BLOGS

Vishakha v. State of Rajasthan: Law on Sexual Harassment of Women at Workplace

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In 1997, the Supreme Court of India's landmark Vishakha v. State of Rajasthan judgment established crucial guidelines to combat workplace sexual harassment, paving the way for future legislation protecting women's rights.

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Introduction

The landmark decision of the Supreme Court in the Vishakha v State of Rajasthan case marked a pivotal moment in addressing the pervasive issue of sexual harassment against women in workplaces. The ruling, delivered by a three-judge bench led by Chief Justice Verma, set forth comprehensive guidelines to combat this menace.

Bhanwari Devi, employed as a Saathin by the Women's Development Project of the Rajasthan government, was gang-raped in 1992 by men angered by her efforts to stop a child marriage. The trial court acquitted the accused, leading to widespread outrage and the involvement of several women's rights organizations, including Vishakha, a non-governmental organization.

Banwari Devi's pursuit of justice was met with apathy and stigma. leading her to approach the Supreme Court through a writ petition. This case not only sought justice for Banwari Devi but also became a catalyst for the Supreme Court to confront deep-rooted gender inequality and formulate guidelines to combat sexual harassment in Indian workplaces.

Issues Identified

The case highlighted the absence of legal protection against sexual harassment at the workplace in India. The petitioners, including Vishakha, sought enforcement of the fundamental rights of

working women under **Article 14 (Right to Equality)**, **Article 19 (Right to Freedom of Speech and Expression)**, and **Article 21 (Right to Life and Personal Liberty)** of the Constitution of India.

1. Need for Formal Guidelines: Addressing whether formal guidelines are necessary to handle incidents of sexual harassment in the workplace.
2. Violation of Fundamental Rights: Examining whether sexual harassment at the workplace constitutes a violation of a woman's fundamental rights.
3. Employer's Responsibility: Determining the extent of the employer's responsibility in cases of sexual harassment by its employees.

Judgement of Vishakha v. State of Rajasthan

The Supreme Court, recognizing the vacuum in Indian law regarding workplace sexual harassment, laid down guidelines to address the issue, known as the "Vishakha Guidelines." These guidelines were to be treated as law until the Parliament enacted appropriate legislation.

Provisions of Vishakha Guidelines

1. Definition of Sexual Harassment: The guidelines expand the definition of sexual harassment to include unwanted sexual determination, covering physical contact, demands for sexual favours, sexually coloured remarks, showing pornography, and any other unwelcome conduct.
2. Ensuring a Safe Working Environment: Employers are obligated to provide a safe working environment, taking steps to protect the interests of women employees and ensuring zero tolerance for sexual harassment. Appropriate disciplinary actions must be taken against offenders.
3. Employer's Duty to File Complaint: Employers are mandated to file a complaint if the conduct towards an employee amounts to a criminal offence under the Indian Penal Code, initiating necessary actions to prevent witness victimisation.
4. Establishment of Complaint Redressal Committee: All organisations must set up a complaint redressal committee to handle employee complaints effectively, ensuring suitable actions in response to reported instances of harassment.

5. Employer's Assistance to Harassed Employees: If an employee is harassed by a third party, the employer is obligated to provide assistance. This includes both preventive actions and support for victims, addressing the lapse witnessed in the Bhanwari Devi case.
6. Employer's Duty to Spread Awareness: Employers are required to raise awareness within the organisation regarding sexual harassment matters and women's safety. This can be achieved through timely notifications, workshops, and interactive initiatives to educate female employees about their rights.
7. Government's Role in Legislation: The guidelines call upon the central and state governments to enact necessary legislation, extending the applicability of these guidelines to the private sector. This legislative intervention is deemed essential for the growth and prosperity of women and the nation.
8. Transition to Sexual Harassment Act, 2013: The Vishaka guidelines were succeeded by the Sexual Harassment of Women at the Workplace (Prevention, Prohibition, and Redressal) Act, 2013. This new act expands the definition of aggrieved women, covering women of all ages, and broadens the scope of the term workplace beyond traditional office settings to align with modern conditions.

The Sexual Harassment at Workplace Act

The **Sexual Harassment at Workplace (Prevention, Prohibition, and Redressal) Act, 2013**, a significant legislative development following a seventeen-year gap since the Vishakha Guidelines, expands the scope and application of its predecessor. While inheriting the basic framework from Vishakha, the Act introduces a broader definition of "aggrieved women," covering women irrespective of age and employment status, and extends to various workplaces in both organized and unorganized sectors.

The Act mandates the establishment of Internal Complaints Committees (ICC) in establishments with 10 or more employees, comprising a presiding officer, an external member to prevent undue influence, and two other members. Additionally, a Local Complaints Committee (LCC) addresses complaints from smaller establishments or against the employer, specifically benefiting women in the unorganized sector..

Conclusion

The Constitution of India mandates the protection of fundamental rights, emphasizing the need for a safe work environment free from discrimination, particularly for women. The Vishaka guidelines, stemming from the landmark Bhanwari Devi case, stand as a pioneering measure ensuring women's safety at workplaces. These guidelines hold employers responsible for prevention and complaint filing, providing crucial support for victims. Although superseded by the Sexual Harassment of Women at the Workplace Act, 2013, the Vishaka guidelines remain foundational, contributing significantly to the development of subsequent legislation. Upholding these principles is both a legal and moral duty, fostering a culture of equality, personal liberty, and protection for every citizen.

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