issues of sexual harassment at workers' meetings and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

**9. Awareness:**

Awareness of the rights of female employees in this regard should be created in particular by prominently suitably notifying the guidelines.

**10.** Where sexual harassment occurs as a result of an act or omission by any third party or an outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

**11.** The Central/State governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.