

रिजनल आफिस जयपुर मेरे अधिन पद स्थापित कर दिया जावे ताकि में उनके अधिकन कार्य यकरने से जो इच्छा पूर्ण नहीं कर सकी व मुझे जयपुर में मुझ पर दबाव डालकर करवा सकते हैं. मिसेस एक्स का स्थानान्तरण डॉ भार्गव ने प्रधान कार्यालय के उच्चाधिकारियों के साथ मिलकर करवा दिया. मिसेस एक्स ने अपनी शिकायत में यह भी लिखा कि उन्हें डॉ भार्गव के उत्पीड़न से बचाया जावे और उन्होंने यह भी लिखा कि हो सकता है कि वे जयपुर में उनकी हवस का शिकार बन सकती है.

मिसेस एक्स ने यह शिकायत राजस्थान महिला आयोग के अध्यक्ष के साथ चेरमेन, राष्ट्रीय मानव अधिकार आयोग, नई-दिल्ली, चेरमेन, राष्ट्रीय महिला आयोग, नई-दिल्ली और इसकी एक प्रति वित्त मंत्री को भी भेजी गई तथा कंपनी के चेरमेन को भी कई फेक्स के जरिये डॉ भार्गव की शिकायत की गई. इस प्रकार की शिकायतों पर जब सरकार ही कोर्ट का आदेश नहीं मान रही है तो कंपनी जगत का उस पर कोई असर न होना स्वाभाविक ही है.

कार्यस्थल पर महिलाओं के साथ छेड़खानी या यौन उत्पीड़न के मामले को मानवीय अधिकारों के विरुद्ध मानते हुए सुप्रीम कोर्ट के मुख्य न्यायाधीश ए.एस.आनन्द और न्यायमूर्ति बी.एन.खरे (एप्रैल एक्सपोर्ट प्रोमेशन काउंसिल बनाम ए.के. चौपड़ा (१) १९९९ एस.एस.टी. २१२) एक फैसले में कहा है कि ३यौन शोषण के ऐसे मामलों को अति संवेदनशीलता के साथ देखना चाहिये.

ऐसे मुकदमों में वरिष्ठ अधिकारियों के प्रति सहानुभूति पूर्णतया गलत है और रहम का कोई औचित्य नहीं है ऐसे मामलों में सजा कम करने से कामकाजी महिलाओं में विश्वासहीनता बढ़ेगी और यह एक प्रतिगामी कदम होगा ३ माननीय न्यायमूर्ति ने दिल्ली के उच्च न्यायालय के फैसले को रद्द करते हुए काउंसिल द्वारा मिस्टर चौपड़ा को नौकरी से हटाने का निर्णय को सही ठहराया. सुप्रीम कोर्ट में बहस के दौरान चौपड़ा के वरिष्ठ अधिवक्ताओं ने कहा कि उनका मुक्किल अपने कर्मों का प्रायश्चित्त करने को तैयार है और तुरंत लिखित माफीनामा पीडिता को देने को तैयार है मगर माननीय न्यायमूर्ति ने कहा कि अब बहुत देर हो चुकी है.

जब तक इन शिकायतों पर सुप्रीम कोर्ट के निर्देशानुसार कंपनियों के उच्चाधिकारियों पर तुरन्त निर्णय लेकर उसके खिलाफ कार्यवाही करनी चाहिये तभी सरकारी कार्यालयों में महिलाओं के साथ होने वाले अत्याचार पर अंकुश लग पायेगा अन्यथा सरकारी कार्यालयों में पदस्त हवस के भूखे भेडियों को किसी प्रकार का सबक नहीं मिलने पर उनका हौसला बुलंद हो जायेगा. यदि इसी तरह महिलाओं के साथ कार्यस्थल पर उनके साथ घटनाएँ होती रहेगी इसके कीतने गंभीर परिणाम होंगे.



In view of the above, and the absence of enacted law to provide for the effective enforcement of the basic human right of gender equality and guarantee against sexual harassment and abuse, more particularly against sexual harassment at work places, we lay down the guidelines and norms specified hereinafter for due observance at all work places or other institutions, until a legislation is enacted for the purpose. This is done in exercise of the power available under Article 32 of the constitution for enforcement of the fundamental rights and it is further emphasized that this would be treated as the law declared by this Court under Article 141 of the constitution.

The GUIDELINES and NORMS prescribed herein are as under:

Having regard to the definition of 'human right' in Section 2(d) of the protection of Human Right Act 1993.

TAKING NOTE of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in work places and that enactment of such, legislation will take considerable time.

It is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women:

(1) Duty of the Employer or other responsible persons in work places and other institutions:

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 :

For this purpose, sexual harassment includes such unwelcome sexually determined

उच्चतम न्यायालय ने महिला उत्पीड़न के बारे में दिया गया ऐतिहासिक फैसला

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behaviour (whether directly or by implication) as :

- Physical contact and advances;
- A demand or request for sexual favours;
- Sexually coloured remark;
- Showing pornography;
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where-under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the women has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work 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 raises any objection thereto.

(3) Preventive Steps:

All employers or persons 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:

- Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.
- 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.
- 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.
- Appropriate work conditions should be provided in re-

spect of work, leisure, health and hygiene to further ensure that there is no hostile environment her employment.

(4) Criminal Proceedings:

Where such conduct amounts to specific offence under India 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:

Where or not such conduct constitutes an offence under law or a breach of 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 counselor of other support service, including the maintenance of confidentiality.

The complaints committee should be headed by a woman and not less than half of its member 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 of 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 Government Department.

(8) Workers' initiative:

Employees should be allowed to raise issues of sexual harassment at worker's meeting and in other appropriate forum and it should be affirmatively discussed in Employer Employee meetings.

(9) Awareness:

Awareness of the right 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 all steps necessary and reasonable at assist the affected person in terms of support and preventive action.

(11). The Central/State Government 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 private Sector.

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

15. Accordingly, we direct that the above guidelines and norms would be strictly observed in all work places for the preservation and enforcement of the right to gender equality of the working women. These directions would be binding and enforceable in law until suitable legislation is enacted to occupy the field.