

*MECHANISM OF RECEIVING STUDENT
GRIEVANCES*



MGM INSTITUTE OF HEALTH SCIENCES

(Deemed to be University u/s 3 of UGC Act, 1956)

Grade 'A' Accredited by NAAC

Sector-I, Kamothe, Navi Mumbai - 410209

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E-mail : registrar@mgmuhs.com ; Website : www.mgmuhs.com

Standard Operating Procedure (SOP) of Students Grievances Redressal Mechanism

1. Aggrieved student needs to submit a hard copy of grievance to respective Institute/College/School/Department Head.
2. At the same time aggrieved student needs to register the grievance on the "**ONLINE STUDENTS GRIEVANCES REGISTRATION PORTAL**" on University website: www.mgmuhs.com

The link to "ONLINE STUDENTS GRIEVANCES REGISTRATION PORTAL" is : <https://www.mgmuhs.com/grievance.php>

3. Registered grievance at the University portal will be directed to respective Institute/College/School/Department Head within 02 working days of receipt of the grievance on the online portal.
4. Institute/College/School/Department Head will refer the grievance to appropriate Student Grievances Redressal Committee of the Institute/College/School/ Department.
5. The respective Student Grievance Redressal Committee shall fix a date for hearing the grievance which shall be communicated to the institution head and the aggrieved student.
6. An aggrieved student may appear either in person or authorize a representative to present the case.
7. Institute Head must ensure that the time period between receipt of grievance from University portal and redressing the grievance must not exceed 14 working days.

8. If the student is not satisfied with the decision of the respective Student Grievance Redressal Committee, then his/her grievance must be referred to Registrar by respective Institute Head.
9. Grievances not resolved by the respective Student Grievance Redressal Committee shall be referred by Registrar to the University Student Grievance Redressal Committee for redressal and outcome within 10 days.
10. If the Student is still not satisfied with the decision of the University Student Grievance Redressal Committee, then the Grievance shall be referred to the Ombudsperson (To be appointed by UGC).
11. The Ombudsperson shall make all efforts to resolve the grievances within a period of 30 days of receiving the appeal from the aggrieved student(s).
12. The Ombudsperson shall, after giving reasonable opportunities of being heard to both parties, on the conclusion of proceedings, pass such order, with reasons there for, as may be deemed fit to redress the grievance and provide such relief as may be appropriate to the aggrieved student.
13. The University, as well as the aggrieved student, shall be provided with copies of the order under the signature of the Ombudsperson, and the University shall place it for general information on its website.
14. The University shall comply with the recommendations of the Ombudsperson; and the Ombudsperson shall report to the UGC any failure on the part of the University to comply with the recommendations.
15. The Ombudsperson may recommend appropriate action against the complainant, where a complaint is found to be false or frivolous.

Institute/College/School/Department Head shall extend co-operation to the Ombudsperson or the Student Grievance Redressal Committee(s), as the case may be, in early redressal of grievances; and failure to do so may be reported by the Ombudsperson to the UGC, which shall take action in accordance with the provisions of these regulations.


Dr. Rajesh B. Goel
Registrar
MGM Institute of Health Sciences
(Deemed University u/s 3 of UGC Act, 1956)
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रजिस्ट्रार स. डीएल (एन)-04/0007/2003--05

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
(Separate paging is given to this Part in order that it may be filed as a separate compilation)

भाग III—खण्ड 4
[PART III—SECTION 4]

[सांविधिक निकायों द्वारा जारी की गई विविध अधिसूचनाएं जिसमें कि आदेश, विज्ञापन और सूचनाएं सम्मिलित हैं]
[Miscellaneous Notifications including Notifications, Orders, Advertisements and Notices issued by
Statutory Bodies]

UNIVERSITY GRANTS COMMISSION

New Delhi-110002, the—December 2012

F. No. 14-4/2012(CPP-II)—In exercise of the power conferred under sub-section (1) of section 26 of the University Grants Commission Act, 1956 (3 of 1956), the University Grants Commission hereby makes the following regulations, namely :—

1. Short title, application and commencement :—

- (1) These regulations shall be called the University Grants Commission (Grievance Redressal) Regulations, 2012.
- (2) They shall apply to every University, whether established or incorporated by or under a Central Act or a State Act, and every institution recognised by the University Grants Commission under clause (f) of Section 2 of the University Grants Commission Act, 1956 and to all institutions deemed to be a university declared as such under Section 3 of the said Act.
- (3) They shall come into force from the date of their publication in the Official Gazette.

2. Definition :—In these regulations, unless the context otherwise requires

- (a) "Act" means the University Grants Commission Act, 1956 (3 of 1956) ;
- (b) "aggrieved student" means a student who has any complaint in the matters concerned with the grievances defined under these regulations, and includes a persons seeking admission to any institution of higher education;
- (c) "college" means any institution, whether known as such or by any other name, which provides for a course of study for obtaining any qualification from a university and which, in accordance with the rules and regulations of such university, is recognised as competent to provide for such course of study and present students undergoing such course of study for the examination for the award of such qualification;
- (d) "Commission" means the University Grants Commission established under section 4 of the UGC Act, 1956.
- (e) "declared admission policy" means such policy for admission to a course or program of study as may be offered by the institution and published in the prospectus referred to in sub-regulation (1) of regulation 3;

(f) "grievances" include the following complaints of the aggrieved students, namely: -

(i) making admission contrary to merit determined in accordance with the declared admission policy of the institute;

(ii) irregularity in the admission process adopted by the institute;

(iii) refusing admission in accordance with the declared admission policy of the institute;

(iv) non publication of prospectus, as specified;

(v) publishing any information in the prospectus, which is false or misleading, and not based on facts;

(vi) withhold or refuse to return any document in the form of certificates of degree, diploma or any other award or other document deposited with it by a person for the purpose of seeking admission in such institution, with a view to induce or compel such person to pay any fee or fees in respect of any course or program of study which such person does not intend to pursue;

(vii) demand of money in excess of that specified in the declared admission policy or approved by the competent authority to be charged by such institution;

(viii) breach of the policy for reservation in admission as may be applicable;

(ix) complaints, of alleged discrimination of students, from the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Women, Minority or Disabled categories;

(x) non payment or delay in payment of scholarships to any student that such institution is committed, under the conditions imposed by University Grants Commission, or by any other authority;

(xi) delay in conduct of examinations or declaration of results beyond that specified in the academic calendar;

(xii) on provision of student amenities as may have been promised or required to be provided by the institution;

(xiii) denial of quality education as promised at the time of admission or required to be provided;

(xiv) non transparent or unfair evaluation practices;

- (xv) harassment and victimisation of students, including sexual harassment;
- (g) "Grievance Redressal Committee" means a committee constituted under these regulations;
- (h) "Higher Educational Institution" means a University within the meaning of clause (f) of Section 2, a college within the meaning of clause (b) of sub-section (1) of Section 12A, and an institution deemed to be a University declared under Section 3, of the University Grants Commission Act, 1956;
- (i) "institution" for the purposes of these regulations, means university, college or institution, as the case may be;
- (j) "Office of profit" means an office which is capable of yielding a profit or pecuniary gain, and to which some pay, salary, emolument, remuneration or non-compensatory allowance is attached;
- (k) "Ombudsman" means the Ombudsman appointed under regulation 4 of these regulations;
- (l) "university" means a university established or incorporated by or under a Central Act or a State Act and includes an institution deemed to be university declared as such under Section 3 of the Act.

3. *Mandatory publication of prospectus, its contents and pricing:--*

(f) Every higher education institution, shall publish, before expiry of sixty days prior the date of the commencement of the admission to any of its courses or programmes of study, a prospectus containing the following for the purposes of informing those persons intending to seek admission to such institution and the general public, namely:—

(a) each component of the fee, deposits and other charges payable by the students admitted to such institution for pursuing a course or programme of study, and the other terms and conditions of such payment;

(b) the percentage of tuition fee and other charges refundable to a student admitted in such institution in case such student withdraws from such institution before or after completion of course or programme of study and the time within, and the manner in, which such refund shall be made to that student;

(c) the number of seats approved by the appropriate statutory authority in respect of each course or programme of study for the academic year for which admission is proposed to be made;

(d) the conditions of eligibility including the minimum and maximum age limit of persons for admission as a student in a particular course or programme of study, where so specified by the institution;

- (e) the educational qualifications specified by the relevant appropriate statutory authority, or by the institution, where no such qualifying standards have been specified by any statutory authority;
- (f) the process of admission and selection of eligible candidates applying for such admission, including all relevant information in regard to the details of test or examination for selecting such candidates for admission to each course or programme of study and the amount of fee to be paid for the admission test;
- (g) details of the teaching faculty, including therein the educational qualifications and teaching experience of every member of its teaching faculty and also indicating therein whether such members are on regular basis or as visiting member;
- (h) information in regard to physical and academic infrastructure and other facilities including hostel accommodation, library and hospital or industry wherein the practical training to be imparted to the students and in particular the facilities accessible by students on being admitted to the institution;
- (i) broad outlines of the syllabus specified by the appropriate statutory authority or by the institution, as the case may be, for every course or programme of study, including the teaching hours, practical sessions and other assignments;
- (j) all relevant instructions in regard to maintaining the discipline by students within or outside the campus of the institution, and, in particular such discipline relating to the prohibition of ragging of any student or students and the consequences thereof and for violating the provisions of any regulation in this behalf made by the relevant statutory regulatory authority; and
- (k) any such other information as may be specified by the Commission:

Provided that an institution shall publish information referred to in items (a) to (j) of this sub regulation, on its website, and the attention of prospective students shall be drawn to the same.

4. *Appointment, tenure, removal and conditions of services under grievance redressal mechanism –*

(1) Each University shall appoint an Ombudsman for redressal of grievances of students under these regulations.

(2) The Ombudsman shall be a person who has been a judge not below the rank of a District Judge or a retired professor who has at least ten years' experience as a professor.

(3) The Ombudsman shall not, at the time of appointment, during one year before such appointment, or in the course of his tenure as Ombudsman, be in a conflict of interest with the university where his personal relationship, professional affiliation or financial interest may compromise or reasonably appear to compromise, the independence of judgement toward the university.

(4) The Ombudsman, or any member of his immediate family shall not -

- (a) hold or have held at any point in the past, any post or, employment in the office of profit in the University;
- (b) have any significant relationship, including personal, family, professional or financial, with the university;
- (c) hold any position in university by whatever name called, in the administration or governance structure of the university.

(5) The Ombudsman in a State University shall be appointed by the university on part-time basis from a panel of three names recommended by the search committee consisting of the following members, namely:-

- (a) nominee of the Governor of the State - Chairman;
- (b) two Vice-Chancellors, by rotation from public universities of the State to be nominated by the State Government - Members;
- (c) one Vice-Chancellor, by rotation from a private university of the State to be nominated by the State Government - Member;
- (d) Secretary (Higher Education) of the State - Member-- Convener.

(6) The Ombudsman in a Central University and institution deemed to be university shall be appointed by the Central University or institution as the case may be on part-time basis

from a panel of three names recommended by the search committee consisting of the following members, namely:-

- a) Chairman of the University Grants Commission or his nominee - Chairman;
- b) one Vice Chancellor from central university, by rotation, to be nominated by the Central Government - Member;
- c) one Vice Chancellor from institution deemed to be university, by rotation, to be nominated by the Central Government - Member;
- d) Joint Secretary to the Government of India in the Ministry of Human Resource Development dealing or in charge of the higher education - Member;
- e) Joint Secretary in the office of the University Grants Commission - Member - Convener

(7) The Ombudsman shall be a part time officer appointed for a period of three years or until he attains the age of seventy year, whichever is earlier, from the date he resumes the office and may be reappointed for another one term in the same university.

(8) The Ombudsman shall be paid a fees of Rs. 3000 per day, for hearing the cases, in addition to reimbursement of the conveyance.

(9) The Ombudsman may be removed on charges of proven misconduct or misbehavior or as defined under sub regulation (3) and (4) of this regulation, by the concerned appointing authority.

(10) No order of removal of Ombudsman shall be made except after an inquiry made in this regard by a person not below the rank of Judge of the High Court in which such Ombudsman has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

5. Grievance Redressal Committee -

- (1) In case of a college, the Vice Chancellor of the affiliating university shall constitute a Grievance Redressal Committee consisting of five members for an individual college or a group of colleges keeping in view the location of the college(s).
- (2) The Grievance Redressal Committee shall be constituted by the Vice-Chancellor of the affiliating university consisting of -
 - a) a senior Professor of the University - Chairman;
 - b) three senior teachers drawn from the affiliating colleges, on rotation basis, to be nominated by the Vice-Chancellor - Members;

- c) a student representing the college where the grievance has occurred to be nominated, based on academic merit, by the concerned college - special invitee.
- (3) The Grievance Redressal Committee shall have a term of two years.
- (4) The provisions of sub-regulations (8), (9) and (10) of regulation 4 and regulation 6 in respect of the matters of the reimbursement and procedure and functions shall, *mutatis mutandis*, apply to the Grievance Redressal Committee except that the Grievance Redressal Committee shall communicate its decision within ten days of receipt of the complaint.
- (5) Any person aggrieved by the decision of the Grievance Redressal Committee may within a period of six days prefer an appeal to the Ombudsman.

6. *Powers and functions of ombudsman -*

- (1) The Ombudsman shall exercise his powers to hear any grievance-
 - (a) of any student against the university or institution affiliated to it or an institute, as the case may be, after the student has availed of remedies available in such institution for redressal of grievance; and
 - (b) of any applicant for admission as student to such institution.
- (2) No application for revaluation or remarking of answer sheets shall be entertained by the Ombudsman unless specific irregularity materially affecting the outcome or specific instance of discrimination is indicated.
- (3) The Ombudsman shall have power to seek the assistance of any person belonging to the Scheduled Castes, the Scheduled Tribes, Socially and Economically Backward Classes, minority or disabled category, as *amicus curiae*, for hearing complaints of alleged discrimination.

7. *Procedure in redressal of grievances by Ombudsman and Grievance Redressal Committee-*

- (1) Each institution shall establish a registry, headed by an employee of the institute of appropriate rank as the Ombudsman may decide, where any aggrieved student or person may make an application seeking redressal of grievance.
- (2) The address of the registry so established shall be published widely including on the notice board and prospectus and placed on the website of the institution.

- (3) On receipt of an application by the registry, the employee-in-charge shall inform the Ombudsman or the Grievance Redressal Committee, as the case may be, shall immediately provide a copy to the institution for furnishing its reply within seven days.
- (4) The Ombudsman or the Grievance Redressal Committee, as the case may be, shall fix a date for hearing the complaint which shall be communicated to the institute and the aggrieved person either in writing or electronically, as may be feasible.
- (5) An aggrieved person may appear either in person or represented by such person as may be authorised to present his case.
- (6) The Ombudsman or the Grievance Redressal Committee, as the case may be, shall be guided by the principles of natural justice while hearing the grievance.
- (7) The Ombudsman or the Grievance Redressal Committee, as the case may be, shall ensure disposal of every application as speedily as possible and not later than a month of receipt of the grievance.
- (8) The institution shall co-operate with the Ombudsman or the Grievance Redressal Committee, as the case may be, in redressal of grievances and failure to do so may be reported by the Ombudsman to the Commission.
- (9) On the conclusion of proceedings, the Ombudsman or the Grievance Redressal Committee, as the case may be, shall pass such order, with reasons for such order, as may be deemed fit to redress the grievance and provide such relief as may be desirable to the affected party at issue.
- (10) Every order under sub-regulation (9), under the signature of the Ombudsman or the Grievance Redressal Committee, as the case may be, shall be provided to the aggrieved person and the institution and shall be placed on the website of the institution.
- (11) The institution shall comply with the order of the Ombudsman or the Grievance Redressal Committee, as the case may be,
- (12) Any order of the Ombudsman or the Grievance Redressal Committee, as the case may be, not complied with by the institution shall be reported to the Commission.
- (13) A complaint shall be filed by the aggrieved student or his parent or with a special permission from the Ombudsman or the Grievance Redressal Committee, as the case may be, by any other person.
- (14) In case of any false or frivolous complaint, the ombudsman may order appropriate action against the complainant.

8. *Information regarding Ombudsman Grievance Redressal Committee to be published in prospectus -*

The University, the institution deemed to be university and the college concerned shall provide detailed information regarding provisions of Grievance Redressal Committee, Ombudsman and the duties and rights of students in their prospectus prominently.

9. *Consequences of non-compliance -*

The Commission shall in respect of any institution which willfully contravenes or repeatedly fails to comply with orders of the Ombudsman or the Grievance Redressal Committee, as the case may be, may proceed to take one or more of the following actions, namely:-

- (a) withdrawal of declaration of fitness to receive grants under section 12B of the Act;
- (b) withholding any grant allocated to the Institution;
- (c) declaring the institution ineligible for consideration for any assistance under any of the general or special assistance programs of the Commission;
- (d) informing the general public, including potential candidates for admission, through a notice displayed prominently in the newspapers or other suitable media and posted on the website of the Commission, declaring that the institution does not possess the minimum standards for redressal of grievances;
- (e) recommend to the affiliating university for withdrawal of affiliation, in case of a college;
- (f) recommend to the Central Government for withdrawal of declaration as Institution deemed to be university, in case of an institution deemed to be university;
- (g) recommend to the appropriate State Government for withdrawal of status as university in case of a university established or incorporated under a State Act;
- (h) taking such other action within its powers as the Commission may deem fit and impose such other penalties as may be provided in the Act for such duration of time as the institution complies with the provisions of these Regulations:

Provided that no action shall be taken by the Commission under this regulation unless the institution has been given an opportunity to explain its position and opportunity of being heard has been provided to it.

AKHILESH GUPTA.

Secy.



प्रो. रजनीश जैन
सचिव

Prof. Rajnish Jain
Secretary



विश्वविद्यालय अनुदान आयोग
University Grants Commission

(मानव संसाधन विकास मंत्रालय, भारत सरकार)
(Ministry of Human Resource Development, Govt. of India)

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F.No. 14-4/2012(CPP-II)

7th December, 2018

PUBLIC NOTICE

ON

UGC (GRIEVANCE REDRESSAL) REGULATIONS, 2018

UGC had notified UGC (Grievance Redressal) Regulations, 2012 in official Gazette of India on 23rd March, 2013. These regulations were aimed at addressing and effectively resolving grievances of students related to Higher Educational Institutions.

The UGC had received a number of responses on these regulations and hence constituted an Expert Committee to revisit UGC (Grievance Redressal) Regulations, 2012. The draft University Grants Commission (Grievance Redressal of Students) Regulations, 2018 prepared by the Committee is attached herewith for observations and suggestions of stakeholders. The feedback and comments on the above draft may be sent to UGC via email grmhei.2018@gmail.com on or before 31st December, 2018.

(Prof. Rajnish Jain)

**UNIVERSITY GRANTS COMMISSION
BAHADUR SHAH ZAFAR MARG
NEW DELHI – 110 002**

NOTIFICATION

F.No.14-4/2012 (CPP-II)

New Delhi, the __ October, 2018

In exercise of the power conferred under clause (g) of sub-section (1) of Section 26 of the University Grants Commission Act, 1956 (3 of 1956), and in supersession of the University Grants Commission (Grievance Redressal) Regulations, 2012, the University Grants Commission hereby makes the following regulations:

1. SHORT TITLE, APPLICATION AND COMMENCEMENT:

- a) These regulations shall be called as the University Grants Commission (Grievance Redressal of Students) Regulations, 2018.
- b) They shall apply to all HEIs, whether established or incorporated by or under a Central Act or a State Act, and every institution recognised by the University Grants Commission under clause (f) of Section 2 of the University Grants Commission Act, 1956 and to all institutions deemed to be a university declared as such under Section 3 of the said Act.
- c) They shall come into force from the date of their publication in the Official Gazette.

2. DEFINITION: IN THESE REGULATIONS, UNLESS THE CONTEXT OTHERWISE REQUIRES:

- (a) "Act" means the University Grants Commission Act, 1956 (3 of 1956);
- (b) "aggrieved student" means a student who has any complaint in the matters concerned with the grievances defined under these regulations, and includes a person seeking admission to any institution of higher education;
- (c) "college" means any institution, whether known as such or by any other name, which provides for a course of study for obtaining any

qualification from a university and which, in accordance with the rules and regulations of such university, is recognised as competent to provide for such course of study and present students undergoing such course of study for the examination for the award of such qualification;

(d) "Commission" means the University Grants Commission established under section 4 of the UGC Act, 1956.

(e) "declared admission policy" means such policy for admission to a course or program of study as may be offered by the institution and published in the prospectus referred to in sub-regulation (1) of regulation 3;

(f) "grievances" include the following complaints of the aggrieved students, namely:

- i. making admission contrary to merit determined in accordance with the declared admission policy of the institution;
- ii. irregularity in the admission process adopted by the institution;
- iii. refusing admission in accordance with the declared admission policy of the institution;
- iv. non publication of prospectus, (either hard copy / online) as specified in these regulations;
- v. publishing any information in the prospectus, which is false or misleading, and not based on facts;
- vi. withhold or refuse to return any document in the form of certificates of degree, diploma or any other award or other document deposited with it by a student for the purpose of seeking admission in such institution, with a view to induce or compel such student to pay any fee or fees in respect of any course or program of study which such student does not intend to pursue;
- vii. demand of money in excess of that specified in the declared admission policy to be charged by such institution;

- viii. breach in reservation policy in admission as may be applicable;
 - ix. nonpayment or delay in payment of scholarships to any student that such institution is committed, under the conditions imposed by University Grants Commission, or by any other authority;
 - x. delay in conduct of examinations or declaration of results beyond the specified schedule in the academic calendar;
 - xi. on provision of student amenities as may have been promised or required to be provided by the institution;
 - xii. non transparent or unfair evaluation practices;
 - xiii. Refund of fees, in case a student withdraws the admission within the stipulated time as mentioned in the prospectus, as notified by the Commission from time to time.
- (g) "Department Grievance Redressal Committee" means a committee constituted under these regulations, at the level of a Department.
- (h) "Institutional Grievance Redressal Committee" means a committee constituted under these regulations, at the level of an Institution.
- (i) "College Grievance Redressal Committee" means a committee constituted under these regulations, at the level of a college.
- (j) "University Grievance Redressal Committee" means a committee constituted under these regulations, at the level of a University.
- (k) "Higher Educational Institution" means a University within the meaning of clause (f) of Section 2, a college within the meaning of clause (b) of sub-section (1) of Section 12A, and an institution deemed to be a University declared under Section 3, of the University Grants Commission Act, 1956;
- (l) "Institution" for the purposes of these regulations, means any university, college or such other institutions, as the case may be;
- (m) "Office of profit" means an office which is capable of yielding a profit or pecuniary gain, and to which some pay, salary, emolument, remuneration or non-compensatory allowance is attached;

(n) "Ombudsperson" means the Ombudsperson appointed under these regulations;

(o) "University" means a university established or incorporated by or under a Central Act or a State Act and includes an institution deemed to be university declared as such under Section 3 of the Act.

3. MANDATORY PUBLICATION OF PROSPECTUS, ITS CONTENTS AND PRICING:

i. Every higher educational institution, shall publish and/or upload on its website, before expiry of at least sixty days prior to the date of the commencement of the admission to any of its courses or programs of study, a prospectus containing the following for the information of persons intending to seek admission to such institution and the general public, namely:

(a) the list of programs of study and courses offered along with the broad outlines of the syllabus specified by the appropriate statutory authority or by the institution, as the case may be, for every course or program of study, including teaching hours, practical sessions and other assignments;

(b) the number of seats approved by the appropriate statutory authority in respect of each course or program of study for the academic year for which admission is proposed to be made;

(c) the conditions of educational qualifications and eligibility including the minimum and maximum age limit of persons for admission as a student in a particular course or program of study, specified by the institution;

(d) the process of selection of eligible candidates applying for such admission, including all relevant information in regard to the details of test or examination for selecting such candidates for admission to each course or program of study and the amount of fee prescribed for the admission test;

- (e) each component of the fee, deposits and other charges payable by the students admitted to such institution for pursuing a course or program of study, and the other terms and conditions of such payment;
- (f) rules / regulations for imposition and collection of any fines specified heads or categories, minimum and maximum fine may be imposed.
- (g) the percentage of tuition fee and other charges refundable to a student admitted in such institution in case such student withdraws from such institution before or after completion of course or program of study and the time within and the manner in which such refund shall be made to that student;
- (h) details of the teaching faculty, including their educational qualifications, alongwith the category they belong to Regular / visiting ---- and teaching experience of every member of its teaching faculty.
- (i) information with regard to physical and academic infrastructure and other facilities including hostel accommodation and its fee, library, hospital or industry wherein the practical training to be imparted to the students and in particular the facilities accessible by students on being admitted to the institution;
- (j) all relevant instructions in regard to maintaining the discipline by students within or outside the campus of the institution.
- (k) any other information as may be specified by the Commission:

Provided that an institution shall publish / upload information referred to in items (a) to (k) of this regulation, on its website, and the attention of prospective students and the general public shall be drawn to such publication on the website through advertisements displayed prominently in different newspapers and through other media:

- ii. Every institution shall fix the price of each printed copy of the prospectus, being not more than the reasonable cost of its

publication and distribution and no profit be made out of the publication, distribution or sale of prospectus.

4. GRIEVANCE REDRESSAL COMMITTEES (GRC):

A. Department Grievance Redressal Committee (DGRC) ✓

- (i) In case of universities, all complaints relating to a department shall first be addressed to Department Grievance Redressal Committee (DGRC) to be constituted at the level of departments/school/center whose composition shall be as follows:
 - a) Head of the Department / School / Center – Chairperson
 - b) a Professor from outside the department / school / center to be nominated by the Head of HEI – Member
 - c) A faculty member well-versed with grievance redressal mechanism to be nominated by the Head of the Department – Member.
- (ii) The Chairperson and members of the committee shall have a term of two years.
- (iii) The quorum for the meeting shall be two, including Chairperson.
- (iv) The DGRC shall follow the principles of natural justice while deciding the grievances of the students.
- (v) The DGRC shall make efforts to resolve the grievance within the stipulated period and shall submit its report to the Head of the Institution within a period of 15 days from the date of receipt of complaint to the DGRC.
- (vi) The DGRC shall provide a copy of the report to the aggrieved person(s).

B. Institutional Grievance Redressal Committee (IGRC)

(i) The complaints not related to departments/schools / center and the grievances not resolved at the DGRC shall be referred to the Institutional Grievance Redressal Committee (IGRC) to be constituted by Head of the HEI, whose composition shall be as follows:

- (a) Pro-Vice Chancellor / Dean/ Senior academician of HEI – Chairperson.
- (b) Dean of students/Dean, Students Welfare
- (c) Two senior academicians other than Chairperson.
- (d) Proctor / Senior academician

(ii) The above Committee shall be approved by the statutory body of institution (Executive Council or its equivalent).

(iii) The Chairperson of IGRC and DGRC shall not be the same. The tenure of the Committee members shall be two years.

(iv) The quorum for the meetings shall be three, including Chairperson.

(v) The IGRC shall consider the recommendation of DGRC while giving its recommendations. However, the IGRC shall have the power to review recommendations of the DGRC.

(vi) The IGRC shall follow the principles of natural justice while deciding the grievances.

(vii) The IGRC shall send the report and the recommendations to the Head of the HEI within in a period of 15 workings days from the date of receipt of grievance, or appeal or recommendations of the DGRC.

(viii) The IGRC shall provide a copy of the report to the aggrieved person(s).

C. College Grievance Redressal Committee (CGRC)

- (i) In case of colleges, all complaints shall first be addressed to College Grievance Redressal Committee (CGRC) whose composition shall be as follows:
 - a) Principal of the college - Chairperson
 - b) Two senior faculty members nominated by the principal of the College.
- (ii) The tenure of the members shall be two years.
- (iii) The quorum for the meeting shall be two, including Chairperson.
- (iv) The CGRC shall follow the principles of natural justice while considering the grievances of the students.
- (v) The CGRC shall send the report and recommendations to the Vice-Chancellor of the affiliating university within a period of 15 days of receiving the complaint.

D. University Grievance Redressal Committee (UGRC)

- (i) In case of grievances not resolved by CGRC, it shall be referred to University Grievance Redressal Committee (UGRC) for which the Vice-chancellor of the affiliating university shall constitute a University Grievance Redressal Committee (UGRC) consisting of five members for a individual colleges or a group of colleges keeping in view the location of the college(s). The UGRC shall be constituted by the Vice-chancellor of the affiliating university consisting of :
 - a) A senior Professor of the university – Chairperson
 - b) Dean, Student Welfare or its equivalent - Member
 - c) Three Principals drawn from the affiliating colleges, on rotation basis to be nominated by the Vice-Chancellor – Members
- (ii) The Chairperson and members of the committee shall have a term of two years.
- (iii) The quorum for the meeting shall be two, including Chairperson.

- (iv) The CGRC shall follow the principle of normal justice while deciding the grievance of the students.
- (v) The CGRC shall send the report and the recommendations to the principal of the college within a period of 15 days of receiving the complaint.

E. Any person aggrieved by the decision of the Institutional Grievance Redressal Committee or University Grievance Redressal Committee may within in a period of six days prefer an appeal to the Ombudsperson.

5. APPOINTMENT, TENURE, REMOVAL AND CONDITIONS OF SERVICES OF OMBUDSPERSON:

- (i) Each HEI shall appoint an Ombudsperson for redressal of grievances of students under these regulations.
- (ii) The Ombudsperson shall be a person not related to the university and who is a retired Vice-Chancellor, Registrar or a faculty member who has at least ten years of experience as a Professor.
- (iii) The Ombudsperson shall not be in any conflict of interest with the university, either before or after his appointment.
- (iv) The Ombudsperson, or any member of his immediate family shall not -
 - (a) hold or have held at any point in the past, any post or, employment in any office of profit in the university;
 - (b) have any significant relationship, including personal, family, professional or financial, with the university;
 - (c) hold any position in university by whatever name called, in the administration or governance structure of the university.
- (v) The Ombudsperson in a State University shall be appointed by the Executive council of the university on part-time basis from a panel of three names recommended by the search committee consisting of the following members, namely:-

- (a) Nominee of the Governor of the State or his nominee - Chairperson
 - (b) Vice-Chancellor of a University of State to be nominated by the State Government – Member
 - (c) Vice-Chancellor of the concerned State University – Member
 - (d) Registrar of the concerned State University – Secretary (non-voting)
- (vi) The Ombudsperson in a Central University and institution deemed to be university shall be appointed by the Executive Council of the Central University or the equivalent statutory body of the Deemed to be University, as the case may be, on part - time basis from a panel of three member recommended by the search committee consisting of the following members, namely:-

- (a) Nominee of University Grants Commission – Chairperson
- (b) One Vice Chancellor from Central University to be nominated by UGC (for Central Universities) – Member

OR

One Vice Chancellor from institution deemed to be university to be nominated by the UGC (for Deemed to be Universities) - Member

- (c) The Vice Chancellor of the university – Member
 - (d) The Registrar of the university – Secretary (Non-Voting)
- (vii) The Ombudsperson shall be a part time officer appointed for a period of three years from the date he/she assumes the office and may be reappointed for another one term in the same university.
- (viii) The Ombudsperson shall be paid the sitting fee per day as per the norms of the university for hearing the cases, in addition to the reimbursement of the conveyance.

- (ix) The Ombudsperson may be removed on charges of proven misconduct or misbehavior or as defined under these regulations, by the concerned appointing authority i.e. the Executive Council of the University.

6. FUNCTIONS OF OMBUDSPERSON:

- (i) The Ombudsperson shall hear any appeal of an applicant for admission as student or student of the university against the university or institution affiliated to it as the case may be, after the student has availed all remedies available in such institution for redressal of grievance such as IGRC / UGRC;
- (ii) No application for revaluation or remarking of answer sheets shall be entertained by the Ombudsperson. However, the issues of malpractices in the examination and evaluation processes may be referred to the Ombudsperson.
- (iii) Ombudsperson may seek the assistance of any person as amicus curiae, for hearing complaints of alleged discrimination.
- (iv) The Ombudsperson shall make all efforts to resolve the grievances within a period of 30 days of receiving the appeal from the student(s).

7. PROCEDURE FOR REDRESSAL OF GRIEVANCES BY OMBUDSPERSON AND GRIEVANCE REDRESSAL COMMITTEE:

- (i) Each institution shall, within a period of three months from the date of issue of this notification, have an online portal where any aggrieved student of that institution may submit an application seeking grievance redressal.
- (ii) On receipt of any online complaint, the institution shall refer the complaint to the appropriate Grievance Redressal Committee, as the case may be, along with its comments within 15 days of receipt of complaint on online portal.
- (iii) The Grievance Redressal Committee, as the case may be, shall fix a date for hearing the complaint which shall be communicated to the institution and the aggrieved person.

- (iv) An aggrieved person may appear either in person or be represented by such person as may be authorized to present his/her case.
- (v) The Grievances not resolved at the appropriate Grievance Redressal Committee(s) shall be referred to the Ombudsperson.
- (vi) The institution shall co-operate with the Ombudsperson or the Grievance Redressal Committee(s), as the case may be, in redressal of grievances and failure to do so may be reported by the Ombudsperson to the Vice Chancellor.
- (vii) On the conclusion of proceedings, the Ombudsperson shall pass such order, with reasons for such order, as may be deemed fit to redress the grievance and provide such relief as may be desirable to the affected party at issue, after giving due hearing to both the parties.
- (viii) Every order under the signature of the Ombudsperson shall be provided to the aggrieved person and the institution and shall be placed on the website of the institution.
- (ix) The institution shall comply with the recommendations of the Ombudsperson. Any recommendations of the Ombudsperson not complied with by the institution shall be reported by the Ombudsperson to the Commission.
- (x) In case of any false or frivolous complaint, the Ombudsperson may recommend appropriate action against the complainant.

8. INFORMATION REGARDING OMBUDSPERSON GRIEVANCE REDRESSAL COMMITTEE:

The institution shall provide detailed information regarding provisions of Grievance Redressal Committee(s) and Ombudsperson on their website and in their prospectus prominently.

9. CONSEQUENCES OF NON-COMPLIANCE:

The Commission shall in respect of any Institution which willfully contravenes these regulations or repeatedly fails to comply with the recommendation of the Ombudsperson or the Grievance Redressal

Committee(s), as the case may be, may proceed to take one or more of the following actions, namely:

- (a) withdrawal of declaration of fitness to receive grants under section 12B of the Act;
- (b) withholding any grant allocated to the Institution;
- (c) declaring the institution ineligible for consideration for any assistance under any of the general or special assistance programs of the Commission;
- (d) informing the general public, including potential candidates for admission, through a notice displayed prominently in suitable media and posted on the website of the Commission, declaring that the institution does not possess the minimum standards for redressal of grievances;
- (e) recommend to the affiliating university for withdrawal of affiliation, in case of a college;
- (f) The Commission may take necessary and appropriate action as it may deemed fit, in case of an institution deemed to be university;
- (g) recommend to the concerned State Government for necessary and appropriate action, in case of a university established or incorporated under a State Act;
- (h) The Commission may take necessary and appropriate actions against any institution for non-compliance.

Provided that no action shall be taken by the Commission under this regulation unless the institution has been given an opportunity to explain its position and an opportunity of being heard has been provided to it.

(Prof. Rajnish Jain)
Secretary



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 23rd April, 2013/Vaisakha 3, 1935 (Saka)

The following Act of Parliament received the assent of the President on the 22nd April, 2013, and is hereby published for general information:—

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

(No. 14 OF 2013)

[22nd April, 2013.]

An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

Be it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "aggrieved woman" means—

(i) in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;

(ii) in relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

(b) "appropriate Government" means—

(i) in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly—

(A) by the Central Government or the Union territory administration, the Central Government;

(B) by the State Government, the State Government;

(ii) in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;

(c) "Chairperson" means the Chairperson of the Local Complaints Committee nominated under sub-section (1) of section 7;

(d) "District Officer" means an officer notified under section 5;

(e) "domestic worker" means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part time or full time basis, but does not include any member of the family of the employer;

(f) "employee" means a person employed at a workplace for any work on regular, temporary, *ad hoc* or daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name;

(g) "employer" means—

(i) in relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;

(ii) in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace.

Explanation.—For the purposes of this sub-clause “management” includes the person or board or committee responsible for formulation and administration of policies for such organisation; } *BoM*

(iii) in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her employees;

(iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker;

(h) “Internal Committee” means an Internal Complaints Committee constituted under section 4;

(i) “Local Committee” means the Local Complaints Committee constituted under section 6;

(j) “Member” means a Member of the Internal Committee or the Local Committee, as the case may be;

(k) “prescribed” means prescribed by rules made under this Act;

(l) “Presiding Officer” means the Presiding Officer of the Internal Complaints Committee nominated under sub-section (2) of section 4;

(m) “respondent” means a person against whom the aggrieved woman has made a complaint under section 9;

(n) “sexual harassment” includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:—

(i) physical contact and advances; or

(ii) a demand or request for sexual favours; or

(iii) making sexually coloured remarks; or

(iv) showing pornography; or

(v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

(o) “workplace” includes—

(i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;

(ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service;

(iii) hospitals or nursing homes;

(iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;

(v) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey;

(vi) a dwelling place or a house;

(p) "unorganised sector" in relation to a workplace means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.

Prevention of sexual harassment.

3. (1) No woman shall be subjected to sexual harassment at any workplace.

(2) The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:—

- (i) implied or explicit promise of preferential treatment in her employment; or
- (ii) implied or explicit threat of detrimental treatment in her employment; or
- (iii) implied or explicit threat about her present or future employment status; or
- (iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (v) humiliating treatment likely to affect her health or safety.

CHAPTER II

CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

Constitution of Internal Complaints Committee.

4. (1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the "Internal Complaints Committee":

every Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committee shall consist of the following members to be nominated by the employer, namely:—

(a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section (1):

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;

(b) not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;

(c) one member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:

Provided that at least one-half of the total Members so nominated shall be women.

(3) The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

(4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

2 (4)
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(5) Where the Presiding Officer or any Member of the Internal Committee,—

- (a) contravenes the provisions of section 16; or
- (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
- (c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
- (d) has so abused his position as to render his continuance in office prejudicial to the public interest,

such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so ~~created~~ or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

CHAPTER III

CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE

5. The appropriate Government may notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act.

Notification
of District
Officer.

6. (1) Every District Officer shall constitute in the district concerned, a committee to be known as the "Local Complaints Committee" to receive complaints of sexual harassment from establishments where the Internal Complaints Committee has not been constituted due to having less than ten workers or if the complaint is against the employer himself.

Constitution
and
jurisdiction of
Local
Complaints
Committee

(2) The District Officer shall designate one nodal officer in every block, taluka and tehsil in rural or tribal area and ward or municipality in the urban area, to receive complaints and forward the same to the concerned Local Complaints Committee within a period of seven days.

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(3) The jurisdiction of the Local Complaints Committee shall extend to the areas of the district where it is constituted.

7. (1) The Local Complaints Committee shall consist of the following members to be nominated by the District Officer, namely:—

Composition,
tenure and
other terms
and conditions
of Local
Complaints
Committee.

(a) a Chairperson to be nominated from amongst the eminent women in the field of social work and committed to the cause of women;

(b) one Member to be nominated from amongst the women working in block, taluka or tehsil or ward or municipality in the district;

(c) two Members, of whom at least one shall be a woman, to be nominated from amongst such non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed;

Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge;

Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time;

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(d) the concerned officer dealing with the social welfare or women and child development in the district, shall be a member ex officio.

ex-officio

(2) The Chairperson and every Member of the Local Committee shall hold office for such period, not exceeding three years, from the date of their appointment as may be specified by the District Officer.

(3) Where the Chairperson or any Member of the Local Complaints Committee —

- (a) contravenes the provisions of section 16; or
- (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
- (c) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
- (d) has so abused his position as to render his continuance in office prejudicial to the public interest,

such Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

(4) The Chairperson and Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed.

Grants and
audit.

8. (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the State Government grants of such sums of money as the Central Government may think fit, for being utilised for the payment of fees or allowances referred to in sub-section (4) of section 7.

(2) The State Government may set up an agency and transfer the grants made under sub-section (1) to that agency.

(3) The agency shall pay to the District Officer, such sums as may be required for the payment of fees or allowances referred to in sub-section (4) of section 7.

(4) The accounts of the agency referred to in sub-section (2) shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State, be prescribed and the person holding the custody of the accounts of the agency shall furnish, to the State Government, before such date, as may be prescribed, its audited copy of accounts together with auditors' report thereon.

CHAPTER IV

COMPLAINT

Complaint of
sexual
harassment.

9. (1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident:

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Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

Conciliation.

10. (1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation:

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Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where a settlement has been arrived at under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation.

(3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section (1), no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.

45 of 1860. 11. (1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if *prima facie* case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code, and any other relevant provisions of the said Code where applicable:

Inquiry into complaint

509 IPC

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

45 of 1860.

(2) Notwithstanding anything contained in section 509 of the Indian Penal Code, the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

5 of 1908.

(3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents; and

(c) any other matter which may be prescribed.

(4) The inquiry under sub-section (1) shall be completed within a period of ninety days.

60 days

CHAPTER V

INQUIRY INTO COMPLAINT

12. (1) During the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Committee or the Local Committee, as the case may be, may recommend to the employer to—

Action during pendency of inquiry

(a) transfer the aggrieved woman or the respondent to any other workplace; or

- (b) grant leave to the aggrieved woman up to a period of three months; or
- (c) grant such other relief to the aggrieved woman as may be prescribed.

(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

(3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.

Inquiry report.

13. (1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be—

(i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;

(ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:

Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman:

Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee or, as the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land-revenue to the concerned District Officer.

(4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

Punishment
for false or
malicious
complaint and
false evidence

14. (1) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:

Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

15. For the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, the Internal Committee or the Local Committee, as the case may be, shall have regard to—

Determination of compensation.

(a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;

(b) the loss in the career opportunity due to the incident of sexual harassment;

(c) medical expenses incurred by the victim for physical or psychiatric treatment;

(d) the income and financial status of the respondent;

(e) feasibility of such payment in lump sum or in instalments.

22 of 2005

16. Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the complaint made under section 9, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner:

Prohibition of publication or making known contents of complaint and inquiry proceedings

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

17. Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of section 16, he shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed.

Penalty for publication or making known contents of complaint and inquiry proceedings

18. (1) Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.

Appeal

(2) The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations.

CHAPTER VI

DUTIES OF EMPLOYER

19. Every employer shall—

Duties of employer.

(a) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;

(b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting the Internal Committee under sub-section (1) of section 4;

(c) organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed;

(d) provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry;

(e) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;

(f) make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under sub-section (1) of section 9;

(g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force; 45 of 1860.

(h) cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place; 45 of 1860.

(i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;

(j) monitor the timely submission of reports by the Internal Committee.

CHAPTER VII

DUTIES AND POWERS OF DISTRICT OFFICER

Duties and powers of District Officer.

20. The District Officer shall,—

(a) monitor the timely submission of reports furnished by the Local Committee;

(b) take such measures as may be necessary for engaging non-governmental organisations for creation of awareness on sexual harassment and the rights of the women.

CHAPTER VIII

MISCELLANEOUS

Committee to submit annual report

21. (1) The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.

(2) The District Officer shall forward a brief report on the annual reports received under sub-section (1) to the State Government.

Employer to include information in annual report.

22. The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organisation or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.

Appropriate Government to monitor implementation and maintain data.

23. The appropriate Government shall monitor the implementation of this Act and maintain data on the number of cases filed and disposed of in respect of all cases of sexual harassment at workplace.

Appropriate Government to take measures to publicise the Act

24. The appropriate Government may, subject to the availability of financial and other resources,—

(a) develop relevant information, education, communication and training materials, and organise awareness programmes, to advance the understanding of the public of the provisions of this Act providing for protection against sexual harassment of woman at workplace,

(b) formulate orientation and training programmes for the members of the Local Complaints Committee.

25. (1) The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees at a workplace to do so, by order in writing,—

Power to call for information and inspection of records.

(a) call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require;

(b) authorise any officer to make inspection of the records and workplace in relation to sexual harassment, who shall submit a report of such inspection to it within such period as may be specified in the order.

(2) Every employer and District Officer shall produce on demand before the officer making the inspection all information, records and other documents in his custody having a bearing on the subject matter of such inspection.

26. (1) Where the employer fails to—

(a) constitute an Internal Committee under sub-section (1) of section 4;

(b) take action under sections 13, 14 and 22; and

(c) contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder,

Penalty for non-compliance with provisions of Act.

he shall be punishable with fine which may extend to fifty thousand rupees.

(2) If any employer, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to—

(i) twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence;

Provided that in case a higher punishment is prescribed under any other law for the time being in force, for the offence for which the accused is being prosecuted, the court shall take due cognizance of the same while awarding the punishment;

(ii) cancellation, of his licence or withdrawal, or non-renewal, or approval, or cancellation of the registration, as the case may be, by the Government or local authority required for carrying on his business or activity.

27. (1) No court shall take cognizance of any offence punishable under this Act or any rules made thereunder, save on a complaint made by the aggrieved woman or any person authorised by the Internal Committee or Local Committee in this behalf.

Cognizance of offence by courts

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Every offence under this Act shall be non-cognizable.

28. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Act not in derogation of any other law.

29. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power of appropriate Government to make rules

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the fees or allowances to be paid to the Members under sub-section (4) of section 4;

(b) nomination of members under clause (c) of sub-section (1) of section 7;

(c) the fees or allowances to be paid to the Chairperson, and Members under sub-section (4) of section 7;

- (d) the person who may make complaint under sub-section (2) of section 9;
- (e) the manner of inquiry under sub-section (1) of section 11;
- (f) the powers for making an inquiry under clause (c) of sub-section (2) of section 11;
- (g) the relief to be recommended under clause (c) of sub-section (1) of section 12;
- (h) the manner of action to be taken under clause (i) of sub-section (3) of section 13;
- (i) the manner of action to be taken under sub-sections (1) and (2) of section 14;
- (j) the manner of action to be taken under section 17;
- (k) the manner of appeal under sub-section (1) of section 18;
- (l) the manner of organising workshops, awareness programmes for sensitising the employees and orientation programmes for the members of the Internal Committee under clause (c) of section 19; and
- (m) the form and time for preparation of annual report by Internal Committee and the Local Committee under sub-section (1) of section 21.

(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Any rule made under sub-section (4) of section 8 by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to
remove
difficulties.

30. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

P.K. MALHOTRA,
Secy. to the Govt. of India.

CORRIGENDA

THE PREVENTION OF MONEY-LAUNDERING (AMENDMENT) ACT, 2012 (2 of 2013)

At page 18, in line 2, for "Arts", read "Art".

At page 21, in line 14, for "Protection", read "(Protection)".

CORRIGENDUM

THE UNLAWFUL ACTIVITIES (PREVENTION) AMENDMENT ACT, 2012
(3 of 2013)

At page 6, in line 22, for "clause", read "clause".

CORRIGENDUM

THE BANKING LAWS (AMENDMENT) ACT, 2012
(4 of 2013)

At page 8, in line 29, for 'sections 30', read 'section 30,'.

CORRIGENDUM

THE APPROPRIATION ACT, 2013
(9 of 2013)

At page 1, in the marginal heading to section 2, for "4715,54,00,000", read "49715,54,00,000".

भारत का राजपत्र **The Gazette of India**

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मानव संसाधन विकास मंत्रालय

(विश्वविद्यालय अनुदान आयोग)

अधिसूचना

नई दिल्ली, 2 मई, 2016

विश्वविद्यालय अनुदान आयोग (उच्चतर शैक्षिक संस्थानों में महिला कर्मचारियों एवं छात्रों के लैंगिक उत्पीड़न के निराकरण, निषेध एवं इसमें सुधार) विनियम 2015

मि. सं. 91-1/2013 (टी. एफ. जी. एस.—विश्वविद्यालय अनुदान आयोग अधिनियम 1956 (1956 का 3) जिसे उपाय अधिनियम के अनुच्छेद 20 के उप-अनुच्छेद (1) से संयुक्त रूप से पढ़ा जाए उस अधिनियम 26 के अनुच्छेद (1) की धारा (जी) द्वारा प्रदत्त अधिकारों के क्रियान्वयन अनुसार विश्वविद्यालय अनुदान आयोग एतद्वारा निम्न विनियम निमित्त कर रहा है, नामतः—

- लघु शीर्ष, अनुप्रयोग एवं समासः— (1) ये विनियम विश्वविद्यालय अनुदान आयोग (उच्चतर शैक्षिक संस्थानों में महिला कर्मचारियों एवं छात्रों के लैंगिक उत्पीड़न के निराकरण, निषेध एवं इसमें सुधार) विनियम, 2015 कहलाएंगे।
(2) ये विनियम भारत वर्ष में सभी उच्चतर शैक्षिक संस्थानों पर लागू होंगे।
(3) सरकारी राजपत्र में उनके प्रकाशन की तिथि से वे लागू माने जाएंगे।
- परिभाषाएँ— इन विनियमों में—बशर्त विषयवस्तु के अन्तर्गत कुछ अन्यथा जरूरी है—
(अ) "पीडित महिला" से अर्थ है किसी भी आयु वर्ग की एक ऐसी महिला—चाहे वह रोजगार में है या नहीं, किसी कार्य स्थल में कथित तौर से प्रतिवादी द्वारा कोई लैंगिक प्रताड़ना के कार्य का शिकार बनी है;
(ब) "अधिनियम" से अर्थ है कार्य स्थल में महिलाओं का लैंगिक उत्पीड़न (निराकरण, निषेध एवं समाधान) अधिनियम, 2013 (2013 का 14);
(स) "परिसर" का अर्थ उस स्थान अथवा भूमि से है जहाँ पर उच्चतर शैक्षिक संस्थान तथा इसकी संबद्ध संस्थागत सुविधाएँ जैसे पुस्तकालय, प्रयोगशालाएँ, लेक्चर हॉल, आवास, हॉल, शौचालय, छात्र केन्द्र, छात्रावास, भोजन कक्ष, स्टेडियम, वाहन पड़ाव स्थल, उपवनों जैसे स्थल तथा अन्य कुछ सुविधाएँ जैसे स्वास्थ्य केन्द्र, कैंटीन, बैंक पटल इत्यादि स्थित हैं तथा जिसमें छात्रों द्वारा उच्चशिक्षा के छात्र के रूप में दौरा किया जाता हो—जिस में वह परिवहन शामिल है जो उन्हें उस संस्थान से आने जाने के लिए, उस संस्थान के अलावा क्षेत्रीय भ्रमण हेतु

- (जी) यदि वह एक मानित विश्वविद्यालय संस्थान है तो केन्द्र सरकार को उस मानित विश्वविद्यालय के आह्वान की अनुमति करना;
- (एच) यदि वह किसी राज्य अधिनियम के अन्तर्गत स्थापित अथवा नियमित विश्वविद्यालय है तो उसके इस स्तर को आह्वित करने के लिए उपयुक्त राज्य सरकार को सिफारिश करना;
- (आई) जैसे कि विश्वविद्यालय अनुदान आयोग अधिनियम 1956 के अन्तर्गत प्रावधान किया जाना हो तदनुसार अपने अधिकारों के अनुसार यथोचित रूप से ऐसी समयावधि के लिए दण्ड प्रदान कर सकता है जिस समय तक वह संस्थान इन विनियमों में निर्धारित प्रावधानों का अनुपालन नहीं करता है;
- (जे) इन विनियमों के अन्तर्गत आयोग द्वारा उस समय तक कार्रवाई नहीं की जाएगी जब तक कि संस्थान को अपना पक्ष प्रस्तुत करने के लिए प्रदत्त सुअवसर के आधार पर उनकी सुनवाई कर ली गई हो;

[विज्ञापन—III/4/असा/53]

जसपाल एस. रांधु, सचिव, यूजीसी

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(University Grants Commission)

NOTIFICATION

New Delhi, the 2nd May, 2016

University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015

No. F. 91-1/2013(TFGS).—In exercise of the powers conferred by clause (g) of sub-section (1) of section 26 of the University Grants Commission Act, 1956 (3 of 1956), read with sub-section (1) of Section 20 of the said Act, the University Grants Commission hereby makes the following regulations, namely:—

1. **Short title, application and commencement.**—(1) These regulations may be called the University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015.
 - (2) They shall apply to all higher educational institutions in India.
 - (3) They shall come into force on the date of their publication in the Official Gazette.
2. **Definitions.**—In these regulations, unless the context otherwise requires,—
 - (a) "aggrieved woman" means in relation to work place, a woman of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;
 - (b) "Act" means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013);
 - (c) "campus" means the location or the land on which a Higher Educational Institution and its related institutional facilities like libraries, laboratories, lecture halls, residences, halls, toilets, student centres, hostels, dining halls, stadiums, parking areas, parks-like settings and other amenities like health centres, canteens, Bank counters, etc., are situated and also includes extended campus and covers within its scope places visited as a student of the HEI including transportation provided for the purpose of commuting to and from the institution, the locations outside the institution on field trips, internships, study tours, excursions, short-term placements, places used for camps, cultural festivals, sports meets and such other activities where a person is participating in the capacity of an employee or a student of the HEI.

- (d) "Commission" means the University Grants Commission established under section 4 of the University Grants Commission Act, 1956 (3 of 1956);
- (e) "covered individuals" are persons who have engaged in protected activity such as filing a sexual harassment charge, or who are closely associated with an individual who has engaged in protected activity and such person can be an employee or a fellow student or guardian of the offended person;
- (f) "employee" means a person as defined in the Act and also includes, for the purposes of these Regulations trainee, apprentice (or called by any other name), interns, volunteers, teacher assistants, research assistants, whether employed or not, including those involved in field studies, projects, short-visits and camps;
- (g) "Executive Authority" means the chief executive authority of the HEI, by whatever name called, in which the general administration of the HEI is vested. For public funded institutions the Executive Authority means the Disciplinary Authority as indicated in Central Civil Services (Classification, Control and Appeal) Rules, 1965 or its equivalent rules;
- (h) "Higher Educational Institution" (HEI) means a university within the meaning of clause (j) of section 2, a college within the meaning of clause(b) of sub-section (1) of section 12A and an institution deemed to be a University under section 3 of the University Grants Commission Act, 1956 (3 of 1956);
- (i) "Internal Complaints Committee" (ICC) means Internal Complaints Committee to be constituted by an HEI under sub regulation (1) of regulation 4 of these regulations. Any existing body already functioning with the same objective (like the Gender Sensitization Committee Against Sexual Harassment (GSCASH)) should be reconstituted as the ICC,
Provided that in the latter case the HEI shall ensure that the constitution of such a Body is as required for ICC under these regulations. Provided further that such a Body shall be bound by the provisions of these regulations;
- (j) "protected activity" includes reasonable opposition to a practice believed to violate sexual harassment laws on behalf of oneself or others such as participation in sexual harassment proceedings, cooperating with an internal investigation or alleged sexual harassment practices or acting as a witness in an investigation by an outside agency or in litigation;
- (k) "sexual harassment" means-
- (i) "An unwanted conduct with sexual undertones if it occurs or which is persistent and which demeans, humiliates or creates a hostile and intimidating environment or is calculated to induce submission by actual or threatened adverse consequences and includes any one or more or all of the following unwelcome acts or behaviour (whether directly or by implication), namely:-
 - (a) any unwelcome physical, verbal or non verbal conduct of sexual nature;
 - (b) demand or request for sexual favours;
 - (c) making sexually coloured remarks
 - (d) physical contact and advances; or
 - (e) showing pornography"
 - (ii) any one (or more than one or all) of the following circumstances, if it occurs or is present in relation or connected with any behaviour that has explicit or implicit sexual undertones-
 - (a) implied or explicit promise of preferential treatment as quid pro quo for sexual favours;
 - (b) implied or explicit threat of detrimental treatment in the conduct of work;
 - (c) implied or explicit threat about the present or future status of the person concerned;
 - (d) creating an intimidating offensive or hostile learning environment;
 - (e) humiliating treatment likely to affect the health, safety dignity or physical integrity of the person concerned;

- (l) "student" means a person duly admitted and pursuing a programme of study either through regular mode or distance mode, including short-term training programmes in a HEI;
 Provided that a student who is in the process of taking admission in HEI's campus, although not yet admitted, shall be treated, for the purposes of these regulations, as a student of that HEI, where any incident of sexual harassment takes place against such student;
 Provided that a student who is a participant in any of the activities in a HEI other than the HEI where such student is enrolled shall be treated, for the purposes of these regulations, as a student of that HEI where any incident of sexual harassment takes place against such student;
- (m) "third Party Harassment" refers to a situation where sexual harassment occurs as a result of an act or omission by any third party or outsider, who is not an employee or a student of the HEI, but a visitor to the HEI in some other capacity or for some other purpose or reason;
- (n) "victimisation" means any unfavourable treatment meted out to a person with an implicit or explicit intention to obtain sexual favour;
- (o) "workplace" means the campus of a HEI including-
- Any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate HEIs;
 - Any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereof in HEIs;
 - Any place visited by the employee or student arising out of or during the course of employment or study including transportation provided by the Executive Authority for undertaking such journey for study in HEIs.
3. **Responsibilities of the Higher Educational Institution-** (1) Every HEI shall,-
- Wherever required, appropriately subsume the spirit of the above definitions in its policy and regulations on prevention and prohibition of sexual harassment against the employees and the students, and modify its ordinances and rules in consonance with the requirements of the Regulations;
 - publicly notify the provisions against sexual harassment and ensure their wide dissemination;
 - organise training programmes or as the case may be, workshops for the officers, functionaries, faculty and students, as indicated in the SAKSHAM Report (Measures for Ensuring the Safety of Women and Programmes for Gender Sensitization on Campuses) of the Commission, to sensitize them and ensure knowledge and awareness of the rights, entitlements and responsibilities enshrined in the Act and under these regulations;
 - act decisively against all gender based violence perpetrated against employees and students of all sexes recognising that primarily women employees and students and some male students and students of the third gender are vulnerable to many forms of sexual harassment and humiliation and exploitation;
 - publicly commit itself to a zero tolerance policy towards sexual harassment;
 - reinforce its commitment to creating its campus free from discrimination, harassment, retaliation or sexual assault at all levels;
 - create awareness about what constitutes sexual harassment including hostile environment harassment and quid pro quo harassment;
 - include in its prospectus and display prominently at conspicuous places or Notice Boards the penalty and consequences of sexual harassment and make all sections of the institutional community aware of the information on the mechanism put in place for redressal of complaints pertaining to sexual

harassment, contact details of members of Internal Complaints Committee, complaints procedure and so on. Any existing body already functioning with the same objective (like the Gender Sensitization Committee Against Sexual Harassment (GSCASH)) should be reconstituted as the ICC; Provided that in the latter case the HEI shall ensure that the constitution of such a Body is as required for ICC under these regulations. Provided further that such a Body shall be bound by the provisions of these regulations;

- (i) inform employees and students of the recourse available to them if they are victims of sexual harassment;
- (j) organise regular orientation or training programmes for the members of the ICC to deal with complaints, steer the process of settlement or conciliation, etc., with sensitivity;
- (k) proactively move to curb all forms of harassment of employees and students whether it is from those in a dominant power or hierarchical relationship within HEIs or owing to intimate partner violence or from peers or from elements outside of the geographical limits of the HEI;
- (l) be responsible to bring those guilty of sexual harassment against its employees and students to book and initiate all proceedings as required by law and also put in place mechanisms and redressal systems like the ICC to curb and prevent sexual harassment on its campus;
- (m) treat sexual harassment as a misconduct under service rules and initiate action for misconduct if the perpetrator is an employee;
- (n) treat sexual harassment as a violation of the disciplinary rules (leading up to rustication and expulsion) if the perpetrator is a student;
- (o) ensure compliance with the provisions of these regulations, including appointment of ICC, within a period of sixty days from the date of publication of these regulations;
- (p) monitor the timely submission of reports by the ICC;
- (q) prepare an annual status report with details on the number of cases filed and their disposal and submit the same to the Commission.

3.2 Supportive measures.—(1) The rules, regulations or any such other instrument by which ICC shall function have to be updated and revised from time-to-time, as court judgments and other laws and rules will continue to revise the legal framework within which the Act is to be implemented.

(2) The Executive Authority of the HEIs must mandatorily extend full support to see that the recommendations of the ICC are implemented in a timely manner. All possible institutional resources must be given to the functioning of the ICC, including office and building infrastructure (computers, photocopiers, audio-video, equipment, etc.), staff (typists, counselling and legal services) as, well as a sufficient allocation of financial resources.

(3) Vulnerable groups are particularly prone to harassment and also find it more difficult to complain. Vulnerability can be socially compounded by region, class, caste, sexual orientation, minority identity and by being differently abled. Enabling committees must be sensitive to such vulnerabilities and special needs.

(4) Since research students and doctoral candidates are particularly vulnerable the HEIs must ensure that the guidelines for ethics for Research Supervision are put in place.

(5) All HEIs must conduct a regular and half yearly review of the efficacy and implementation of their anti-sexual harassment policy.

- (6) All Academic Staff Colleges (now known as Human Resource Development Centres (HRDCs) and Regional Centres for Capacity Building (RCCBs) must incorporate sessions on gender in their orientation and refresher courses. This should be across disciplines, and preferably mainstreamed using the UGC SAKSHAM Report which provides indicative modules in this regard.
 - (7) Orientation courses for administrators conducted in HEIs must have a module on gender sensitization and sexual harassment issues. Regular workshops are to be conducted for all sections of the HEI community.
 - (8) Counselling services must be institutionalised in all HEIs and must have well trained full-time counsellors.
 - (9) Many HEIs having large campuses have a deficit in lighting and are experienced as unsafe places by the institutional community. Adequate lighting is a necessary aspect of infrastructure and maintenance.
 - (10) Adequate and well trained security including a good proportion or balance of women security staff is necessary. Security staff must receive gender sensitization training as a part of conditions of appointment.
 - (11) HEIs must ensure reliable public transport, especially within large campuses between different sections of the HEI, hostels, libraries, laboratories and main buildings, and especially those that do not have good access for day scholars. Lack of safety as well as harassment is exacerbated when employees and students cannot depend on safe public transport. Reliable transport may be considered by HEIs to enable employees and students to work late in libraries, laboratories and to attend programmes in the evenings.
 - (12) Residential HEIs should accord priority to construction of women's hostels. For the growing population of young women wishing to access higher education, hostel accommodation is desirable in both urban and rural areas and at all levels of higher education which provides a modicum of protection from harassment of all kinds.
 - (13) Concern for the safety of women students must not be cited to impose discriminatory rules for women in the hostels as compared to male students. Campus safety policies should not result in securitization, such as over-monitoring or policing or curtailing the freedom of movement, especially for women employees and students.
 - (14) Adequate health facilities are equally mandatory for all HEIs. In the case of women this must include gender sensitive doctors and nurses, as well as the services of a gynaecologist.
 - (15) The Women's Development Cells in colleges shall be revived and funded to be able to carry out the range of activities required for gender sensitization and remain autonomous of the functioning of anti sexual harassment committees and ICCs. At the same time they shall extend their activities to include gender sensitization programmes in consultation with ICCs and help to disseminate anti-sexual harassment policies on campuses on a regular basis. The 'cultural' space and the 'formal academic space' need to collaborate to render these workshops innovative, engaging and non-mechanical.
 - (16) Hostel Wardens, Provosts, Principals, Vice Chancellors, Legal Officers and other functionaries must be brought within the domain of accountability through amendments in the rules or Ordinances where necessary.
4. **Grievance redressal mechanism.**—(1) Every Executive Authority shall constitute an Internal Complaints Committee (ICC) with an inbuilt mechanism for gender sensitization against sexual harassment. The ICC shall have the following composition:-

- (a) A Presiding Officer who shall be a woman faculty member employed at a senior level (not below a Professor in case of a university, and not below an Associate Professor or Reader in case of a college) at the educational institution, nominated by the Executive Authority;

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section 2(o);

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organization;"

- (b) two faculty members and two non-teaching employees, preferably committed to the cause of women or who have had experience in social work or have legal knowledge, nominated by the Executive Authority;
- (c) Three students, if the matter involves students, who shall be enrolled at the undergraduate, master's, and research scholar levels respectively, elected through transparent democratic procedure;
- (d) one member from amongst non-government organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, nominated by the Executive Authority.
- (2) At least one-half of the total members of the ICC shall be women.
- (3) Persons in senior administrative positions in the HEI, such as Vice-Chancellor, Pro Vice-Chancellors, Rectors, Registrar, Deans, Heads of Departments, etc., shall not be members of ICCs in order to ensure autonomy of their functioning.
- (4) The term of office of the members of the ICC shall be for a period of three years. HEIs may also employ a system whereby one-third of the members of the ICC may change every year.
- (5) The Member appointed from amongst the non-governmental organizations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the Executive Authority as may be prescribed.
- (6) Where the Presiding Officer or any member of the Internal Committee:
- contravenes the provisions of section 16 of the Act; or
 - has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
 - he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
 - has so abused his position as to render his continuance in office prejudicial to the public interest,

such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section."

5. Responsibilities of Internal Complaints Committee (ICC) - The Internal Complaints Committee shall:

- (a) provide assistance if an employee or a student chooses to file a complaint with the police;

- (b) provide mechanisms of dispute redressal and dialogue to anticipate and address issues through just and fair conciliation without undermining complainant's rights, and minimize the need for purely punitive approaches that lead to further resentment, alienation or violence;
- (c) protect the safety of the complainant by not divulging the person's identity, and provide the mandatory relief by way of sanctioned leave or relaxation of attendance requirement or transfer to another department or supervisor as required during the pendency of the complaint, or also provide for the transfer of the offender;
- (d) ensure that victims or witnesses are not victimised or discriminated against while dealing with complaints of sexual harassment; and
- (e) ensure prohibition of retaliation or adverse action against a covered individual because the employee or the student is engaged in protected activity.

6. **The process for making complaint and conducting Inquiry** – The ICC shall comply with the procedure prescribed in these Regulations and the Act, for making a complaint and inquiring into the complaint in a time bound manner. The HEI shall provide all necessary facilities to the ICC to conduct the inquiry expeditiously and with required privacy.

7. **Process of making complaint of sexual harassment** – An aggrieved person is required to submit a written complaint to the ICC within three months from the date of the incident and in case of a series of incidents within a period of three months from the date of the last incident.

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee shall render all reasonable assistance to the person for making the complaint in writing:

Provided further that the ICC may, for the reasons to be accorded in the writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the person from filing a complaint within the said period."

Friends, relatives, Colleagues, Co-students, Psychologist, or any other associate of the victim may file the complaint in situations where the aggrieved person is unable to make a complaint on account of physical or mental incapacity or death.

8. **Process of conducting Inquiry**– (1) The ICC shall, upon receipt of the complaint, send one copy of the complaint to the respondent within a period of seven days of such receipt.

(2) Upon receipt of the copy of the complaint, the respondent shall file his or her reply to the complaint along with the list of documents, and names and addresses of witnesses within a period of ten days.

(3) The inquiry has to be completed within a period of ninety days from the receipt of the complaint. The inquiry report, with recommendations, if any, has to be submitted within ten days from the completion of the inquiry to the Executive Authority of the HEI. Copy of the findings or recommendations shall also be served on both parties to the complaint.

(4) The Executive Authority of the HEI shall act on the recommendations of the committee within a period of thirty days from the receipt of the inquiry report, unless an appeal against the findings is filed within that time by either party.

(5) An appeal against the findings or recommendations of the ICC may be filed by either party before the Executive Authority of the HEI within a period of thirty days from the date of the recommendations.

(6) If the Executive Authority of the HEI decides not to act as per the recommendations of the ICC, then it shall record written reasons for the same to be conveyed to ICC and both the parties to the proceedings. If on the other hand it is decided to act as per the recommendations of the ICC, then a show cause notice, answerable within ten days, shall be served on the party against whom action is decided to be taken. The Executive Authority of the HEI shall proceed only after considering the reply or hearing the aggrieved person.

(7) The aggrieved party may seek conciliation in order to settle the matter. No monetary settlement should be made as a basis of conciliation. The HEI shall facilitate a conciliation process through ICC, as the

case may be, once it is sought. The resolution of the conflict to the full satisfaction of the aggrieved party wherever possible, is preferred to purely punitive intervention.

(8) The identities of the aggrieved party or victim or the witness or the offender shall not be made public or kept in the public domain especially during the process of the inquiry.

9. **Interim redressal-**The HEI may,

- (a) transfer the complainant or the respondent to another section or department to minimise the risks involved in contact or interaction, if such a recommendation is made by the ICC;
- (b) grant leave to the aggrieved with full protection of status and benefits for a period up to three months;
- (c) restrain the respondent from reporting on or evaluating the work or performance or tests or examinations of the complainant;
- (d) ensure that offenders are warned to keep a distance from the aggrieved, and wherever necessary, if there is a definite threat, restrain their entry into the campus;
- (e) take strict measures to provide a conducive environment of safety and protection to the complainant against retaliation and victimisation as a consequence of making a complaint of sexual harassment.

10. **Punishment and compensation-** (1) Anyone found guilty of sexual harassment shall be punished in accordance with the service rules of the HEI, if the offender is an employee.

(2) Where the respondent is a student, depending upon the severity of the offence, the HEI may,-

- (a) withhold privileges of the student such as access to the library, auditoria, halls of residence, transportation, scholarships, allowances, and identity card;
 - (b) suspend or restrict entry into the campus for a specific period;
 - (c) expel and strike off name from the rolls of the institution, including denial of readmission, if the offence so warrants;
 - (d) award reformatory punishments like mandatory counselling and, or, performance of community services.
- (3) The aggrieved person is entitled to the payment of compensation. The HEI shall issue direction for payment of the compensation recommended by the ICC and accepted by the Executive Authority, which shall be recovered from the offender. The compensation payable shall be determined on the basis of-
- (a) mental trauma, pain, suffering and distress caused to the aggrieved person;
 - (b) the loss of career opportunity due to the incident of sexual harassment;
 - (c) the medical expenses incurred by the victim for physical, psychiatric treatment;
 - (d) the income and status of the alleged perpetrator and victim; and
 - (e) the feasibility of such payment in lump sum or in instalments.

11. **Action against frivolous complaint.**—To ensure that the provisions for the protection of employees and students from sexual harassment do not get misused, provisions against false or malicious complaints have to be made and publicised within all HEIs. If the ICC concludes that the allegations made were false, malicious or the complaint was made knowing it to be untrue, or forged or misleading information has been provided during the inquiry, the complainant shall be liable to be punished as per the provisions of sub-regulations (1) of regulations 10, if the complainant happens to be an employee and as per sub-regulation (2)

of that regulation, if the complainant happens to be a student. However, the mere inability to substantiate a complaint or provide adequate proof will not attract attention against the complainant. Malicious intent on the part of the complainant shall not be established without an inquiry, in accordance with the procedure prescribed, conducted before any action is recommended.

12. Consequences of non-compliance.—(1) The Commission shall, in respect of any institution that willfully contravenes or repeatedly fails to comply with the obligations and duties laid out for the prevention, prohibition and redressal of sexual harassment of employees and students, take one or more of the following actions after providing due notice: -

- (a) withdrawal of declaration of fitness to receive grants under section 32B of the University Grants Commission Act, 1956;
- (b) removing the name of the university or college from the list maintained by the Commission under clause (f) of section 2 of said Act, 1956;
- (c) withholding any grant allocated to the institution;
- (d) declaring the institution ineligible for consideration for any assistance under any of the general or special assistance programmes of the Commission;
- (e) informing the general public, including potential candidates for employment or admission, through a notice displayed prominently in the newspapers or other suitable media and posted on the website of the Commission, declaring that the institution does not provide for a zero tolerance policy against sexual harassment;
- (f) recommending the affiliating university for withdrawal of affiliation, in case of a college;
- (g) recommending the Central Government for withdrawal of declaration as an institution deemed to be university, in case of an institution deemed to be university;
- (h) recommending the appropriate State Government for withdrawal of status as university in case of a university established or incorporated under a State Act;
- (i) taking such other action within its powers as it may deem fit and impose such other penalties as may be provided in the University Grants Commission Act, 1956 for such duration of time till the institution complies with the provisions of these regulations;
- (2) No action shall be taken by the Commission under these regulations unless the Institution has been given an opportunity to explain its position and an opportunity of being heard has been provided to it.

[Advt.-III/4/Exty./53]

JASPAL S. SANDHU, Secy, UGC



HANDBOOK

On

Sexual Harassment of Women at Workplace

[Prevention, Prohibition and Redressal] Act, 2013

for Employers / Institutions / Organisations/
Internal Complaints Committee / Local Complaints Committee



Government of India
Ministry of Women and Child Development

NOVEMBER 2015



HANDBOOK

on

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

for Employers / Institutions / Organisations/
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Government of India
Ministry of Women and Child Development

November 2015

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मेनका संजय गांधी
Maneka Sanjay Gandhi



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MESSAGE

With improved access to education and employment, millions of Indian women are entering the country's workforce today. Many working women face sexual harassment at the workplace on a daily basis. It is crucial therefore that as a country, we strive to eliminate work-place sexual harassment since women have the right to work in safe and secure environment. It is the responsibility of every employer to ensure safety of women in a work environment and improve their participation. This will contribute to realization of their right to gender equality and result in economic empowerment and inclusive growth and benefit the nation as a whole.

I am pleased to present this Handbook on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. It provides key information about the provisions of the Act in an easy-to-use and practical manner. The Handbook has been developed with the aim to ensure that the citizens of India are aware of their rights and obligations in terms of creating safe workplace environment for women.

Government of India is committed to promote gender equality and women's empowerment across every sector. This Handbook reflects our commitment to empower women as economic agents and improve their ability to access markets on competitive and equitable terms. I am confident that this Handbook which advocates and enforces the rules as laid out in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, will be beneficial to everyone. The practical and user-friendly procedures outlined in the Handbook will be useful for actual implementation of the Act.

Maneka Sanjay Gandhi
[Smt. Maneka Sanjay Gandhi]

V. Somasundaran



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Secretary
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18th November 2015


FOREWORD

I am pleased to share with you this Handbook on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. This Handbook is of immense importance because combating sexual harassment involves developing deeper understanding of what is sexual harassment and change of attitudes in all - be it employer, employees, colleagues, friends, or the policy makers.

Sexual Harassment at workplace is an extension of violence in everyday life and is discriminatory and exploitative, as it affects women's right to life and livelihood. In India, for the first time in 1997, a petition was filed in the Supreme Court to enforce the fundamental rights of working women, after the brutal gang rape of Bhanwari Devi a social worker from Rajasthan. As an outcome of the landmark judgment of the Vishaka and Others v State of Rajasthan the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, was enacted wherein it was made mandatory for every employer to provide a mechanism to redress grievances pertaining to workplace sexual harassment and enforce the right to gender equality of working women. The Act is also unique for its wide ambit as it is applicable to the organized sector as well as the unorganized sector.

The legislation, however, requires the support and commitment of all stakeholders for its effective and successful implementation in preventing workplace sexual harassment. It casts an obligation upon the employer to address the grievances in respect of sexual harassment at workplace in a time bound manner. It is in this context that this Handbook would be very useful as it provides clear definition of what constitutes sexual harassment and explains how the complaint process works.

I am sure that the Handbook will be extremely useful to all agencies concerned and help them in taking pro-active measures to eradicate the problem/tolerance of workplace sexual harassment in the country.


(V. Somasundaran)

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Dated: 17th November, 2015

PREFACE

The Government of India is committed to ending all forms of violence against women that negatively impact society, hamper gender equality and constricts the social and economic development of the country.

Since, sexual harassment results in violation of the fundamental rights of a woman to equality as per Articles 14 and 15 and her right to live with dignity as mentioned under Article 21 of the Constitution, the Government of India enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The Act is an extension of the Vishaka Guidelines issued by the Supreme Court in 1997. The Supreme Court of India, for the first time in the Vishaka Guidelines, acknowledged Sexual Harassment at the workplace as a human rights violation. Further, the Act also reflects the commitment of the Government to the ratification of the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) on July 09, 1993. This new legislation makes every effort to be a user friendly tool in the hands of the employers and employees, to create safe and secure workplaces for all women.

With the enactment of the Act, India is now a part of a select group of countries to have prohibited sexual harassment at workplace through national legislation. The Act is unique in its broad coverage which includes all working women from organised and unorganised sectors alike, as also public and private sectors, regardless of hierarchy. Effective implementation of the Act is a challenge. The Handbook is designed to be a Ready Reckoner for organisations vested with responsibility to enforce the law.

The Handbook is structured into six sections. The first section is an introduction and detail regarding the genesis of the Act, the second sets the context by defining the workplace and sexual harassment and impact of such behaviour, the third focuses on the key individuals and institutions involved in prohibition and prevention processes and their responsibilities, section four discusses the redressal mechanism followed by monitoring requirement in section five and important international frameworks and best practices on sexual harassment at the workplace in the concluding section.

It is the hope of the Ministry that this Handbook will be of considerable value for employers, employees and complaint committees alike, as it provides guidance with regard to the steps to be taken and the processes to be followed, in line with the requirements of the law. It will prove useful to all women workers particularly and be a step forward in promoting their independence as well as the right to work with dignity as equal partners in an environment that is free from violence.

[Signature]
(Prof. S. Sudan)



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ACKNOWLEDGEMENTS


In our journey towards preparing this Handbook, which required a lot of guidance and assistance from many people, whose names may not be enumerated, I am thankful to all of them for their contributions towards the completion of the task.

I would like to express my sincere thanks to the UN Women (United Nations Entity for Gender Equality and Empowerment of Women) for their valuable contributions with their experience in women's movement and expertise in gender rights in supporting the Ministry to prepare the Handbook with key information on the Act in an easy-to-use practical manner and designing with appropriate illustrations.

I would like acknowledge the important contributions made by Ms. Risha Syed, Legal Consultant for the hardwork put by her coupled with her experience and expertise as a legal professional and commitment to gender issues in bringing out the Handbook.

I am also thankful to Dr. Paramita Majumdar, Senior Consultant, Gender Budgeting for reviewing the manuscript with meticulous scrutiny and scholarly advice. I would like to mention with appreciation for Shri Samuel Paul, Assistant Secretary for showing not only his keen interest on the subject, but assisting us in the review work.

We hope that this Handbook will be a guide and inspiration to all of us in creating an enabling environment of women in the workplaces.


(Lopamudra Mohanty)

"The meaning and content of the fundamental rights guaranteed in the Constitution of India are of sufficient amplitudes to encompass all facets of gender equality."

Late Chief Justice J.S. Verma, Supreme Court of India, Vishaka v. State of Rajasthan



Introduction

"Whereas sexual harassment results in violation of the fundamental rights of a Woman to equality...."

[Preamble, Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act]

A s enshrined in the Preamble to the Constitution of India, "equality of status and opportunity" must be secured for all its citizens; equality of every person under the law is guaranteed by Article 14 of the Constitution.

A safe workplace is therefore a woman's legal right. Indeed, the Constitutional doctrine of equality and personal liberty is contained in Articles 14, 15 and 21 of the Indian Constitution. These articles ensure a person's right to equal protection under the law, to live a life free from discrimination on any ground and to protection of life and personal liberty. This is further reinforced by the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which was adopted by the UN General Assembly in 1979 and which is ratified by India. Often described as an international bill of rights for women, it calls for the equality of women and men in terms of human rights and fundamental freedoms in the political, economic, social, cultural and civil spheres. It underlines that discrimination and attacks on women's dignity violate the principle of equality of rights.

Sexual harassment constitutes a gross violation of women's right to equality and dignity. It has its roots in patriarchy and its attendant perception that men are superior to women and that some forms of violence against women are acceptable. One of these is workplace sexual harassment, which views various forms of such harassment as harmless and trivial. Often, it is excused as 'natural' male behaviour or 'harmless flirtation' which women enjoy. Contrary to these perceptions, it causes serious harm and is also a strong manifestation of sex discrimination at the workplace. Not only is it an infringement of the fundamental rights of a woman, under Article 19 (1) (g) of the Constitution of India "to practice any profession or to carry out any occupation, trade or business"; it erodes equality and puts the dignity and the physical and psychological well-being of workers at risk. This leads to poor productivity and a negative impact on lives and livelihoods. To further compound the matter, deep-rooted socio-cultural behavioural patterns, which create a gender hierarchy, tend to place responsibility on the victim, thereby increasing inequality in the workplace and in the society at large.



Though sexual harassment at the workplace has assumed serious proportions, women do not report the matter to the concerned authorities in most cases due to fear of reprisal from the harasser, losing one's livelihood, being stigmatized, or losing professional standing and personal reputation.

Across the globe today, workplace sexual harassment is increasingly understood as a violation of women's rights and a form of violence against women. Indeed, the social construct of male privileges in society continues to be used to justify violence against women in the private and public sphere. In essence, sexual harassment is a mirror reflecting male power over women that sustains patriarchal relations. In a society where violence against women, both subtle and direct, is borne out of the patriarchal values, women are forced to conform to traditional gender roles. These patriarchal values and attitudes of both women and men pose the greatest challenge in resolution and prevention of sexual harassment. Workplace sexual harassment, like other forms of violence, is not harmless. It involves serious health, human, economic and social costs, which manifests themselves in the overall development indices of a nation.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was enacted to ensure safe working spaces for women and to build enabling work environments that respect women's right to equality of status and opportunity. An effective implementation of the Act will contribute to the realization of their right to gender equality, life and liberty, equality in working conditions everywhere. The sense of security at the workplace will improve women's participation in work, resulting in their economic empowerment and inclusive growth.

The full scale of the problem is not known given the difficulties in documenting the experience of those who have experienced workplace sexual harassment. However, available studies on sexual harassment show that it is certainly prevalent in India today. This is why the legislation is an important step forward within the larger architecture of women's rights, as it tackles this issue to secure the rights of women workers across the country.

While the official figures for women's work participation are low, much of the work that women do is not captured in official data accounts. It is argued¹ that where this is to be captured, women's overall work participation would be 86.2 per cent. While the official data² shows that women's work participation rate is around 25.3 per cent in rural areas and 14.7 per cent in the urban areas, estimates indicate that there is a huge workforce of women, therefore there is a need to secure their workplace and entitlements. Given that 93 per cent of women workers are employed in the informal sector, they remain unprotected by laws. With no laws or mechanisms to protect them, proactive measures are required to make their workplaces safe.

¹ Professor Jayati Ghosh, Paper on 'What Exactly is Work?' http://www.macroscan.org/cur/oct14/pdf/Exactly_Work.pdf

² NSSO 2011-12



In a landmark judgment, *Vishaka vs. State of Rajasthan* (1997)¹, the Supreme Court of India created legally binding guidelines basing it on the right to equality and dignity accorded under the Indian Constitution as well as by the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

It included:

- A definition of sexual harassment
- Shifting accountability from individuals to institutions
- Prioritizing prevention
- Provision of an innovative redress mechanism

The Supreme Court defined sexual harassment as any unwelcome, sexually determined physical, verbal, or non-verbal conduct. Examples included sexually suggestive remarks about women, demands for sexual favours, and sexually offensive visuals in the workplace. The definition also covered situations where a woman could be disadvantaged in her workplace as a result of threats relating to employment decisions that could negatively affect her working life.

It placed responsibility on employers to ensure that women did not face a hostile environment, and prohibited intimidation or victimization of those cooperating with an inquiry, including the affected complainant as well as witnesses.

It directed for the establishment of redressal mechanism in the form of Complaints Committee, which will look into the matters of sexual harassment of women at workplace. The Complaints Committees were mandated to be headed by a woman employee, with not less than half of its members being women and provided for the involvement of a third party person/NGO expert on the issue, to prevent any undue pressure on the complainant. The guidelines extended to all kinds of employment, from paid to voluntary, across the public and private sectors.

Vishaka established that international standards/law could serve to expand the scope of India's Constitutional guarantees and fill in the gaps wherever they exist. India's innovative history in tackling workplace sexual harassment beginning with the *Vishaka* Guidelines and subsequent legislation has given critical visibility to the issue. Workplaces must now own their responsibility within this context and ensure that women can work in safe and secure spaces.

1.3 THE ACT

Having raised the bar of responsibility and accountability in the *Vishaka* Guidelines, the Supreme Court placed an obligation on workplaces, institutions and those in positions of responsibility, to uphold working women's fundamental right to equality and dignity at the workplace. Three key obligations were imposed on institutions to meet that standard, namely:

¹ (AIR 1997 Supreme Court 3011)



Section 2 sets the context by defining a workplace and sexual harassment. It provides the reader with key elements, such as examples of sexual harassment as well as scenarios and the impact of such behaviour.

Section 3 focuses on the key individuals and institutions involved in the prohibition and prevention processes and their responsibilities.

Section 4 is about redress. This section identifies and defines the key players involved in the complaint mechanism (including the complainant and the respondent). It details the stages of the complaint process. Particular attention is paid to the complaints committee which plays a very important role in this process.

Section 5 describes the monitoring requirements as per the Act.

Section 6 lists the important international frameworks and select best practices on sexual harassment at the workplace.



2.2 WHAT IS A WORKPLACE?

A workplace is defined as "any place visited by the employee arising out of or during the course of employment, including transportation provided by the employer for undertaking such a journey."

As per this definition, a workplace covers both the organised and un-organised sectors.

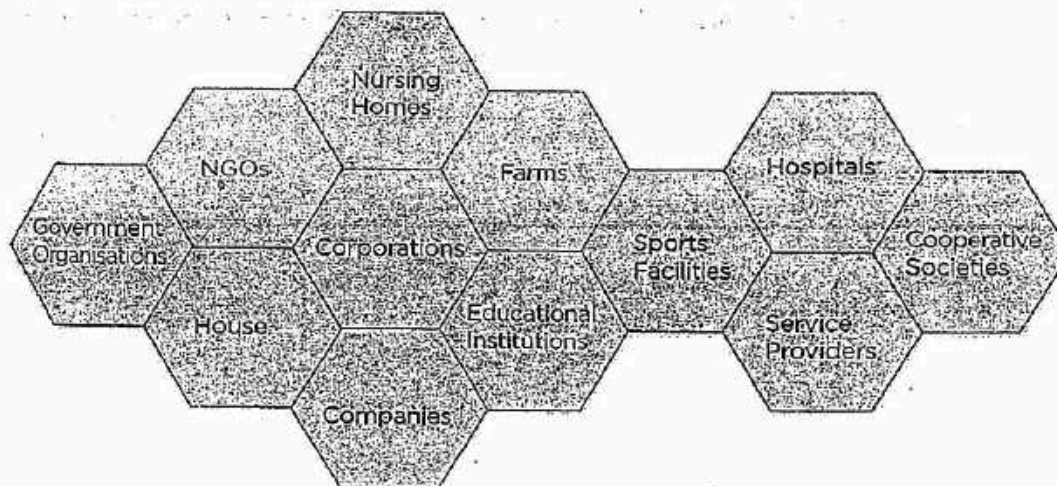
It also includes all workplaces whether owned by Indian or foreign company having a place of work in India. As per the Act, workplace includes:

- Government organizations, including Government company, corporations and cooperative societies;
- Private sector organisations, venture, society, trust, NGO or service providers etc. providing services which are commercial, vocational, educational, sports, professional, entertainment, industrial, health related or financial activities, including production, supply, sale, distribution or service;
- Hospitals/Nursing Homes;
- Sports Institutes/Facilities;
- Places visited by the employee (including while on travel) including transportation provided by employer;
- A dwelling place or house.

The Act defines the Unorganised Sector as:

- Any enterprise owned by an individual or self-employed workers engaged in the production or sale of goods or providing services of any kind;
- Any enterprise which employs less than 10 workers.

All women working or visiting workplaces, for example:

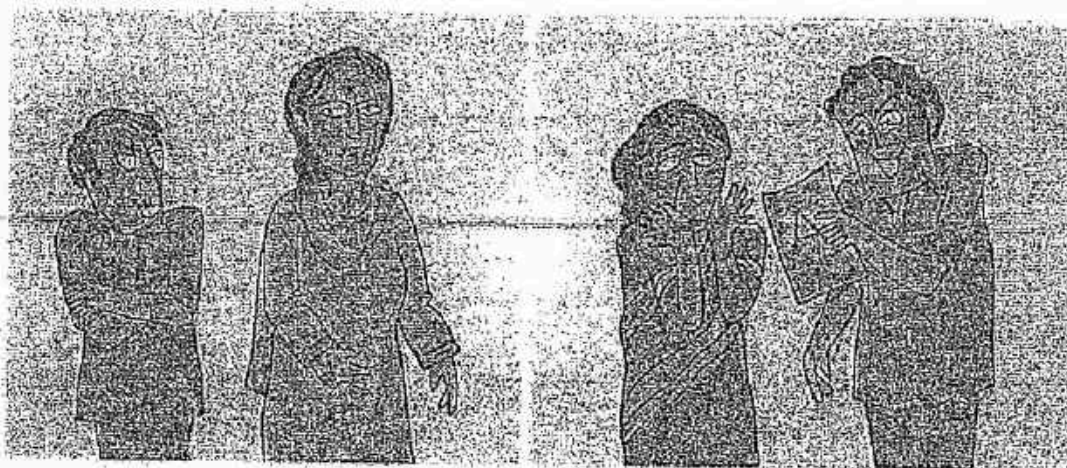




UNWELCOME	WELCOME
Feels bad	Feels good
One-sided	Reciprocal
Feels powerless	In control
Power-based	Equality
Unwanted	Wanted
Illegal	Legal
Invading	Open
Demearing	Appreciative
Causes anger/sadness	Happy
Causes negative self-esteem	Positive self-esteem

Impact of inappropriate behaviour

The impact of sexual harassment at the workplace is far-reaching and is an injury to the equal right of women. Not only does it impact her, it has a direct bearing on the workplace productivity as well as the development of the society. Below is a list of select examples of such negative impacts.





3. The normal exercise of management rights.
4. Work-related stress e.g. meeting deadlines or quality standards.
5. Conditions of works.
6. Constructive feedback about the work mistake and not the person.

2.6 FORMS OF WORKPLACE SEXUAL HARASSMENT

Generally workplace sexual harassment refers to two common forms of *inappropriate behaviour*:

- Quid Pro Quo (literally 'this for that')
 - Implied or explicit promise of preferential/detrimental treatment in employment
 - Implied or express threat about her present or future employment status
- Hostile Work Environment
 - Creating a hostile, intimidating or an offensive work environment
 - Humiliating treatment likely to affect her health or safety

2.7 SCENARIOS

The following scenarios have been constructed as examples based on real-life experiences of women at workplaces. The scenarios attempt to build an understanding of the two types of workplace sexual harassment as prescribed by the Act i.e. quid pro quo and hostile environment.

The names in the following examples are fictional and in no way refer to any individual alive or dead.

A. Examples of scenarios that constitute quid pro quo or 'this for that' type of sexual harassment at the workplace:

SCENARIO EXAMPLE 1

Kamini is a bright young team leader working in a call centre. Known to be forthright, she is dedicated, hardworking and is a perfectionist.

Kamini stays back at work late one evening with her colleague Ravi to complete work for an important presentation. Ravi offers to buy Kamini dinner and later drop her home since it's been a long day. After dinner, Ravi proposes to Kamini that he would like her to spend the night with him. Kamini refuses politely but firmly and goes home. Next evening, Ravi repeats his request and on Kamini's refusal, threatens her that *if she doesn't give in, he will tell everyone that she made a pass at him.*

What is Workplace 'this for that' Sexual Harassment?

In the above example, Ravi's threat to Kamini that if she does not agree to his 'request' for a sexual favour, he will in return smear her character at the workplace as a person who wants to use sexual



Varghese, Jayanthi's supervisor, often tries to touch her on one or the other pretext. For example, he adjusts her dupatta while she is sewing at her workstation on the pretext of covering her back. Jayanthi is very uncomfortable with his behaviour. Her colleagues at the workplace ridicule Jayanthi and mock her for the 'special treatment' by her supervisor. They often gossip about her and Varghese.



What is a Hostile Workplace Environment Sexual Harassment?

In the above example, the physical touching by Varghese is unwelcome and sexual in nature. The gossip, which is based on Varghese's behaviour towards Jayanthi at the workplace, is creating a hostile work environment for Jayanthi.

SCENARIO EXAMPLE 2

Sukhi is a daily wage labourer working at a construction site. Every day at lunch time, Sukhi sits under the shade of the tree to feed her 16-month old baby. She finds Jaswinder, a worker, staring at her from the distance. Sukhi feels uncomfortable and asks Jaswinder to stay away from her while she's feeding the baby. However, Jaswinder persists and always finds a place near her. The group of fellow construction workers now constantly catcall and whistle at Sukhi every time she walks their way to refill the cement or mortar. When she questions them, they tell her they are only joking amongst themselves.

What is a Hostile Workplace Environment Sexual Harassment?

Ogling, stalking and gossiping against Sukhi in the above example constitute a hostile work environment, a form of workplace sexual harassment.

SCENARIO EXAMPLE 3

Sumedha is a Captain with the Indian Army. She has refused an offer made by a Senior Officer for a relationship. Sumedha has kept quiet about this experience, but thanks to the rumour-mongering by the Senior Officer, she has acquired a reputation of being a woman of 'easy virtue'. Now she is being subjected to repeated advances by three of her senior officer colleagues. When she turns around and protests, she is singled out for additional physical training.

What is a Hostile Workplace Environment Sexual Harassment?

In the above example, Sumedha's refusal to the sexual advances of her Senior Officer, leads to her being subjected to rumours, gossip, character assassination, unwelcome sexual advances by other officers, and arbitrary disciplinary action. This constitutes Hostile Work Environment form of workplace Sexual Harassment.

Prevention and Prohibition

"The meaning and content of fundamental rights guaranteed in the Constitution of India are of sufficient amplitudes to encompass all facets of gender equality..."

Late Justice J.S. Verma

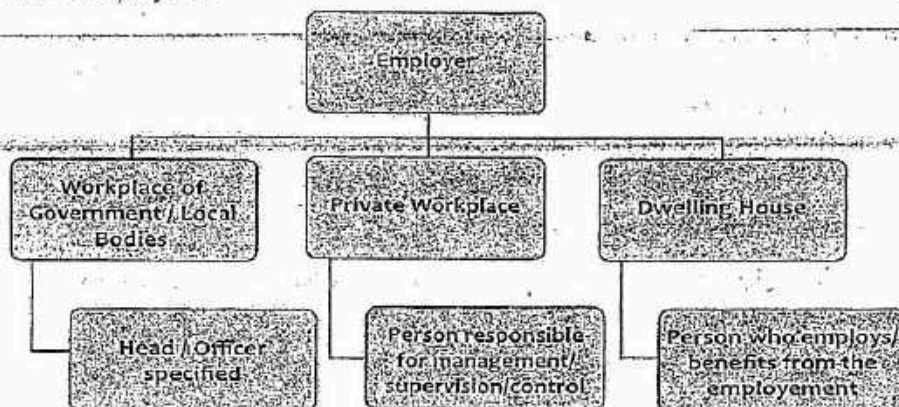
This section describes those who are both responsible and accountable to prevent workplace sexual harassment in compliance with the Act. It also highlights the role of workplaces in prohibiting workplace sexual harassment through an effectively communicated policy.

3.1 PREVENTIVE AUTHORITIES

3.1.1 WHO IS AN EMPLOYER?

An employer refers to:

1. The head of the department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the Appropriate Government or local authority or such officer specified in this behalf.
2. Any person (whether contractual or not) responsible for the management, supervision and control of a designated workplace not covered under clause (1).
3. A person or a household who employs or benefits from the employment of domestic worker or women employees.





No.	Member	Eligibility
1.	Chair person	Women working at senior level as employee; if not available then nominated from other office/units/ department/ workplace of the same employer.
2.	2 Members (minimum)	From amongst employees committed to the cause of women/ having legal knowledge/experience in social work.
3.	Member	From amongst NCO/associations committed to the cause of women or a person familiar with the issue of Sexual Harassment.

Where the office or administrative units of a workplace are located in different places, division or sub-division, an ICC has to be set up at every administrative unit and office.

ICC/LCC ARE MANDATORY

The employee who had a fundamental right to a workplace free of sexual harassment, had complained about sexual harassment. According to the Court, had the organisation complied with the Vishaka Guidelines and set up such a Complaints Committee, the preventative benefit would have been three-fold:

1. Ensured a place where women employees could seek redress;
2. Sent a clear message to the workplace that such complaints would be enquired into by a specially designated committee with external expertise;
3. Prevented a series of litigation that followed.

Hence, the Madras High Court awarded RS.1.68 crores in damages to an employee for the non-constitution of a Complaints Committee by the employer, as per the Vishaka Guidelines (at the time of the complaint, the Sexual Harassment of Women at Workplace Act 2013 had not been enacted).

Ms. G.V. ISO Novasoft Technologies Ltd. Madras High Court (Cr.P.C.No.379 of 2014 order dated 02/09/2014. Original Petition No.453 of 2012)

2) Local Complaints Committee (LCC)

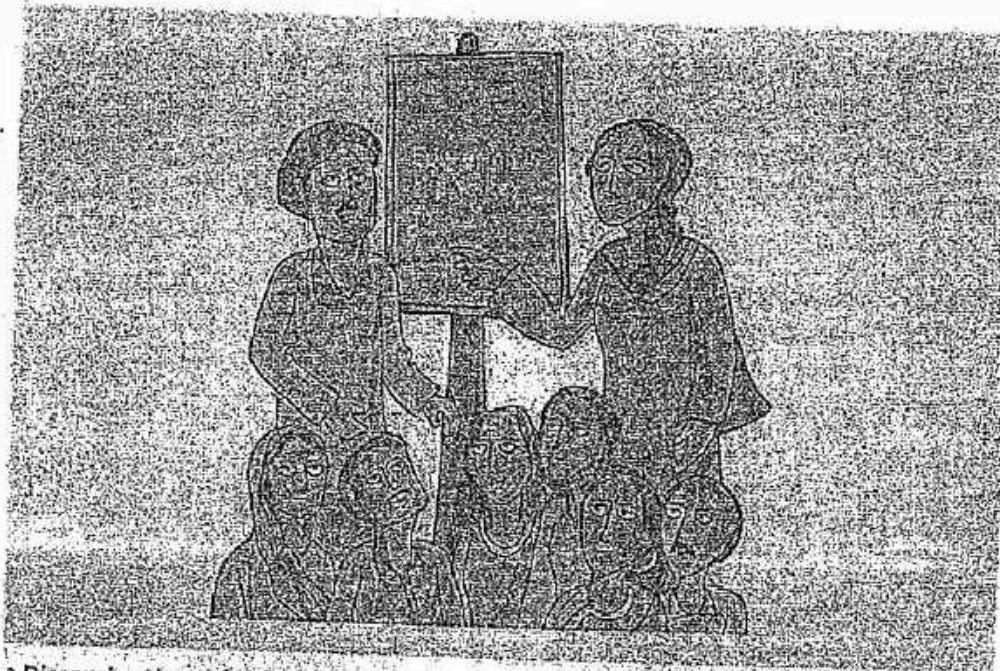
The District Officer will constitute an LCC in every district so as to enable women in the unorganised sector or small establishments to work in an environment free of sexual harassment. The LCC will receive complaints:

1. From women working in an organisation having less than 10 workers;
2. When the complaint is against the employer himself;
3. From domestic workers.



3.2.2 Sexual Harassment at Workplace Policy

Employers/District Officers are responsible for complying with prohibition, prevention and redress of workplace sexual harassment. In practice, this means having a policy that: (1) prohibits unwelcome behaviour that constitutes workplace sexual harassment; (2) champions prevention of workplace sexual harassment through orientation, awareness and sensitization sessions; and (3) provides a detailed framework for redress.



3.2.3 Dissemination of Information and Awareness Generation

Employers/ District Officers have a legal responsibility to:

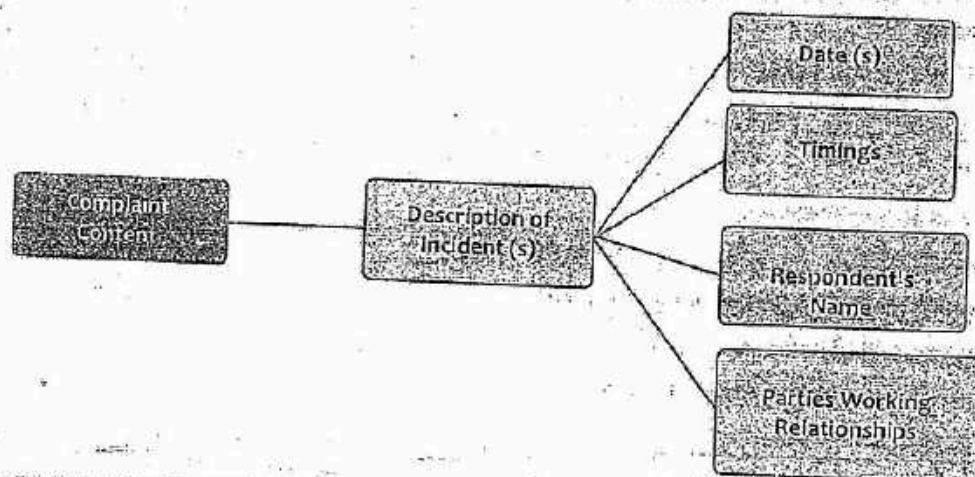
1. Effectively communicate a policy that prohibits unwelcome behaviour that constitutes workplace sexual harassment, and provides a detailed framework for prevention and redress processes.
2. Carry out awareness and orientation for all employees.
3. Create forums for dialogue i.e. Panchayati Raj Institutions, Gram Sabhas, Women's Groups, Urban Local Bodies or like bodies, as appropriate.
4. Ensure capacity and skill building of Complaints Committees.
5. Widely publicize names and contact details of Complaints Committee members.



Generally, where there are less than ten workers, any woman employee can complain to the Local Complaints Committee with the support of the Nodal Officer, when required. It is the responsibility of the District Officer to designate a person as the Nodal Officer in every block, taluka and tehsil in rural or tribal areas and wards or municipalities in the urban areas, to receive the complaints of workplace sexual harassment from women. The Nodal Officer will forward all such complaints within seven days of its receipt to the concerned Complaints Committee for appropriate action. In most other workplaces, a woman employee can make a complaint to the Internal Complaints Committee.

4.2 WHAT SHOULD THE COMPLAINT CONTAIN?

The written complaint should contain a description of each incident(s). It should include relevant dates, timings and locations; name of the respondent(s); and the working relationship between the parties. A person designated to manage the workplace sexual harassment complaint is required to provide assistance in writing of the complaint if the complainant seeks it for any reason.



4.3 WHAT CAN AN EMPLOYEE/WORKER EXPECT?

When it comes to redress for workplace sexual harassment, employee/worker has a right to expect a trained, skilled and competent Complaints Committee, a time bound process, information confidentiality, assurance of non-retaliation, counselling or other enabling support where needed and assistance if the complainant opts for criminal proceedings.

4.3 A. RIGHTS OF THE COMPLAINANT

- An empathetic attitude from the Complaints Committee so that she can state her grievance in a fearless environment
- A copy of the statement along with all the evidence and a list of witnesses submitted by the respondent



A Complaints Committee/s is required to be trained in both skill and capacity to carry out a fair and informed inquiry into a complaint of workplace sexual harassment. An absence of such training will lead to unequal and unfair results, which can cost employers, employees, complainants as well as respondents.

FAIR AND INFORMED INQUIRY

Within 6 months of joining The Statesman newspaper, Rina Mukherjee lost her job. While the company alleged that her work was 'lardy' and 'lacking in quality', it suppressed Rina's complaint of sexual harassment against the news coordinator, Ishan Joshi. Within her first month of work, Rina had taken her complaint directly to the Managing Director, Ravinder Kumar. Time passed, nothing happened and Rina was fired. In a rare display of social context insight and clarity, the Industrial Tribunal (West Bengal) rejected the Statesman's claim that Rina only referred to 'professional' harassment in her complaint to Mr. Kumar. In the Tribunal's view, Mr. Kumar's failure to dig deeper was clearly suspect. "It becomes clear that there was no Committee on Sexual Harassment, as per the Hon'ble Supreme Court's direction in Vishaka Vs State of Rajasthan, existing in The Statesman, at that relevant time. ...to expect the lady workman to file a written complaint and not to believe the same, when it has been filed at a later date, is sheer bias." The Statesman was ordered to reinstate Rina and grant her full back wages.

M/s The Statesman Ltd. and Smt. Rina Mukherjee, Order of K.K. Kumal, Judge, dated 06-02-2013, Fourth Industrial Labour Tribunal (West Bengal).

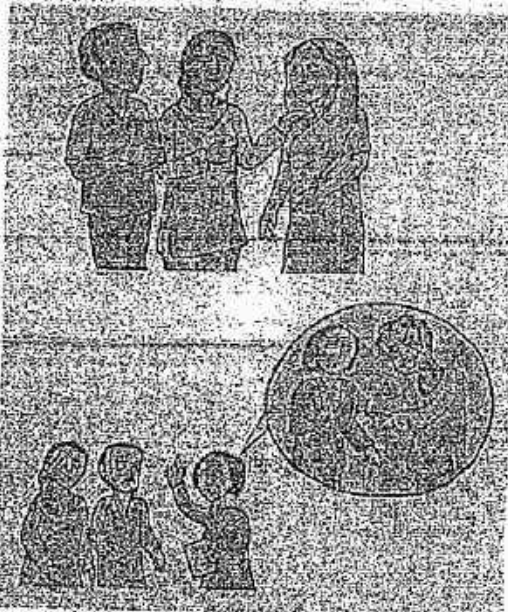
4.6 DO'S AND DON'TS FOR COMPLAINTS COMMITTEE

DO'S

1. Create an enabling meeting environment.
2. Use body language that communicates complete attention to the parties.
3. Treat the complainant with respect.
4. Discard pre-determined ideas.
5. Determine the harm.

DON'TS

1. Get aggressive.
2. Insist on a graphic description of the sexual harassment.
3. Interrupt.
4. Discuss the complaint in the presence of the complainant or the respondent.





Upon receipt, the complaint should be reviewed for:

1. In the context of workplace that the sexual harassment complaint is to be met with under the Act, such as, Service Rules, Workplace Policy, Vishaka Guidelines and related laws.
2. Clarity in the complaint.
3. Additional information needed from the complainant.

The complainant will be notified in writing to acknowledge receipt.

Elements of the Behaviour

The complaint needs to satisfy the following elements:

- 1 The respondent displayed a potentially improper and/or offensive conduct which may come within workplace sexual harassment;
- 2 The behaviour was directed at the complainant;
- 3 The complainant experienced harm.
- 4 The behavior occurred in the workplace or at any location/any event related to work.

Step 2: Meet and Talk to the Complainant to Explore Options for Formal and Informal Resolution

The complainant needs to be informed about the ensuing process and the informal or formal options available for the redress.

Step 3: Informal Mechanism

If the complainant chooses to adopt the informal process to resolve her complaint/experience of workplace sexual harassment, then it is the responsibility of the person designated to receive and manage the Complaints Committee to explore enabling ways to address the complaint. This can include counselling, educating, orienting, or warning the respondent to promptly stop the unwelcome behaviour or appointing a neutral person to act as a conciliator between the parties to resolve the complaint through conciliation.

However, before recommending conciliation, the Committee must assess the severity of the situation and if necessary, advise and enable the complainant to opt for the formal route. At no point, the Complaints Committee will advise the complainant to resolve the matter directly with the respondent. Where such an informal process is successful, such resolution is to be recorded by the conciliator and forwarded to the ICC/LCC who in turn will forward the same to the employer/District Officer for further action based on the resolution. Employers/District Officers are responsible for taking steps to ensure that the complainant is not subject to any backlash.

The choice of a formal process rests with the complainant even if the person responsible for managing the complaint believes that this can be resolved through an informal process.

Step 4: Formal Mechanism

1. If the complainant opts for formal redress, or the nature of the complaint is serious which calls for formal redress, then the Complaints Committee responds to the complaint.



5. Act Quickly

Create a plan. This can be used as an initial checklist to ensure that all of the critical elements are covered. It includes:

- a. The names of the parties and witnesses to be interviewed
- b. Any documentary support that needs to be examined
- c. Timeline

Preparing the Plan - Key Elements to Consider

1. Defining the Issues
 - What is the complaint?
 - Questions or points that require clarification
2. Determining a violation of the Policy/Act
 - What information is needed to determine that there has been a violation?
3. Logistics
 - Venue for conducting the interviews. Are special logistics required?
 - Creating timelines for each
4. Critical Information
 - What documents need to be looked at?
 - Witnesses to be questioned and in what order?
5. Areas of Questioning
 - Questions for each specific incident and party/witness
 - Questions for each particular issue
 - Issues likely to require follow-up

Step 7: Consideration

1. Interim Measures

While a complaint is pending inquiry, a complainant can make a written request for her transfer or the transfer of the respondent, or for leave (upto 3 months). She can also request the Complaints Committee to restrain the respondent from reporting on her work performance or writing her confidential report or supervising her academic activities (in case she is in educational institution). Even in the absence of such a request, the Complaints Committee must take corrective action. It is essential to take these actions in order to prevent potential ongoing sexual harassment.



Step 9: Assess the Completeness of the Information Collected

At this stage, the Complaints Committee should review the information gathered and their factual relevance to each aspect of the complaint. This will help determine whether there is enough information to make a finding on the complaint.

STAGE FOUR: REASONING

Step 10: Once the information and review is complete, the Complaints Committee will make its reasoned finding(s), which involves having to:-

- Identify the substance of each aspect of the complaint.
- Determine, whether or not, on a balance of probability, the unwelcome sexual harassment took place.
- Check that such behaviour/conduct falls within the definition of sexual harassment set out in the relevant Act/Rules, Policy, Service Rules or law.
- Comment on any underlying factor(s) that may have contributed to the incident.

Step 11: Create a timeline to help establish the sequence of events related to the complaint.

Step 12: Compare similarities and differences within each of the statements made by the interviewees.

STAGE FIVE: FINDING AND RECOMMENDATION

Step 13: Finding

Based on the above, the Complaints Committee must arrive at a finding of whether the complaint is upheld, not upheld or inconclusive.

Provided, where both the parties are employees, before finalising the findings, the ICC/LCC shall share its finding with both the parties and provide them an opportunity to make representation against it before the Committee.

Step 14: Recommendations

Based on its findings, the Complaints Committee shall then make appropriate recommendations which may include:

1. Where the Complaints Committee is unable to uphold the complaint, it shall recommend no action.
2. Where the Complaints Committee upholds the Complaint, it may recommend such action as stated within the relevant Policy or Service Rules, which may include a warning to terminate.



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Given that most workspaces today are gender unequal and male-dominated, it is important that complaints by women be treated fairly and not dismissed. The mere inability to substantiate a complaint or provide adequate proof will not attract legal action against the complainant. However, making a false or malicious complaint or producing a forged or misleading document is an offence.

4.9 AT A GLANCE

1) Complaints Committee's Checklist

- Review the written complaints and response to complaints.
- Review the applicable policy, the Act/Rules, Vishaka Guidelines and other relevant laws.
- Develop a plan.
- Meet with the complainant.
- Meet with the respondent.
- Meet with the witnesses.
- Record statements and have them dated and signed.
- Review and adapt the plan, as needed.
- Proceed with further interviews, as needed.
- Analyze all the facts to develop reasoning.
- Arrive at the findings.
- Give recommendations.
- Prepare the report.
- Submit the file to the organization or District Officer for implementation of the recommendations and for safe keeping.



2) Timelines as per the Act

Submission of Complaint	Within 3 months of the last incident
Notice to the Respondent	Within 7 days of receiving copy of the complaint
Completion of Inquiry	Within 90 days
Submission of Report by ICC/LCC to employer/DO	Within 10 days of completion of the inquiry
Implementation of Recommendations	Within 60 days
Appeal	Within 90 days of the recommendations

3) Confidentiality

The Act prohibits the publication or making known the contents of a complaint and the inquiry proceedings. Any breach of confidentiality will result in specific consequences.

The Act prohibits the disclosure of:

- Contents of the complaint;
- Identity and address of complainant, respondent and witnesses; Information pertaining to conciliatory/inquiry proceedings or recommendations of the ICC/LCC;
- Action taken by the employer/DO.

Accountability: Any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action taken under the provisions of this Act.

Consequences: As per the Service Rules or Rs.5,000/- to be collected by the employer.

Exception: Dissemination of information regarding the justice secured without disclosure of name, address, identity and particulars of complainant or witnesses.

Section 4 completes the details of the Complaints Committee process in addressing formal complaints. It serves as a guideline to action in providing appropriate redress. The manner in which a complaint is addressed will make all the difference to the equal rights of working women as well as the kind of workplace culture being promoted.



The District Officer will forward a brief report on the annual reports to the appropriate State Government. Such reports must include the following information:

- a. No. of complaints received;
- b. No. of complaints disposed of;
- c. No. of cases pending for more than 90 days;
- d. No. of workshops/awareness programmes carried out;
- e. Nature of action taken by the employer/DO;

The Report of ICC will be forwarded to the DO through the employer.

5.3 Penalties

An employer can be subjected to a penalty of up to INR 50,000 for:

- Failure to constitute Internal Complaints Committee;
- Failure to act upon recommendations of the Complaints Committee; or
- Failure to file an annual report to the District Officer where required; or
- Contravening or attempting to contravene or abetting contravention of the Act or Rules.

Where an employer repeats a breach under the Act, they shall be subject to:

- Twice the punishment or higher punishment if prescribed under any other law for the same offence.
- Cancellation/Withdrawal/Non-renewal of registration/license required for carrying on business or activities.

Monitoring is a critical yardstick to measure success in terms of compliance with the Act. Additionally, it highlights those areas, in terms of law and practice, which may require improvement and/or additional information and guidance at both the State as well as the workplace levels.



1. Make sure there is a policy that has been "effectively" communicated to all workers, irrespective of whether they are paid or volunteers.
2. Display details of both informal and formal ways available to a worker to address/complain about workplace sexual harassment.
3. Undertake orientation on workplace sexual harassment for all workers in respective organizations, establishments or institutions.
4. A Complaints Committee which is trained in terms of skill and capacity is critical for building trust.
5. Encourage senior persons/leaders/supervisors or any person who can influence employment-related decisions, to become role models.
6. Men and women should be included in building a culture which no longer tolerates workplace sexual harassment.

Legally, workplace sexual harassment can no longer be dismissed as some moral transgression. The Vishaka Guidelines raised that bar, when for the first time it recognized "each incident of sexual harassment" as a violation of the fundamental right to equality. That notion has found its way into the Act, which promotes the right of women as citizens to a workplace free of sexual harassment. Complaints Committees at all workplaces are now charged with the role to ensure that the right remains intact, through a fair, informed, user-friendly process of redress.

Prioritising prevention and establishing a redress mechanism, which comprises of 50 per cent women, a woman chair and an external third party expert, is India's innovative model in responding to working women's experience of sexual harassment. Assuming adequate changes follow, in both law and practice to meet global benchmarks, that model can evolve into an exemplary best practice. To get there, workplaces in India today, must rise to the requirement of promoting gender equality.

¹ General Recommendation 12 of 1989, Committee on the Elimination of All Forms of Discrimination against Women.

² General Recommendation 19 of 1992, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

³ Ibid.

⁴ Article 3, Declaration on the Elimination of Violence against Women, 1993.

⁵ The Beijing Platform of Action drawn at the United Nations' Women's Conference in Beijing in 1995.

⁶ United Nations UN Division for the Advancement of Women Handbook for Legislation on Violence Against Women (UN Handbook).

⁷ <http://www.un.org/womenwatch/daw/vasw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf>

⁸ Article 5, ILO Decent Work for Domestic Workers Convention, 2011 (No. 189).

DEPARTMENT OF TECHNICAL EDUCATION

From

The Commissioner of Technical
Education(FAC),
Directorate of Technical Education,
Guindy,
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To

The Principal,
All Government / Government /
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Colleges and Polytechnic Colleges,
Tamil Nadu.

Letter No.25213/H5/2018, Dated 03.07.2018.

Sir,

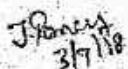
Sub: Technical Education - Guidelines for prevention and
redressal of harassment in the Higher Educational
Institutions - Regarding.

Ref: Government letter (Ms)No.121, Dated 22.06.2018.

With reference to the letter cited, the Government have conveyed that harassment of person (Students, Staff, Faculty) in Higher Educational Institutions has increased in recent years and has caught public and media attention. In this regard the Government have examined and carefully issued the guidelines for prevention and redressal of harassment in Higher Educational institutions.

Hence, the Principals are requested to follow the guidelines issued by the Government and the action taken report on the same may be submitted to this office immediately.


for Commissioner of Technical Education(FAC),

Encl: As above. 

Copy to :-

- 1) The Additional Director (Exam),
DOTE, Chennai - 25.
(For the purpose of uploading in
DOTE website)
- 2) Technical Assistant (Evaluation-I),
DOTE, Chennai - 25.
- 3) Technical Assistant (Complaint),
DOTE, Chennai - 25.

25213

Higher Education (K2) Department
Secretariat, Chennai-6

Letter (Ms) No. 121 dated 22.06.2018

From:
Thiru. Sunil Paliwal, I.A.S.,
Principal Secretary to Government.



To:
The Registrars of all Universities
under the aegis of Higher Education Department. (w.e.)
The Director of Collegiate Education (FAC), Chennai-6. (w.e.)
The Commissioner of Technical Education (FAC), Chennai-25. (w.e.)

Sir / Madam,

Sub : Higher Education – Guidelines for prevention and redressal
of harassment in the Higher Educational Institutions –
Issued.

It is observed that harassment of persons (students, staff, faculty) in Higher Educational Institutions (HEIs) has increased in recent years and has caught public and media attention. Instances of people in power and authority taking advantage of their position to exploit the vulnerability of their subordinates and students have come to the notice of the Government. The main objective is to create safe campuses for students, staff and faculty to function without fear, threat or anxiety. The institution has the duty to ensure that its staff, students and any person associated with it are treated, and treat one another, with dignity and respect, free from abuse or harassment. Occurrence of harassments in one or multiple forms in the recent years has necessitated framing of guidelines to prevent and prohibit such incidences in educational institutions, to provide a mechanism for grievance redressal and also to recommend appropriate penal actions.

2. The Government have examined the above issues carefully and decided to issue guidelines in this regard. Accordingly, the Government issue the guidelines for prevention and redressal of harassment in Higher Educational Institutions under the aegis of the Higher Education Department as in the Annexure to this letter.

3. I am to request you to follow the guidelines scrupulously.

Yours faithfully,

22-6-18
22/6/2018

for Principal Secretary to Government.

22-6-18

Copy to :

The Senior Personal Assistant to Hon'ble Minister (Higher Education),
Chennai-9.

The Private Secretary to Principal Secretary, Higher Education Department,
Chennai-9.

The Private Secretary to Additional Secretary (TE), Higher Education
Department, Chennai-9.

The Senior Typist to Additional Secretary (Uty), Higher Education Department,
Chennai-9.

The Deputy Secretary (CE), Higher Education Department, Chennai-9.

All Sections in Higher Education Department, Chennai-9.

GUIDELINES TO PREVENT AND REDRESS HARASSMENT IN HIGHER EDUCATIONAL INSTITUTIONS IN TAMIL NADU

1. Preamble

Instances of harassment or exploitation of persons (students, staff and faculty members) in higher educational institutions have come to the notice of the Government. Many times people in power and authority are found to be taking advantage of their position to exploit the vulnerability of their subordinates and students. This has necessitated framing of guidelines to prevent and prohibit such incidences in educational institutions to provide a mechanism for grievance redressal and also to recommend appropriate penal actions.

The main objective is to create safe campuses for students, staff and faculty to function without fear, threat or anxiety. The rules and regulations are meant to ensure highest standards of honesty and integrity from all stakeholders. The institution has the duty to ensure that its staff, students and any person associated with it are treated, and treat one another, with dignity and respect, free from abuse or harassment. The institution should not tolerate any type of harassment within the workplace or associated with the work performed on behalf of the institution. Complaints relating to harassment must be promptly dealt with, following the guidelines laid out here.

2. Application and Commencement

- i. These guidelines shall be applicable to all higher educational institutions in the State of Tamil Nadu.
- ii. These guidelines shall come into force from the date of issue of G.O.

3. Definitions:

- a) "Harassment" means any improper behaviour by a person that is directed at, and is offensive to, another individual and which the person knew or ought reasonably to have known would be offensive. It comprises objectionable or unacceptable conduct that demeans, belittles or causes personal humiliation or embarrassment to an individual. Mildly offensive comments or behaviour can rise to the level of harassment if they are repeated; a single incident can be considered harassment if it is so severe that it has a lasting negative impact on the individual(s) concerned. When behaviour of this kind is engaged, in by any person who is in a position to influence career or employment conditions (including hiring, assignment, contract renewal, performance evaluation or promotion) of the recipient, it also constitutes an abuse of authority.
- b) "Higher Educational Institutions" (HEI) means all universities under the purview of the Department of Higher and Technical Education, Government of Tamil Nadu which include all affiliated autonomous and non-autonomous colleges and research institutions, and study centres, Learning Resource Centres and other such Centres associated with the Institute of Distance Learning of the Universities.

Harassment Complaints Committee

Comprises of

report directly to the head (Vice-Chancellor/ Director/ Principal) of the institution within one to two months and the Head of the Institution shall act within two months. If the complaint is against the head of the Institution, the report shall be submitted to his / her higher authority.

- e) The Complaint shall be disposed-off within six months from the date of receipt of the complaint.

ii. Composition of the Harassment Complaints Committee

Every higher educational institution shall constitute a committee to deal with complaints relating to harassment. The Vice-Chancellor/Director/Principal of the Institution will take responsibility for constituting the committee with terms of reference and tenure of one or two academic years. The composition of the committee will be as given below:

- a) Dean / Senior Professor / Senior Faculty Member — Chairperson
- b) Two faculty members — One Professor and One Associate Professor in Universities or One Associate Professor and One Assistant Professor in Colleges — Members
- c) One Women Faculty — Member
- d) One external member with Legal background — Member
- e) One SC / ST/ BC representative — Observer

7. Penal Actions

Based on the Harassment Complaints Committee's report, the head of the institution shall take appropriate penal action following the rules, statutes and regulations of the Institution. The penal action can take several forms such as: issuing warning, transfer of the Ph.D/M.Phil student to other faculty member, removal from headship, derecognition as M.Phil/ Ph.D guide, cut in increment and demotion, etc., In the case of students / research scholars, the punishment can be suspension, rustication, etc.

8. False or Frivolous or Malicious Complaints

The harassment complaints committee shall also have provisions to deal with false or frivolous or malicious complaints and recommend to take action against the complainant with proper justification. The Head of the Institution or Competent Authority shall take appropriate penal action following the rules, statutes and regulations of the Institution.

9. Conduct that would not be considered harassment

Persons must have reasonable grounds before making a complaint of harassment. All situations which appear to meet the definition ultimately may not be found to be instances of harassment. It is important to note that reporting a situation

- iii. The topics covered in the handouts and workshops may include: their sense of self-worth; their right to have and to determine choices; their right to have access to opportunities and resources; their right to have the power to control their own lives, both within and outside the home; and their ability to influence the direction of social change to create a more just social and economic order, nationally and internationally.
- iv. Campus safety programs must include modules on clear differentiation between academic and non-academic aspects, personal and professional involvement as well as prevention of harassment.
- v. There should be adequate and comprehensive set of university/college regulations regarding campus code of conduct, norms for use of library, laboratories, other academic and non-academic zones, office and public spaces.
- vi. It must be made incumbent on all students and employees (faculty and non-teaching staff, both permanent/regular and temporary/contractual), to abide by this Code of Conduct. Every new entrant into the system should know his/her duties, rights and responsibilities, including the consequences of violating the Code.
- vii. Students, research scholars, permanent employees – faculty and non-teaching staff, temporary or contract employees – guest faculty, post-doctoral fellows, and project staff - should sign a declaration accepting the code.
- viii. An Undertaking should be obtained that they will not participate and perpetuate harassment. There should be sufficient provisions for stringent action against anyone who violates this code of conduct.
- ix. Adequate safety provisions like recruiting security guards, installing CCTV cameras, operating shuttle services after working hours for pick-up and drop-off from campuses.
- x. Institutions with high incidence of harassment should be penalised with imposition of fine/reduction in fund allocation, blacklisting in applying for projects, seeking grants etc.,

6. Grievance Redressal Procedure

i. Procedure to File Complaint

- a) The aggrieved person shall make a written complaint with all evidences / complaints directly to the Chairperson of the Harassment Complaints Committee within two months of occurrence of the incident.
- b) The complaint must be registered and acknowledged by the Harassment Complaints Committee within two weeks.
- c) The Harassment Complaints Committee will decide on the nature of enquiry to be conducted on the victim and the person causing harassment to ascertain the form and degree/frequency of harassment etc., The Committee shall maintain full proceedings as confidential.
- d) Based on detailed enquiry the Committee will submit a confidential

may make negative decisions (e.g. about performance or work assignments) which do not in themselves constitute harassment. Reporting authorities have a responsibility to give fair and objective feedback and to take appropriate action. If such report is biased due to extraneous factors or retaliation against an individual, then it may constitute harassment. The Complaints committee must carefully look into the background of the complaint and take a decision.

10. Appeal Procedure

Those found guilty of violations and on whom punishments are initiated may appeal for reconsideration of punishment served on him/her. The appeal can be made to the Head of the institution. This provision to file an internal appeal will depend on the severity of the case. The Head of the Institution / Competent Authority will have the discretion to take up the appeal for consideration based on the severity of the case.

SUNIL PALIWAL
PRINCIPAL SECRETARY TO GOVERNMENT

//True Copy//

Sunil Palwal
22/6/2020
SECTION OFFICER