

Guideline of the Supreme Court on Visakha Case :

- (1) Duty of the Employer or other responsible persons in work places and other institution :-** It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.
- (2) Definition of “Sexual Harassment” :-** “Sexual harassment includes such unwelcome sexually determined behaviour directly or by implication as :
 - (a) Physical contact and advances,
 - (b) A demand or request for sexual favours.
 - (c) Sexually coloured remarks.
 - (d) Showing pornography.
 - (e) Any other unwelcome, physical, verbal or non-verbal conduct of sexual nature where any of these is committed in circumstances whereunder the victim of such conduct has reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary or honorarium or voluntary or whether in Govt., Public or Private enterprises, such conduct can be humiliating and may constitute a health and safety problems. It is discriminatory for instance when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment or working including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raise an objection thereto”.
- (3) Preventive Steps :-** All employers or person in charge of work place whether in the public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps :
 - (a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.
 - (b) The Rules/ Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
 - (c) As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial employment (standing Orders) Act, 1946.
 - (d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at workplaces and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.
- (4) Criminal Proceedings :-** Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

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

(6) Complaint Mechanism :- Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

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

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

The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

(8) Workers' Initiative :- Employees should be allowed to raise issues of sexual harassment at workers' meetings and in other appropriate forums and it should be affirmatively discussed in Employer – Employee Meetings.

(9) Awareness :- Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

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

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

(12) These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.