

CHAPTER - 9

GENDER ISSUES

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Introduction:

This century has brought a great change in the lives of women all over the world influencing their attitudes, values, aspirations, ways of feeling, standards of behaviour and actions for effective participation in all walks of life. Women's quest for equality has become global phenomenon. Yet, gender gap is not diminished. A large number of gender issues continue to determine the nature and shape of our society where women do not/can not enjoy an average quality of life equal to that of men in terms of life expectancy, health, morality, access to education, access to employment, access to lawful freedoms, and the meaningful exercise of civil and political rights. There has been a tremendous concern on these issues during the last few decades.

Sexual Harassment of women at work is an extension of violence faced by women in everyday life and is discriminatory, exploitative, thriving in atmosphere of threat, terror and reprisal. Thus, combating sexual harassment involves developing understanding of what is sexual harassment and change of attitudes in all - be it employees, colleagues, friends, administrators, employers or the law makers. This handout gives an overview of sexual harassment awareness at workplaces in India.

Lesson Objectives to be understand:

- Sexual Harassment : The Law
- Vishaka Guidelines issued by Supreme court
- Implementation of Vishaka Guidelines in BSNL

Sexual Harassment : The Law

According to the Protection of Human Right Act, 1993 "human rights" mean the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.

In India, it was only in 1997 that sexual harassment was for the first time recognised by the Supreme Court as human rights violation and gender based systemic discrimination that affects women's Right to Life and Livelihood. The Court defined sexual harassment very clearly and issued mandatory guidelines, known as **Vishaka Guidelines**, for resolution and prevention of sexual harassment at workplace.

Vishaka guidelines apply to both organized and unorganized work sectors and to all women whether working part time, on contract or in voluntary/honorary capacity. The guidelines are a broad framework, which put a lot of emphasis on prevention and within which all appropriate preventive measures can be adapted. One very important preventive measure is to adopt a sexual harassment policy, which expressly prohibits sexual harassment at work place and provides effective grievance procedure, which has provisions clearly laid down for prevention and for training the personnel at all levels of employment.

What is Sexual Harassment?

According to The Supreme Court definition, sexual harassment is any unwelcome sexually determined behaviour, such as:-

- Physical contact and advances.
- A demand or request for sexual favours.
- Sexually coloured remarks.
- Showing pornography.
- Any other physical, verbal or non-verbal conduct of a sexual nature.

Sexual Harassment takes place if a person:

- Subjects another person to an unwelcome act of physical intimacy, like grabbing, brushing, touching, pinching etc.
- Makes an unwelcome demand or request (whether directly or by implication) for sexual favours from another person, and further makes it a condition for employment/payment of wages/increment or promotion etc.
- Makes an unwelcome remark with sexual connotations like sexually explicit compliments/cracking loud jokes and making sexist remarks etc.
- Shows a person any sexually explicit visual material, in the form of pictures/cartoons/pin-ups/calendars/screen savers on computers/any offensive written material/pornographic e-mails etc.
- Engages in any other unwelcome conduct of a sexual nature, which could be verbal, or even non-verbal, like staring to make the other person uncomfortable, making offensive gestures, kissing sounds, etc.

- If a supervisor requests sexual favours from a junior in return for promotion or other benefits or threatens to sack for non-cooperation. It is also sexual for a group of workers to joke and snigger amongst themselves about sexual conduct in an attempt to humiliate or embarrass another person.

Important points issued in Vishaka Guidelines:

Duty of the Employer in work places and other institutions:

It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

Preventive Steps:

All employers or persons in charge of work place whether in public or private sector should take following appropriate steps to prevent sexual harassment.

- Express prohibition of sexual harassment at workplace should be notified, published & circulated in appropriate ways.
- 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.
- Steps should be taken by private employees to include the aforesaid prohibitions in the standing orders under the Industrial Employment Act 1946.
- Appropriate work conditions should be provided and they should ensure that there is no hostile environment towards women at work places and no woman employee should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

Complaint Mechanism:

An appropriate complaint mechanism should be created in the organisation for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints. Complainants or witnesses should not be victimised or discriminated against while dealing with complaints.

Complaints Committee:

The complaint mechanism should be adequate to provide, where necessary, a Complaints Committee, a special counsellor or other support service, including the maintenance of confidentiality.

Mandatory prerequisites for such a committee are :

- Minimum Three members.
- The Complaints Committee should be headed by a woman.
- Not less than half of its members should be women.
- Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

Procedure for complaint:

- Any person aggrieved shall prefer a complaint before the Complaints Committee at the earliest point of time and in any case within 15 days from the date of occurrence of the alleged incident.
- The complaint shall contain all the material and relevant details concerning the alleged sexual harassment including the names of the contravener and the complaint shall be addressed to the Complaints Committee.
- If the complainant feels that she cannot disclose her identity for any particular reason the complainant shall address the complaint to the head of the organisation and hand over the same in person or in a sealed cover.

Conducting enquiry by the complaints committee:

- Upon receipt of such complaint the head of the organisation shall retain the original complaint with him and send to the Complaints Committee a gist of the complaint containing all material and relevant details other than the name of the complainant and other details, which might disclose the identity of the complainant.
- The Complaints Committee shall take immediate necessary action to hold an inquiry.

Additional practices to be undertaken by the complaint committee

- The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.
- It should ensure prominent display of names and contact numbers of the members of the complaints committee.

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 in accordance with law by making a complaint with the appropriate authority.

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.

Worker's Initiative:

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

Awareness:

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

Third Party Harassment:

Where sexual harassment occurs as a result of an act or omission by any third party or 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.

Prevention & Resolution mechanism in BSNL.

Employers need to set up a redress mechanism/complaints committees as per Vishaka Guidelines.

In this regard instruction have been issued by BSNL CO vide letter no 6-1/2005 –SG dated 15.07.2005 by Welfare & Sports cell of BSNL.

Do's and Don'ts to be displayed at work place [As per directions of DOT of 1997]

Do's

- Women's rights are human rights.
- Women have a right to equal treatment, equal justice with dignity and honour.
- Create and sustain conducive environment for work.
- Ensure adequate personal security for employees specially women.

Don'ts

- Do not treat women employees as sex objects
- Do not outrage or insult the modesty of female employees and colleagues.
- Do not make sexual advances to women at work places. If you do you will be liable for disciplinary proceedings.

Awareness Training

- BSNL conducts special trainings on sexual harassment awareness training at its various training centres.
- In long duration courses BSNL includes a chapter on Gender Issues.

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Objective Type Questions:

1. What is meant by "Human rights"?
2. What is Vishaka Guidelines?
3. Which year Vishaka Guidelines were used?
4. What is sexual harassment?
5. What is the duty of an employer as issued in Vishaka Guidelines?
6. What are the mandatory prerequisites of a complaint committee according to Vishaka Guidelines?
7. What maximum time limit is allotted to the victim to make a complaint?
8. What is the function of the head of the organisation upon receipt of a complaint?

9. Write any two do's that are to be displayed at work place as per directions of DOT?
10. Write any two Don'ts that are to be displayed at work place as per directions of DOT?

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