



**Women's Safety and Dignity in Workplace
Useful information
on
Sexual Harassment of Women at
Workplace and Legal Remedies**

Sexual harassment against women can take place anywhere - at home or in public places. When such conduct takes place in the workplace, it is termed as 'sexual harassment of women at the workplace' (in short, SHWWP). It is a gender based violence on women and violates her fundamental and legal rights in a workplace. SHWWP is used as a tool which reinforces patriarchal controls on women and breeds inequality in workplaces. It takes place within a gendered power framework.

SHWWP includes any sexually oriented practice or behaviour that endangers a woman's continued employment, negatively affects her work performance and undermines her sense of personal dignity and liberty. It results in considerable losses to individuals and institutions in terms of work performance as well as professional and personal growth. It reduces women's work participation in workforce, thereby having an adverse effect on national economy.

SHWWP can be physical , psychological and more. It can involve verbal and non-verbal conduct with sexual connotations. It can also lead to extreme behaviour such as attempted rape and rape.

In 2013, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (in short, the SH Act) was enacted by Government of India. This civil law was

brought into force to

- Stop sexual harassment from occurring (prevention);
- Forbid sexual harassment at the workplace (prohibition);
- Set right or provide remedies in cases of sexual harassment (redressal).

Frequently asked Questions (FAQS)

How is sexual harassment of women at the workplace defined in Indian law?

The definition of sexual harassment under various sections of the Indian Penal Code (IPC) includes penalties for obscene acts/songs/words/gestures/sounds/ using criminal force on women in order to undermine her dignity .

The SH Act clearly spells out any unwelcome sexually coloured conduct such as

- Physical contact and advances;
- Demand or request for sexual favours;
- Sexually coloured remarks;
- Showing pornography;
- Any other unwelcome physical , verbal or non- verbal conduct;
- Threats about employment;
- Offensive or hostile work environment;
- Humiliating treatment affecting health/safety.

The SH Act recognizes that acts of sexual harassment may fall into two kinds of situations,

- *Quid pro quo harassment*- which is abuse related to the misuse of authority resulting in tangible or noticeable employment related action such as promotion, increments, recruitment, transfer, academic scores, etc. In such cases, a supervisor or a person in authority promotes or threatens or deprives benefits to a woman based on acceptance or rejection of sexual favours.
- *Hostile work environment*- is when the abuse does not result in tangible employment action but creates an environment in which a woman feels unsafe, uncomfortable or threatened.

In all situations of sexual harassment, the experiential effect on the aggrieved women override the intention of the harasser. While evidence and testimonies are welcome to aid the inquiry procedure, lack of it does not prevent women from filing her case.

Who can file a complaint under the SH Act ?

The SH Act covers all women in all employment/work relations, whether salaried or voluntary, who have been subjected to sexual harassment at the workplace.

Women employees covered include:

- All regular, temporary and ad hoc employees;
- Those directly employed or employed through an agent/contractor;
- Employees with express or implied terms of engagement (e.g. written or oral contracts);
- Probationers/apprentices/interns/volunteers/daily wage earner/domestic workers/etc.

The complaint can be filed by aggrieved woman herself and or by any other person who has knowledge of sexual harassment occurring in a place of employment. Even after the death of an aggrieved woman, her legal representative can file the complaint. Special provisions are applicable for differently abled women.

What is a 'workplace' according to the SH Act?

The term 'workplace' is broadly defined under SH Act to include organisations in the private and public sector, as well as government owned/controlled/financed establishments, hospitals/nursing homes, vocational and educational institutions, sports institutes, stadiums, NGOs, trusts, industrial, entertainment and health services, brick kilns, beauty parlours, pubs, clubs, NGOs, hospitals, farms, training institutions, enterprises, dwelling houses and other such formal and unorganised work sectors.

The definition of 'workplace' also extends to any place visited by the aggrieved woman in relation to her employment, including transportation provided by the employer.

Who is responsible for providing a safe working environment?

The SH Act obligates employers to provide a safe and dignified working environment and establish grievance /complaint/ redress mechanisms for its women employees. The term ‘employers’ has been broadly defined to include,

- All those heading government organisations/ departments/ local authorities/undertaking, etc.;
- All those in managerial, supervisory or any position where they can exercise control;
- Human resource manager or HR heads;
- Persons discharging contractual obligations with their employers.

What is the grievance redressal mechanism mandated under the SH Act ?

All employers(organisations/departments/ companies) engaging 10 or more employees, are required to constitute an Internal Committee (IC) at all administrative units and branches. It must be noted that ICs are required in all establishments, even those without woman employees so that women visitors/vendors must also have the option to complain.

An employer who has failed to put an IC in place may be fined (up to Rs. 50,000) and may also lose his/her/their license or registration to operate.

Complaints arising from workplaces with less than 10 workers can be filed with the Local Committee (LC). Complaints against the employer can be filed at the LC. The LCs are to be established by district authorities at the district level with an additional district magistrate as the District Officer. The District Officer designates block level officer as Nodal Officer to receive and forward complaints to the Local Committee.

Cases of SH on domestic workers are to be registered at the *thana* level.

Constitution of Complaints Committees

Internal Committee	Local Committee
<ul style="list-style-type: none"> • Presiding Officer-senior-most woman employee from the workplace, or in her absence the employer's nominee from other administrative unit 	<ul style="list-style-type: none"> • Chairperson – nominated from amongst experienced women in the field of social work and demonstrates commitment to women's issues
<ul style="list-style-type: none"> • At least two women members from amongst employees, committed to the cause of women/social work or has legal knowledge. 	<ul style="list-style-type: none"> • One member nominated from amongst women working at block/ward/ municipality level
<ul style="list-style-type: none"> • 1 external member from an NGO working on women's issues/sexual harassment 	<ul style="list-style-type: none"> • 2 members (at least one being woman) from NGOs working on women's issues/sexual harassment or has legal knowledge and/preferably belonging to SC/ST/OBC/ minority community
<ul style="list-style-type: none"> • One half of the committee members must be women. 	<ul style="list-style-type: none"> • District Social Welfare officer as Ex Office member.

Note : Mechanisms such as women's cell in a college, officers' wives welfare associations or complaints committee in government departments , grievance cell, women's wing in student unions or HR committee in a bank and other such facilities in different work sectors do not have the legal validity to register SH cases. All complaints of sexual harassment must be lodged with the IC/LC.

Can the aggrieved person ask for any reliefs while the inquiry proceedings are going on?

The aggrieved woman can make a request in writing to the IC for temporary relief while the inquiry is going on. Temporary reliefs she is entitled to include:

- Transfer of either party;
- Granting leave of upto 3 months to the aggrieved woman;
- Restrain the respondent/offender from reporting on

- the work performance of the aggrieved woman;
- Preventing respondent from writing any confidential reports or assign her to another office/r;
- Restrain the respondent from supervising any academic activity of the aggrieved woman.

What are the actions taken by an IC against the offender?

Action against the offender include,

- Furnishing a written apology to the aggrieved person;
- Warnings, reprimands or censure;
- Withholding promotion or pay rises/increments of the respondent;
- Terminating/suspending/dismissing the respondent from service;
- Counselling sessions or community service for respondents;
- Deductions from the respondent's salary to be paid to the aggrieved woman as compensation.

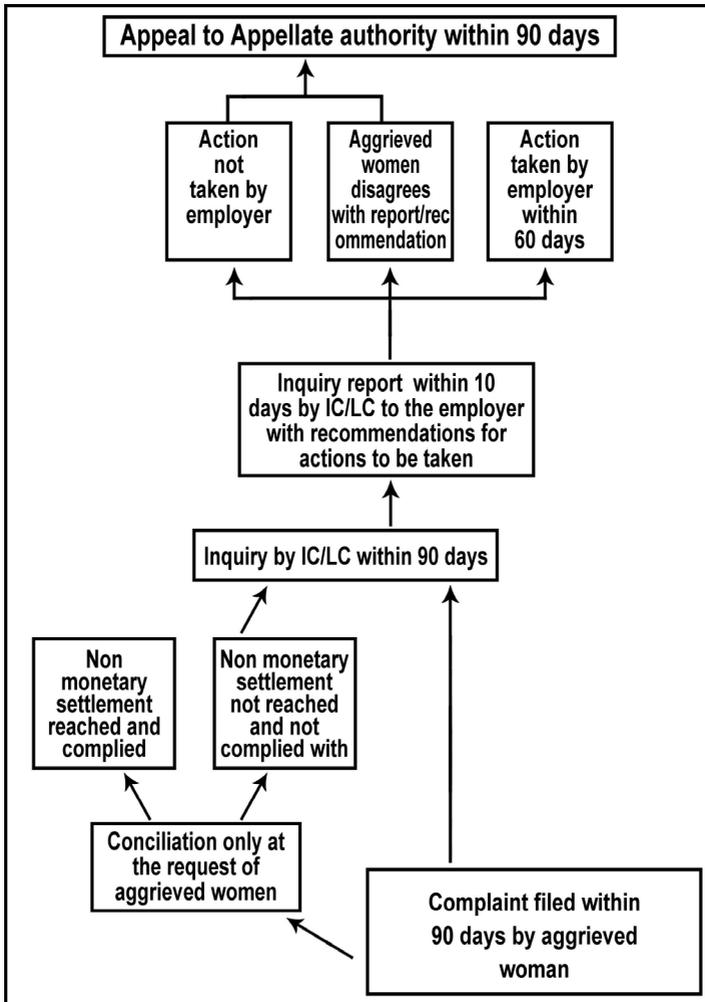
Based on the offence, penalties are imposed by the Internal/Local Committee. Should there be a need, service rules of misconduct of the concerned workplace may be referred to. However, offences which are criminal in nature will be booked under IPC.

What measures should employers take to comply with their responsibilities under the SH Act?

The SH Act lists a number of duties for employers. Some of these are:

- Prevent sexual harassment at the workplace and ensure safety and dignity of women employees at all times;
- Formulate an anti-sexual harassment policy i.e. Prevention of Sexual Harassment/POSH policy;
- Develop training modules and raise awareness at regular intervals for all employees;
- Train its IC members and procure statutory reports from the Committee;
- Provide necessary assistance including budgetary allocations, infrastructure, etc. to the IC;
- Prominently display information on the IC ;
- Ensure prompt remedies for aggrieved women and / assist to file her case under criminal procedures if required.

Mechanism & Procedures under the SH Act



What is the compensation an aggrieved woman is entitled to?

There is no fixed amount provided for compensation. Payment can be made one-time or in installments or in

lumpsum based on income or financial status of the respondent/offender for

- Mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
- Loss in career opportunity;
- Medical expenses incurred by the aggrieved woman for medical or psychiatric treatment;

What other legal provisions can be used to address sexual harassment of women at the workplace?

An aggrieved woman can use IPC provisions mentioned below, if the conduct she faces amounts to any of these offences.

Section 294- singing obscene songs or performing obscene acts in public place

Section 354 and 509- outraging/insulting modesty of a woman by using criminal force/assault

Section 354 B- forcing the woman to disrobe

Section 354 - voyeurism, which includes watching or filming a woman when she is conducting a private act such as using the toilet, etc. and disseminates such images.

Section 354 D- stalking, which includes following a woman or trying to communicate with a woman physically or electronically even if she objects, monitoring a woman's movement, email, internet, etc.

Section 375- rape and/attempts to rape, which includes all non-consensual penetrative acts.

An aggrieved woman can initiate proceedings under the IPC sections and SH Act simultaneously.

For more information, contact

NORTH EAST NETWORK

7B, J N Borooah Lane, Jorpukehuri, Guwahati, Assam.

Ph 94350 17824, assam@northeastnetwork.org

www.northeastnetwork.org