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Need to Develop Mechanism to check

Harassment of Women at **Workplace**

While the proverb 'Prevention is better than Cure' is frequently used in relation to healthcare, the same appears to be discounted when it comes to complying with law. A glaring example of this is handling of the complaint pertaining to alleged sexual harassment of one of its employee by the Tehelka management. Tehelka had not taken preventive measures by incorporating a complaint mechanism constituting an Internal Complaints Committee at its work place to deal with complaints pertaining to sexual harassment of women.

Despite the fact that the Supreme Court of India through its judgement passed as early as in the year 1997 in *Vishaka and Others vs. State of Rajasthan and Others* had stipulated guidelines (Vishaka guidelines) regarding prevention of sexual harassment of women at workplace. And without realising that a judgement passed by the Supreme Court has the same status as a settled law of the land, many organisations / employers failed to adhere to the Vishaka guidelines either claiming they were not aware of or stating that they were an organisation having progressive individuals working as workmen/employees and therefore such incident is unlikely to take place within their organisation. Apparently, in the event of a sexual harassment complaint by a woman employee, such employers would try in their own crude ways to deal with such complaint, which

As per the Act, every employer shall formulate a written policy on prevention of sexual harassment of women and constitute an Internal Complaints Committee (ICC) at each of its office, branch or administrative units having ten or more employees. The ICC shall be presided over by a senior woman employee at the workplace, two other women employees at the workplace who have experience regarding social work and one member from an NGO or a person working towards the cause of women's issues. If there is no senior woman employee at the workplace, a woman employee from another office or administrative unit of the workplace can be nominated.

could range from the accused simply apologising to the victim and/or the victim agreeing to go on a sabbatical as a penance for the wrong committed, as demonstrated in the Tehelka case.

Guidelines

However, with the enactment of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (the "Act")

Besides having a written policy and constituting the ICC, every employer shall provide required facilities and assistance to the ICC, provide safe working environment to its women employees, display at a conspicuous place penal consequences of sexual harassment, organize workshops and awareness programmes at regular intervals, provide necessary support to the aggrieved woman if she chooses to file a criminal complaint, treat sexual harassment as a misconduct under the service rules/employee code of conduct and monitor timely preparation and submission of an annual report by the ICC to the District Officer as may be appointed by the local Government.

on the 23rd of April 2013, it is mandatory for employers to follow certain guidelines for ensuring safety of women employees at the workplace.

The Act is applicable to all workplaces. The definition of "Workplace" is expansive and includes all departments, organizations, undertakings, establishments, enterprises, institutions, offices, branches or units under both **Public and Private Sector**, whether organized or disorganized, hospitals, sports institutes and any other place visited by the employee in the course of employment, including transportation provided.

An "Employee" has been defined to include not only those women who are employed on a permanent basis but also those women who are employed temporarily, on an *ad hoc* or daily wage basis, either directly or indirectly through agents or contractors. Further

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women working voluntarily, as probationers, trainees and apprentices have also been included in the definition of employee.

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Safe Working Environment

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In the event of non-compliance of its provisions, the Act stipulates a penalty of up to Rs 50,000/- (Rupees Fifty Thousand) and cases of repeated violation of provisions of the Act shall invite higher penalties including cancellation of license or registration required for carrying on the business.

The enactment of the Act has finally brought about certainty to the way complaints of sexual harassment of women at workplace ought to be addressed through a proper complaint redressal mechanism. It provides a forum consisting of women members in majority, making an effort to prevent/deter such incidents from taking place by way of workshops, creating awareness of **Women's Rights** amongst all employees.

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