



“ഭരണമന്ദിരം-മാതൃഭവനം”

KERALA WOMEN'S COMMISSION

(Established under the Kerala Women's Commission Act, 1990)

Near Lourdh church, Pattom P.O., PMG

Thiruvananthapuram-4

Phone : 2307590, 2300509, 2307589, 2309878

Website : www.keralawomenscommission.gov.in



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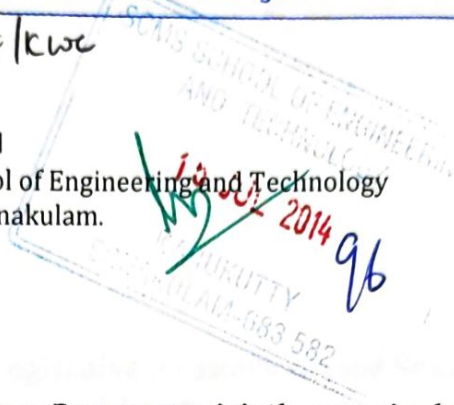
Email

keralawomenscommission@
yahoo.co.in

B1/1945/2014/KWC
To

2014.07.14

The Principal
S.C.M.S School of Engineering and Technology
Karukutty,Ernakulam.



Sir/Madam,

Sub: Training Programme jointly organized by CWFS,NUALS and Kerala Women's Commission on "Legislative measures against Sexual Harassment in Educational Institutions"

The Centre for Women and Family Studies (CWFS),NUALS, in association with the Kerala Women's Commission is organizing a Training Programme on "**Legislative Measures against Sexual Harassment in Educational Institutions**" for the academic and administrative heads of the educational institutions in Kerala. The first training programme in this series is scheduled to be held on 31.07.2014 (9.00 AM to 5.00 PM) at NUALS Campus, Kalamassery to the academic and administrative heads of colleges in Ernakulam.

You are hereby requested to attend the Training Programme without fail. You may fill up the sheet attached to the letter and send to the corresponding address on or before 20th of July 2014.A report in the prescribed format which will be provided to you after the Training Programme should be submitted to office of the Kerala Women's Commission on or before 01.09.2014.

Thanking you,

Yours Sincerely,

Secretary

For Chairperson

*Mrs. Mani Tony
Asst. Prof. (Genl)
is deputed to
attend the program
18/7*



SCMS SCHOOL OF ENGINEERING & TECHNOLOGY

Affiliated to Mahatma Gandhi University, Kottayam and Approved by AICTE
An ISO 9001:2008 Certified Institution

CAMPUS : VIDYA NAGAR, KARUKUTTY, ERNAKULAM-683 582, PHONE: 0484-2450330, 2450602, FAX: 91-484-2450508, e-mail: sset@scmsgroup.org

SSET/14/79/5336

18th July, 2014

The Chairperson
Kerala Women's Commission
Near Lourdh Church, Pattom P.O, PMG
Thiruvananthapuram - 4

Sir,

Sub: Training programme on "Legislative measures against Sexual Harassment in Educational Institutions.

Ref: Your office letter No:B1/1945/2014/KWC dt. 11.7.14

.....

As desired in the cited letter, I am nominating Mrs. Mini Tom, Associate Professor in the Department of Mathematics for attending the training programme jointly organized by CWFS, NUALS and Kerala Women's Commission on "Legislative measures against Sexual Harassment in Educational Institutions" to be conducted at NUALS Campus, Kalamassery on 31.7.2014.

With regards,

PRO M. MADHAVAN
PRINCIPAL

The National University of Advanced Legal Studies (NUALS)

Centre for Women and Family Studies

Requirements - Compliance with Anti-Sexual Harassment Law

1. Constitution of Internal Complaints Committee (ICC) as per the Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013. (Every workplace employing 10 or more employees is required to constitute an ICC)
2. Composition of the Committee:
 - a) Presiding officer shall be a woman employed at a senior level at workplace from amongst the employees.
(If Senior level woman employee is not available, presiding officer shall be nominated from other offices or administrative units of the workplace)
 - 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 nongovernmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.
(at least one half of the total members so nominated shall be women)
3. Term of Office: Presiding officer and every member of the Committee shall hold office for a period not exceeding three years from the date of nomination as specified by the employer.
4. The member appointed from amongst the non governmental organizations or associations shall be paid such fees or allowance for holding the proceedings of the committee by the employer.
5. Duty of employer :

Dr. P. V. Melbida
Retd. Principal
Maharaja's College
Ernakulam.

- a) to provide a safe working environment at the workplace which shall include safety from all the persons with whom a woman comes into contact at the workplace;
- b) display at any conspicuous place in the workplace, the penal consequences of sexual harassment and the order constituting the ICC;
- c) organise workshops and awareness programmes;
- d) provide necessary facilities to the ICC for dealing with complaints and conducting inquiries;
- e) assist in securing the attendance of the respondent and witnesses before the ICC;
- f) make available such information to the ICC, as it may require;
- g) provide assistance to the woman if she so chooses to file a criminal complaint;
- h) initiate criminal action against the perpetrator;
- i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct; and
- j) monitor the timely submission of reports by the ICC.

Instructions

Kerala Women's Commission requires all the participants of the Training programme conducted by the Centre for Women and Family Studies, NUALS on 'Sexual Harassment Against Women in Educational Institutions' on 31st July 2014, to duly comply with the requirements mentioned above as per the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 passed by the Parliament of India. The head of all the Colleges are required to submit the duly filled checklist attached to this letter within one month from the date of the training programme.

The report containing the details of the institution, composition of the Committee and steps taken along with the checklist should reach Kerala Women's Commission on or before 21st August 2014.

Communication Address: Chairperson,

Kerala Women's Commission,

T.C. No. 2/38-42, Near Lourdh Church, Pattom P. O.

P. M. G., Thiruvananthapuram - 4.

Tel: 0471- 2307590, 2300509.

EVOLUTION OF LAW RELATING TO SEXUAL HARASSMENT

Sexual harassment at the workplace has been one of the central concerns of the women's movement in India since the '80s. After much effort, an Act exclusively dealing with Sexual Harassment at the work place has been passed by the Parliament in 2013.

Introduction

Sexual Harassment at the Workplace (SHW) has remained one of the central concerns of the women's movement in India since the early-'80s. During the 1980s, militant action by the Forum Against Oppression of Women (Mumbai) against the sexual harassment of nurses in public and private hospitals by patients and their male relatives, ward-boys and other hospital staff; of air-hostesses by their colleagues and passengers; of teachers by their colleagues, principals and management representatives; of PhD students by their guides and so on and so forth received a lukewarm response from the trade unions and adverse publicity in the media. But this trivialisation did not deter the women rights activists. More and more working women started taking systematic action against SHW. Baailancho Saad ('Women's Voice') in Goa mobilised public opinion against the chief minister, who allegedly harassed his secretary, through demonstrations, rallies and sit-ins till the minister was forced to resign. In 1990, the same organisation filed a public interest litigation to bring amendments in the antiquated rape law that defined rape in the narrowest sense of 'penile penetration into the vagina'. Several women's groups came forward in support of a new concern about a variety of sexually violent acts against women, including SHW.

During the 1990s, the most controversial and brutal gang rape at the workplace involved a Rajasthan state government employee who tried to prevent child marriage as part of her duties as a worker of the Women Development Programme. The feudal patriarchs who were enraged by her (in their words: "a lowly woman from a poor and potter community") 'guts' decided to teach her a lesson and raped her repeatedly. After an extremely humiliating legal battle in the Rajasthan High Court the rape survivor did not get justice and the rapists -- "educated and upper caste affluent men" -- were allowed to go free. This enraged a women's rights group called Vishakha that filed public interest litigation in the Supreme Court of India.

Before 1997, women experiencing SHW had to lodge a complaint under Section 354 of the Indian Penal Code that deals with the 'criminal assault of women to outrage women's modesty', and Section 509 that punishes individual/individuals for using a 'word, gesture or

act intended to insult the modesty of a woman'. These sections left the interpretation of 'outraging the modesty of women' to the discretion of the police officer.

In 1997, the Supreme Court passed a landmark judgment in the Vishakha case laying down guidelines to be followed by establishments in dealing with complaints about sexual harassment. The court stated that these guidelines were to be implemented until legislation is passed to deal with the issue.

Pursuant to this, the Government of India requested the National Commission for Women (NCW) to draft the legislation. A number of issues were raised regarding the NCW draft, until ultimately a drafting committee was set up to make a fresh draft. Several women's organisations are part of this committee, including Majlis from Mumbai, which was asked to make the draft. Women's organisations and women lawyers associated with trade unions in Mumbai have collectively worked on the draft with Majlis. Particular concern, whilst working out the draft, has been to include the unorganised sector and to incorporate provisions of the labour law. The Act has now been passed by the Parliament and has the force of law. It provides for the prevention and redressal of sexual harassment of women at the workplace, or arising during and in the course of their employment and matters connected thereto, in keeping with the principles of equality, freedom, life and liberty as enshrined in the Constitution of India, and as upheld by the Supreme Court in *Vishakha v. State of Rajasthan* [1997(7) SCC.323] and as reflected in the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) which has been ratified by the Government of India.

Scenario in the Post-Vishakha guidelines period

Several organisations have carried out research on SHW that has been widely disseminated. A survey by Sakshi (Delhi) throws up some worrying data: 80% of respondents revealed that SHW exists, 49% had encountered SHW, 41% had experienced SHW, 53% women and men did not have equal opportunities, 53% were treated unfairly by supervisors, employers and co-workers, 58% had not heard of the Supreme Court's directive of 1997, and only 20% of organisations had implemented the Vishakha guidelines. Controversy over SHW by the senior manager of Infosys by the chairman and managing director of NALCO, the Medha Kotwal petition on SHW of a PhD student by her guide at M S University, Vadodara, complaints against a senior professor at Lucknow University complaints about SHW by the film star Sushmita Sen against the CEO of Coca-Cola have all alerted employers

to the economic burden and efficiency loss from SHW. Still, most private companies refrain from investing funds in such committees.

A Sophia Centre for Women's Studies and Development study shows that awareness and implementation of the Supreme Court's guidelines is very low and there is a need to spread awareness about the same. A study by Samhita (Kolkata), throwing light on the Bhanvari Devi case, has highlighted to the state and civil society the gravity of the menace of SHW.

Recommendations of the National Commission for Women (NCW) on safety of women in and around college and university campuses

In response to barbaric sexual violence against three women students in three different places within a week in Delhi University campuses, in 2002, the NCW called an emergency meeting to discuss the safety of women at educational institutions.

Recommendations that emerged out of the meeting, convened by the National Commission for Women with the Principal Secretary (Home), Delhi Police Commission and heads of educational institutions regarding strategies to prevent the occurrence of rape and sexual harassment in and around campuses, are as follows:

Police

- *More Police Control Room vans should be deployed to patrol educational institutions.
- *Along the lines of women's helplines, college helplines should also be provided and its number should be prominently displayed.
- *There should be police patrols around educational institutions at least for two hours before and after college gets over.
- *There is a need to improve relationships between the police and educational institutions.
- *Every case of rape must be handled by a woman police officer.
- *The attitude of the police needs to be made more positive towards the victim.

Educational Institutions

- *Educational institutions must ensure proper lighting in and around their premises, as darkness is conducive to crime. The height of hedges must be reduced in campuses for proper visibility.

- *An internal security committee should be constituted by all educational institutions, headed by the head of the institution, police officer and student representatives who must be invited for meetings to review the security arrangements. If the need arises, other government departments like the PWD may be invited to review the security arrangements.
- *The internal security committee should have monthly or bi-monthly meetings and must maintain the minutes of the meeting.
- *Experts should be invited to inspect the college area to assess the security needs and arrangements on campus.
- *Educational institutions must perform their administrative role for the security of the students.
- *Students must be given proper training in self-defence.
- *The telephone numbers of women's helplines must be provided.
- *Entry into educational institutions must be restricted. Entry should be through identity cards.
- *Construction workers should not be allowed to stay on the premises of the institute overnight.
- *Safety gadgets should be provided in hostels.
- *Educational institutions could engage retired police officers on their security committees boards.
- *De-politicisation of the campus is a must; institutions must ensure this.
- *Awareness programmes on the safety and security of students must be conducted on a regular basis.

Media

- *There is a need to sensitise the media regarding the repeated relay of incidents relating to violence against women. This has negative repercussions on society, especially on children.
- *The National Commission for Women directs the media not to intrude on the privacy of the victim.

Among the initiatives taken by Institutions of Higher Education, one which is taken by Delhi University is that, they passed an ordinance based on its policy against SHW with clearly-defined rules and procedures. It has mentioned a range of disciplinary action to punish

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the culprit (employee) of SHW, including warnings, written apologies, bond of good behaviour, adverse remarks in the confidential report, debaring from supervisory duty, denial of membership to statutory bodies, denial of re-employment, stopping of increments/promotion, reverting, demotion, suspension, dismissal. For student/s culprits, the punishment could be in the form of warnings, written apologies, bond of good behaviour, debaring entry into hostels/campuses, suspension for a specific period of time, withholding results, debaring from exams, debaring from contesting elections, debaring from holding posts such as member of a committee, of courses, membership of a college union, expulsion, denial of admission, declaring the harasser to be '*persona non grata*' for a stipulated period of time and other such relevant mechanisms.

Conclusion

Sexual harassment at the workplace is a universal problem. Even though the occurrence of sexual harassment at the workplace is widespread in India and elsewhere, this is the first time it has been recognised as 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".

Of late, the problem of sexual harassment at the workplace has assumed serious proportions, with a meteoric rise in the number of cases. Surprisingly, however, in most cases women do not report the matter to the concerned authorities.

In India, Articles 14, 15 and 21 of the Indian Constitution provide safeguards against all forms of discrimination. In recent times, the Supreme Court has given two landmark judgments - *Vishakha v. State of Rajasthan*, 1997, and *Apparel Export Promotion Council v. A K Chopra* (1999) in which it laid down certain guidelines and measures to ensure the prevention of such incidents. Despite these developments, the problem of sexual harassment is assuming alarming proportions and there is a pressing need for domestic laws on the issue.

India is rapidly advancing in its developmental goals and more and more women are joining the workforce. It is the duty of the state to provide for the wellbeing and respect of its citizens to prevent frustration, low self-esteem, insecurity and emotional disturbance, which, in turn, could affect business efficacy, leading to loss of production and loss of reputation for the organisation or the employer. In fact, the recognition of the right to protection against sexual harassment is an intrinsic component of the protection of women's human rights. It is

also a step towards providing women independence, equality of opportunity and the right to work with dignity.

In the last 50 years, various international human rights organisations have been focusing on promoting and protecting women's rights. The United Nations has acknowledged that women's rights are synonymous with human rights. The same was reiterated in the Beijing Declaration.

Most international women's human rights movements have raised their voice against abuse and violence perpetrated against women in general. In 1979, the UN General Assembly adopted the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). Areas where discrimination was found to be rampant include political rights, marriage, family and employment. The convention emphasised that discrimination and attacks on a woman's dignity violated the principle of equality of rights.

We all know that India is a patriarchal society and most cases of sexual harassment remain unreported. Women are reluctant to complain and prefer silence due to lack of sensitivity on the part of Indian society. Despite bold judgments by the Supreme Court, there is no sexual harassment complaints committee at most workplaces, even in the government sector. The apex court must direct the various workplaces to form sexual harassment committees within a stipulated time frame.

In any civilised society, it is the fundamental right of people to be able to lead their lives with dignity, free from mental or physical torture. To ensure this, transgressors must pay for their unsolicited sexual advances. At the same time organisations such as Men Against Violence and Abuse, that conduct gender-sensitisation programmes and self-defence classes to combat sexual harassment at the workplace, must be encouraged.

To effectively prevent SHW we need both a top-down initiative by the state and employers and civil society initiatives from citizens' groups, women's organisations and trade unions.

Judicial Decisions

Vishaka and Others v. State of Rajasthan and Others [(1997) 6 SCC 241]

Facts

The litigation resulted from a brutal gang rape of a publicly employed social worker in a village in Rajasthan during the course of her employment. The petitioners bringing the action were various social activists and non-governmental organisations. The primary basis of bringing such an action to the Supreme Court in India was to find suitable methods for the realisation of the true concept of "gender equality" in the workplace for women. In turn, the prevention of sexual harassment of women would be addressed by applying the judicial process.

Under Article 32 of the Indian Constitution, an action was filed in order to establish the enforcement of the fundamental rights relating to the women in the workplace. In particular it sought to establish the enforcement of Articles 14, 15, 19(1) (g) and 21 of the Constitution of India and Articles 11 and 24 of the Convention on the Elimination of All Forms of Discrimination against Women.

Constitution of India

- Article 14 (the right to equality)
- Article 15 (the right to non discrimination)
- Article 19(1)(g) (the right to practise one's profession)
- Article 21 (the right to life)

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

- Article 11 ([State] takes all appropriate measures to eliminate discrimination against women in the field of employment)
- Article 24 ([State shall] undertake to adopt all necessary measures at the national level aimed at achieving the full realization)

Decision

In disposing of the writ petition with directions, it was held that:

"The fundamental right to carry on any occupation, trade or profession depends on the availability of a 'safe' working environment. The right to life means life with dignity. The

primary responsibility for ensuring such safety and dignity through suitable legislation, and the creation of a mechanism for its enforcement, belongs to the legislature and the executive. When, however, instances of sexual harassment resulting in violations of Arts 14, 19 and 21 are brought under Art 32, effective redress requires that some guidelines for the protection of these rights should be laid down to fill the legislative vacuum." In light of these deliberations, the Court outlined guidelines which were to be observed in order to enforce the rights of gender equality and to prevent discrimination for women in the workplace. These guidelines included the responsibility upon the employer to prevent or deter the commission of acts of sexual harassment and to apply the appropriate settlement and resolutions and a definition of sexual harassment which includes unwelcome sexually determined behaviour (whether directly or by implication) such as:

- physical contact and advances;
- a demand or request for sexual favours;
- sexually-coloured remarks;
- showing pornography;
- any other unwelcome physical, verbal or non-verbal conduct of a sexual nature.

Furthermore the guidelines set out that persons in charge of a workplace in the public or private sector would be responsible for taking the appropriate steps to prevent sexual harassment by taking the appropriate steps, including:

- The prohibition of sexual harassment should be published in the appropriate ways and providing the appropriate penalties against the offender;
- For private employees, the guidelines should be included in the relevant employment guidelines;
- Appropriate working conditions in order to provide environments for women that are not hostile in order to establish reasonable grounds for discrimination;
- The employer should ensure the protection of potential petitioners against victimisation or discrimination during potential proceedings;
- An appropriate complaints mechanism should be established in the workplace with the appropriate redress mechanism;

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

Finally, the court stated that the guidelines are to be treated as a declaration of law in accordance with Article 141 of the Constitution until the enactment of appropriate legislation and that the guidelines do not prejudice any rights available under the Protection of Human Rights Act 1993.

Apparel Export Promotion Council v. A. K. Chopra, [AIR 1999 SC 625]

Facts

The respondent was working as a Private Secretary to the Chairman of the Apparel Export Promotion Council, the appellant. It was alleged that on 12-8-1988, he tried to molest a woman employee of the Council, Miss X who was at the relevant time working as a Clerk-cum-Typist. She submitted a written complaint. The respondent was placed under suspension *vide* an order dated 18th August, 1988. A charge-sheet was served on him to which he gave a reply denying the allegations. The Enquiry Officer after considering the documentary and oral evidence and the circumstances of the case arrived at the conclusion that the respondent had acted against moral sanctions and that his acts against Miss X did not withstand the test of decency and modesty. He, therefore held the charges levelled against the respondent as proved.

The respondent filed a Writ Petition in the High Court *inter alia* challenging his removal from service. On January 30, 1992, the writ petition was allowed and respondent Nos. 1 and 3, were directed to act upon the decision of the Staff Committee, assuming as if the decision, as alleged, had been taken at the 34th Meeting of the Staff Committee on 25th July, 1990. The appellant challenged the Judgment and Order of the High Court dated 30th January, 1992, through Special Leave Petition (Civil) No. 3204 of 1992 in the Supreme Court.

Issue

Whether the High Court has jurisdiction to interfere with the disciplinary matters and punishment imposed by departmental authorities?

Decision

In a case involving charge of sexual harassment or attempt to sexually molest, the courts are required to examine broader probabilities of the case and not get swayed by insignificant discrepancies or narrow technicalities or dictionary meaning of the expression "molestation". They must examine the entire material to determine the genuineness of the complaint. The statement of the victim must be appreciated in the background of the entire case.

It was further held that each incident of sexual harassment at place of work, results in violation of fundamental right to gender equalities and right to life and personal liberty. It was further added that mere want of actual assault or touch by delinquent did not cease to be outrageous. It amounts to sexual harassment and the court is not to normally interfere with either the factual findings regarding guilt or with penalty or punishment imposed by departmental authorities.

***Mrs. Rupan Deol Bajaj v. Kanwar Pal Singh* [1996 AIR 309]**

This case has changed the meaning of the terms, modesty, and privacy in such a way that any kind of harassment of inconvenience done to a women's private or public life will be considered as an offence.

***Medha Kotwal & Ors. v. Union of India & Ors* [(2013) 1 SCC 297]**

This case helped the Vishaka's case to implement the guidelines successfully by issuing notices to all states and the union territories to impact the necessary steps.

UGC GUIDELINES ON SEXUAL HARASSMENT AGAINST WOMEN

As per the UGC guidelines the students are entitled to protection from sexual harassment by complaining to the Gender Sensitisation Committees against sexual harassment. It is mandatory for each college/university to constitute and publicise this committee as per the Guidelines and norms laid down by the Hon'ble Supreme Court [*Vishaka and others v. State of Rajasthan and others.*]

The aim of gender sensitization committee is to make people aware of the power relations between men and women in society and to understand the importance of affording women and men equal opportunities and treatment.

SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013 - AN OVERVIEW

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Sexual Harassment Act) has been made effective on April 23rd, 2013 by way of publication in the Gazette of India. The Act is a much awaited development and a significant step towards ensuring women a safe and healthy work environment.

Sexual Harassment at workplace is a violation of women's right to gender equality, life and liberty. It creates an insecure and hostile work environment, which discourages women's participation in work, thereby adversely affecting their economic empowerment and the goal of inclusive growth. However, there exists no domestic law to address this issue except a few provisions of the Indian Penal Code and the Supreme Court Guidelines in the case of *Vishaka v. State of Rajasthan*. The increasing work participation rate of women has made it imperative that a comprehensive legislation focusing on prevention of sexual harassment as well as providing a redressal mechanism be enacted.

The Sexual Harassment Act stipulates that a woman shall not be subjected to sexual harassment at any workplace. As per the statute, presence or occurrence of circumstances of implied or explicit promise of preferential treatment in employment; threat of detrimental treatment in employment; threat about present or future employment; interference with work or creating an intimidating or offensive or hostile work environment; or humiliating treatment likely to affect the lady employee's health or safety may amount to sexual harassment.

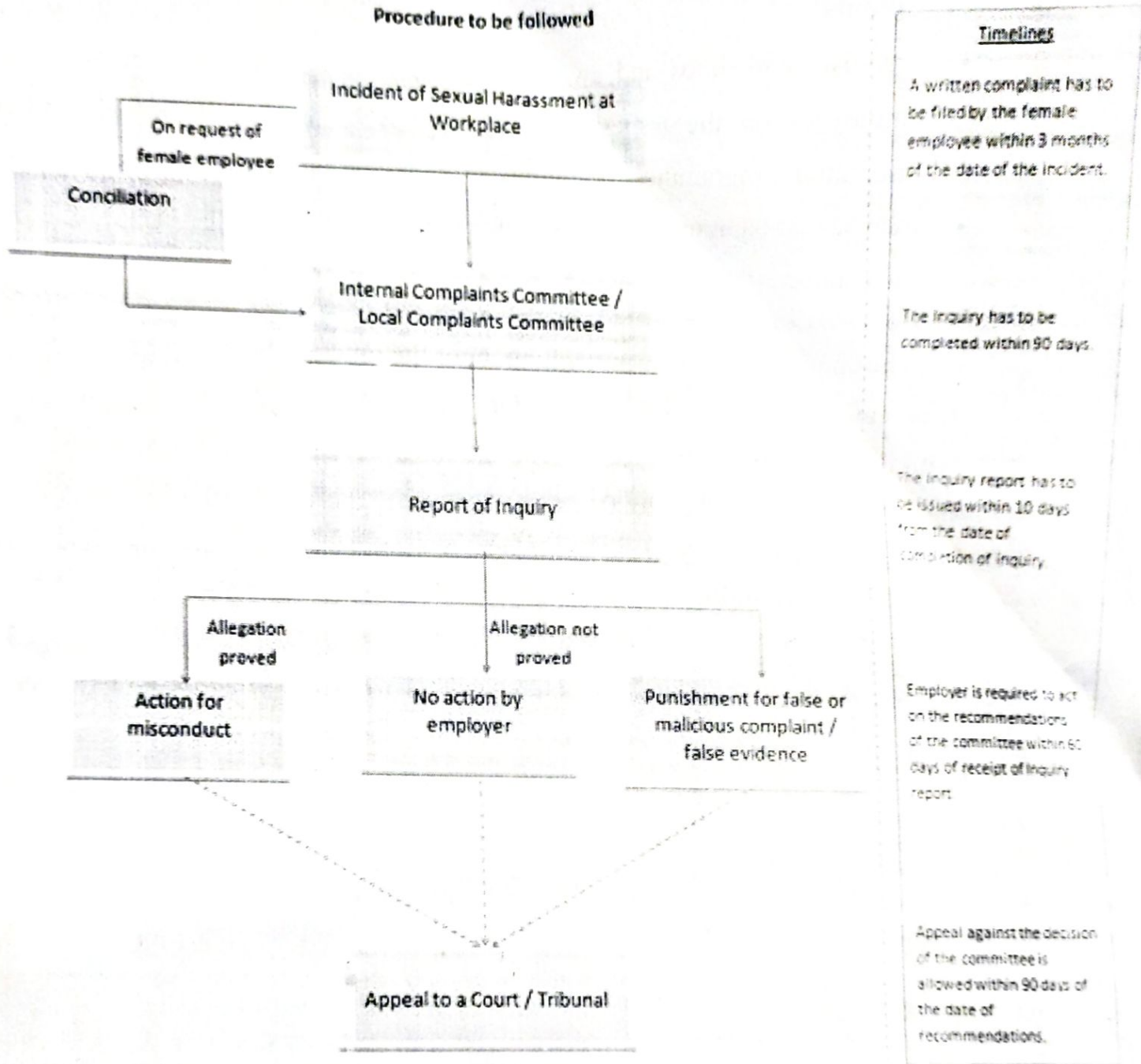
SALIENT FEATURES OF THE ACT

- **Scope:** The ambit of the Sexual Harassment Act is very wide and is applicable to the organized sector as well as the unorganized sector. In view of the wide definition of 'workplace', the statute *inter alia* applies to government bodies, private and public sector organisations, non-governmental organisations, organisations carrying on commercial, vocational, educational, entertainment, industrial, financial activities, hospitals and nursing homes, educational institutes, sports institutions and stadiums used for training individuals. As per the Sexual Harassment Act, a workplace also covers within its scope places visited by employees during the course of employment

or for reasons arising out of employment - including transportation provided by the employer for the purpose of commuting to and from the place of employment.

The definition of 'employee' under the Sexual Harassment Act is fairly wide and covers regular, temporary, ad hoc employees, individuals engaged on daily wage basis, either directly or through an agent, contract labour, co-workers, probationers, trainees and apprentices with or without the knowledge of the principal employer, whether for remuneration or not, working on a voluntary basis or otherwise, whether the terms of employment are express or implied.

- Internal Complaints Committee and Local Complaints Committee: The Sexual Harassment Act requires an employer to set up an 'Internal Complaints Committee' (ICC) at each office or branch of an organization employing at least 10 employees. The government is in turn required to set up a 'Local Complaints Committees' (LCC) at the district level to investigate complaints regarding sexual harassment from establishments where the ICC has not been constituted on account of the establishment having less than 10 employees or if the complaint is against the employer. The Sexual Harassment Act also sets out the constitution of the committees, process to be followed for making a complaint and inquiring into the complaint in a time bound manner. The ICC will be a four member committee under the Chairpersonship of a senior woman employee and will include 2 members from amongst the employees preferably committed to the cause of women or has experience in social work/legal knowledge and includes a third party member (NGO etc) as well.
- Interim Reliefs: The Sexual Harassment Act empowers the ICC and the LCC to recommend to the employer, at the request of the aggrieved employee, interim measures such as (i) transfer of the aggrieved woman or the respondent to any other workplace; or (ii) granting leave to the aggrieved woman up to a period of 3 months in addition to her regular statutory/ contractual leave entitlement.
- Process for Complaint and Inquiry : Please refer to the following flowchart which provides, in brief, the process to be followed by the aggrieved employee to make the complaint and by the employer to inquire into the complaint. The law allows female employees to request for conciliation in order to settle the matter although a monetary settlement should not be made as a basis of conciliation.



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- **Action against Frivolous Complaints** : So as to ensure that the protections contemplated under the Sexual Harassment Act do not get misused, provisions for action against "false or malicious" complainants have been made.
- **Obligations of Employer** : In addition to ensuring compliance with the other provisions stipulated, the Sexual Harassment Act casts certain obligations upon the employer to, *inter alia*,

- provide a safe working environment
- display conspicuously at the workplace, the penal consequences of indulging in acts that may constitute sexual harassment and the composition of the Internal Complaints Committee
- organise workshops and awareness programmes at regular intervals for sensitizing employees on the issues and implications of workplace sexual harassment and orientation programmes for members of the Internal Complaints Committee
- treat sexual harassment as a misconduct under the service rules and initiate action for misconduct.

The employer is also required to monitor the timely submission of reports by the ICC. If an employer fails to constitute an Internal Complaints Committee or does not comply with any provisions contained therein, the Sexual Harassment Act prescribes a monetary penalty of up to INR 50,000 . A repetition of the same offence could result in the punishment being doubled and / or de-registration of the entity or revocation of any statutory business licenses.

The Act is in fact a weapon in the hands of women against unwanted interference in their facets of privacy and personhood , thereby ensures protection of basic human rights of women; the right to live with human dignity without any form of fear or discrimination.