

कार्यालय जनपद न्यायाधीश, औरैया।

प्रकीर्ण आदेश संख्या- 381/2023

दिनांक-अक्टूबर 31 2023

आदेश

न्यायिक प्रशिक्षण एवं अनुसंधान संस्थान, विनीत खण्ड गोमती नगर, लखनऊ द्वारा प्रेषित पत्र संख्या-JTRI/1351, दिनांकित-16.09.2023 में दिये गये निर्देशों के अनुपालन में जनपद औरैया में कार्यस्थल पर महिलाओं पर होने वाले लैंगिक अपराधों से सम्बन्धित समिति का पुर्नगठन किया जाना है।

इस सम्बन्ध में सचिव, जिला विधिक सेवा प्राधिकरण, औरैया से समाजसेवी कार्यकर्ता के नाम चाहे गये थे, सचिव, जिला विधिक सेवा प्राधिकरण, औरैया द्वारा दिनांक-26.10.2023 को पत्र प्रेषित करते हुए सामाजिक कार्यकर्ता के रूप में कार्यस्थल पर महिलाओं पर होने वाले लैंगिक अपराधों से सम्बन्धित समिति गठन करने के सम्बन्ध में जनपद मुख्यालय औरैया पर श्रीमती रीना पाण्डेय, सदस्य, सी०डब्लू०सी०/अपेक्षा एन०जी०ओ० की सामाजिक कार्यकर्ता तथा बाह्य स्थित न्यायालय बिधूना के लिये श्रीमती शिप्रा मिश्रा, सदस्य, अपेक्षा एन०जी०ओ० की सामाजिक कार्यकर्ता के नाम प्रस्तावित किये गये हैं।

तदनुसार न्यायिक प्रशिक्षण एवं अनुसंधान संस्थान, विनीत खण्ड गोमती नगर, लखनऊ द्वारा प्रेषित पत्र संख्या-JTRI/1351, दिनांकित-16.09.2023 एवं माननीय उच्च न्यायालय इलाहाबाद द्वारा निर्गत पत्र दिनांकित-18.10.2023 के अनुसार वीडियो कांफ्रेंसिंग के माध्यम से सम्पन्न हुई आन्तरिक परिवाद समिति की बैठक में दिये गये निर्देश के अनुक्रम में जनपद मुख्यालय औरैया तथा बाह्य स्थित न्यायालय बिधूना में महिलाओं के कार्यस्थल पर यौन शोषण से सम्बन्धित शिकायतों के निस्तारण हेतु पूर्व में पारित प्रकीर्ण आदेश संख्या-289/2023, दिनांकित-14.08.2023 के चरण संख्या-11 पर अंकित "समिति महिलाओं के कार्य स्थल पर यौन शोषण एवं सुरक्षा से सम्बन्धित शिकायतों के निराकरण हेतु समिति" को संशोधित करते हुए पुनर्गठन किया जाता है। समिति के पदाधिकारी निम्न प्रकार से होंगे-

जनपद मुख्यालय औरैया से सम्बन्धित समिति			
क्र.सं.	अधिकारी का पदनाम	पद	मो०नं०
01	प्रधान न्यायाधीश, परिवार न्यायालय औरैया। (पदेन)	अध्यक्ष	9412771190
02	सिविल जज (जू०डि०)/एफ०टी०सी०, क्राइम अगेन्ट्स वूमेन, औरैया।(पदेन)	सदस्य	9557031326
03	सिविल जज (जू०डि०)/एफ०टी०सी०, 14 th फाइनेन्स कमीशन, औरैया। (पदेन)	सदस्य	9412771202
04	श्रीमती रीना पाण्डेय, सदस्य, सी०डब्लू०सी०/ अपेक्षा एन०जी०ओ०	सदस्य	6395483713

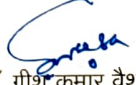
बाह्य स्थित न्यायालय बिधूना, औरैया से सम्बन्धित समिति			
क्र.सं.	अधिकारी का पदनाम	पद	मो०नं०
01	सिविल जज (जू०डि०), बिधूना, औरैया। (पदेन)	अध्यक्ष	9412771302
02	अपर सिविल जज (जू०डि०), बिधूना, औरैया। (पदेन)	सदस्य	9412771301
03	श्री प्रशान्त शुक्ला, लिपिक, अपर सिविल जज (जू०डि०), बिधूना, औरैया।	सदस्य	9410044188
04	श्रीमती शिप्रा मिश्रा, सदस्य, अपेक्षा एन०जी०ओ०	सदस्य	7905950375

उपरोक्त समिति न्यायिक प्रशिक्षण एवं अनुसंधान संस्थान, विनीत खण्ड गोमती नगर, लखनऊ द्वारा प्रेषित पत्र संख्या-JTRI/1351, दिनांकित-16.09.2023 में दिये गये निर्देश तथा भारत का राजपत्र भाग-II, खण्ड-3-उप-खण्ड(i) में दिये गये प्राविधानों के अनुसार अपना कार्य सम्पादित करेगी।

समिति के पदाधिकारीगण को नियमावली में दिये गये प्राविधान "Fees or allowances for Chairperson and members of Local Committee." के अनुसार भत्ता देय होगा।

उपरोक्त निर्गत पत्र दिनांकित-16.09.2023 तथा भारत का राजपत्र भाग-II, खण्ड-3-उप-खण्ड(i) इस आदेश का भाग रहेगा।

सभी सम्बन्धित सूचित हो।


(श्रीशं कुमार वैश्य)
जनपद न्यायाधीश
औरैया।

Vinod Singh Rawat
H.J.S.
Director



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FAX: 0522 – 2725906 (O)

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jtri@allahabadhighcourt.in

No.:JTRI/1351

Date: September 16, 2023

To,

All the District & Sessions Judges
District Courts of Uttar Pradesh.

Sub.: Providing Information/Data in respect of developing a training/workshop module for the Members of ICC established in the District.

Madam / Sir,

Kindly refer to our letter No. JTRI-1338, dated, 15 September, 2023 on the above subject. In above respect, clarifications have been sought by different districts regarding the Rules of constitution of the Internal Complaint Committee.

In this regard, the relevant provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 are mentioned as under:-

“S.4- Constitution of Internal Complaint Committee-

(1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the “Internal Complaints Committee”:

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committees shall consist of the following members to be nominated by the employer, namely:—

(a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section(1):

Provided further that in case the other offices or administrative units of the workplace do not have a senior

level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;

(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 non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:

Provided that at least one-half of the total Members so nominated shall be women."

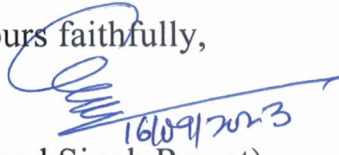
The relevant Act/Rules are attached herewith for ready reference.

It is humbly requested to provide required data/information for ensuring compliance of the directions of Hon'ble Court.

With regards,

Encl.: As above.

Yours faithfully,


16/09/2023
(Vinod Singh Rawat)

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE
(PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

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2. Definitions.
3. Prevention of sexual harassment.

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THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE
(PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

ACT NO. 14 OF 2013

[22nd April, 2013]

An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

WHEREAS sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows: —

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

(2) It extends to the whole of India.

(3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires, —

(a) “aggrieved woman” means—

(i) in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;

(ii) in relation to dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

(b) “appropriate Government” means—

(i) in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly—

(A) by the Central Government or the Union territory administration, the Central Government;

(B) by the State Government, the State Government;

1. 9th December, 2013, vide notification No. S.O. 3606(E), dated 9th December, 2013, see Gazette of India, Extraordinary, Part II, sec. 3(ii).

(ii) in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;

(c) “Chairperson” means the Chairperson of the Local Complaints Committee nominated under sub-section (1) of section 7;

(d) “District Officer” means an officer notified under section 5;

(e) “domestic worker” means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part time or full time basis, but does not include any member of the family of the employer;

(f) “employee” means a person employed at a workplace for any work on regular, temporary, *ad hoc* or daily wage basis, either directly or through an agent, including a contractor, with or, without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name;

(g) “employer” means—

(i) in relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;

(ii) in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace.

Explanation. —For the purposes of this sub-clause “management” includes the person or board or committee responsible for formulation and administration of policies for such organisation;

(iii) in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her employees;

(iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker;

(h) “Internal Committee” means an Internal Complaints Committee constituted under section 4;

(i) “Local Committee” means the Local Complaints Committee constituted under section 6;

(j) “Member” means a Member of the Internal Committee or the Local Committee, as the case may be;

(k) “prescribed” means prescribed by rules made under this Act;

(l) “Presiding Officer” means the Presiding Officer of the Internal Complaints Committee nominated under sub-section (2) of section 4;

(m) “respondent” means a person against whom the aggrieved woman has made a complaint under section 9;

(n) “sexual harassment” includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:—

(i) physical contact and advances; or

(ii) a demand or request for sexual favours; or

(iii) making sexually coloured remarks; or

(iv) showing pornography; or

(v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

(o) “workplace” includes—

(i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;

(ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service;

(iii) hospitals or nursing homes;

(iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;

(v) any place visited by the employee arising out of or during the course of employment including transportation by the employer for undertaking such journey;

(vi) a dwelling place or a house;

(p) “unorganised sector” in relation to a workplace means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.

3. Prevention of sexual harassment.—(1) No woman shall be subjected to sexual harassment at any workplace.

(2) The following circumstances, among other circumstances, if it occurs, or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment:—

(i) implied or explicit promise of preferential treatment in her employment; or

(ii) implied or explicit threat of detrimental treatment in her employment ; or

(iii) implied or explicit threat about her present or future employment status; or

(iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or

(v) humiliating treatment likely to affect her health or safety.

CHAPTER II

CONSTITUTION OF INTERNAL COMPLAINTS COMMITTEE

4. Constitution of Internal Complaints Committee.— (1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the “Internal Complaints Committee”:

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committees shall consist of the following members to be nominated by the employer, namely: —

(a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section(1):

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;

(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 non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:

Provided that at least one-half of the total Members so nominated shall be women.

(3) The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

(4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

(5) Where the Presiding Officer or any Member of the Internal Committee, —

(a) contravenes the provisions of section 16; or

(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest,

such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

CHAPTER III

CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE

5. Notification of District Officer.—The appropriate Government may notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act.

6. Constitution and jurisdiction of ¹[Local Committee].—(1) Every District Officer shall constitute in the district concerned, a committee to be known as the “¹[Local Committee]” to receive complaints of

1. Subs. by Act 23 of 2016, s. 3 and the Second Schedule, for “Local Complaints Committee” (w.e.f. 6-5-2016).

sexual harassment from establishments where the ¹[Internal Committee] has not been constituted due to having less than ten workers or if the complaint is against the employer himself.

(2) The District Officer shall designate one nodal officer in every block, taluka and tehsil in rural or tribal area and ward or municipality in the urban area, to receive complaints and forward the same to the concerned ²[Local Committee] within a period of seven days.

(3) The jurisdiction of the ²[Local Committee] shall extend to the areas of the district where it is constituted.

7. Composition, tenure and other terms and conditions of ²[Local Committee].—(1) The ²[Local Committee] shall consist of the following members to be nominated by the District Officer, namely: —

(a) a Chairperson to be nominated from amongst the eminent women in the field of social work and committed to the cause of women;

(b) one Member to be nominated from amongst the women working in block, taluka or tehsil or ward or municipality in the district;

(c) two Members, of whom at least one shall be a woman, to be nominated from amongst such non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed:

Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge:

Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time;

(d) the concerned officer dealing with the social welfare or women and child development in the district, shall be a member *ex officio*.

(2) The Chairperson and every Member of the Local Committee shall hold office for such period, not exceeding three years, from the date of their appointment as may be specified by the District Officer.

(3) Where the Chairperson or any Member of the ²[Local Committee]—

(a) contravenes the provisions of section 16; or

(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest,

such Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

(4) The Chairperson or Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed.

8. Grants and audit.—(1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the State Government grants of such sums of money as the Central

1. Subs. by Act 23 of 2016, s. 3 and the Second Schedule, for “Internal Complaints Committee” (w.e.f. 6-5-2016).

2. Subs. by s. 3 and the Second Schedule, *ibid.*, for “Local Complaints Committee” (w.e.f. 6-5-2016).

Government may think fit, for being utilised for the payment of fees or allowances referred to in sub-section (4) of section 7.

(2) The State Government may set up an agency and transfer the grants made under sub-section (1) to that agency.

(3) The agency shall pay to the District Officer, such sums as may be required for the payment of fees or allowances referred to in sub-section (4) of section 7.

(4) The accounts of the agency referred to in sub-section (2) shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State, be prescribed and the person holding the custody of the accounts of the agency shall furnish, to the State Government, before such date, as may be prescribed, its audited copy of accounts together with auditors' report thereon.

CHAPTER IV

COMPLAINT

9. Complaint of sexual harassment.—(1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident:

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

10. Conciliation.—(1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation:

Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where settlement has been arrived at under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation.

(3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section (1), no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.

11. Inquiry into complaint.— (1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if *prima facie* case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

(2) Notwithstanding anything contained in section 509 of the Indian Penal Code (45 of 1860), the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate, to the aggrieved woman by the respondent, having regard to the provisions of section 15.

(3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
 - (b) requiring the discovery and production of documents; and
 - (c) any other matter which may be prescribed.
- (4) The inquiry under sub-section (1) shall be completed within a period of ninety days.

CHAPTER V

INQUIRY INTO COMPLAINT

12. Action during pendency of inquiry.—(1) During the pendency of an inquiry on a written request made by the aggrieved woman, the Internal Committee or the local Committee, as the case may be, may recommend to the employer to—

- (a) transfer the aggrieved woman or the respondent to any other workplace; or
- (b) grant leave to the aggrieved woman up to a period of three months; or
- (c) grant such other relief to the aggrieved woman as may be prescribed.

(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

(3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.

13. Inquiry report.—(1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be—

(i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;

(ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:

Provide that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman:

Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee or as, the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

(4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

14. Punishment for false or malicious complaint and false evidence.—(1) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:

Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed, before any action is recommended.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

15. Determination of compensation.—For the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, the Internal Committee or the Local Committee, as the case may be, shall have regard to—

(a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;

(b) the loss in the career opportunity due to the incident of sexual harassment;

(c) medical expenses incurred by the victim for physical or psychiatric treatment;

(d) the income and financial status of the respondent;

(e) feasibility of such payment in lump sum or in instalments.

16. Prohibition of publication or making known contents of complaint and inquiry proceedings.—Notwithstanding anything contained in the Right to Information Act, 2005 (22 of 2005), the contents of the complaint made under section 9, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner:

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

17. Penalty for publication or making known contents of complaint and inquiry proceedings.—Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of section 16, he shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed.

18. Appeal.—(1) Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.

(2) The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations.

CHAPTER VI

DUTIES OF EMPLOYER

19. Duties of employer.— Every employer shall—

(a) provide a safe working environment at the workplace with shall include safety from the persons coming into contact at the workplace;

(b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting, the Internal Committee under sub-section (1) of section 4;

(c) organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed;

(d) provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry;

(e) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;

(f) make available such information to the Internal Committee or the Local Committee, as the case be, as it may require having regard to the complaint made under sub-section (1) of section 9;

(g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code (45 of 1860) or any other law for the time being in force;

(h) cause to initiate action, under the Indian Penal Code (45 of 1860) or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;

(i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;

(j) monitor the timely submission of reports by the Internal Committee.

CHAPTER VII

DUTIES AND POWERS OF DISTRICT OFFICER

20. Duties and powers of District Officer.—The District Officer shall, —

(a) monitor the timely submission of report furnished by the Local Committee;

(b) take such measures as may be necessary for engaging non-governmental organisations for creation of awareness on sexual harassment and the rights of the women.

CHAPTER VIII

MISCELLANEOUS

21. Committee to submit annual report.—(1) The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.

(2) The District Officer shall forward a brief report on the annual reports received under sub-section (1) to the State Government.

22. Employer to include information in annual report.—The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organisation or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.

23. Appropriate Government to monitor implementation and maintain data.—The appropriate Government shall monitor the implementation of this Act and maintain data on the number of cases filed and disposed of in respect of all cases of sexual harassment at workplace.

24. Appropriate Government to take measures to publicise the Act.—The appropriate Government may, subject to the availability of financial and other resources, —

(a) develop relevant information, education, communication and training materials, and organise awareness programmes, to advance the understanding of the public of the provisions of this Act providing for protection against sexual harassment of woman at workplace;

(b) formulate orientation and training programmes for the members of the ¹[Local Committee].

25. Power to call for information and inspection of records.—(1) The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees at a workplace to do so, by order in writing,—

(a) call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require;

(b) authorise any officer to make inspection of the records and workplace in relation to sexual harassment, who shall submit a report of such inspection to it within such period as may be specified in the order.

(2) Every employer and District Officer shall produce on demand before the officer making the inspection all information, records and other documents in his custody having a bearing on the subject matter of such inspection.

26. Penalty for non-compliance with provisions of Act.—(1) Where the employer fails to—

(a) constitute an Internal Committee under sub-section (1) of section 4;

1. Subs. by Act 23 of 2016, s. 3 and the Second Schedule, for “Local Complaints Committee” (w.e.f. 6-5-2016).

(b) take action under sections 13, 14 and 22; and

(c) contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder,

he shall be punishable with fine which may extend to fifty thousand rupees.

(2) If any employer, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to—

(i) twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence:

Provided that in case a higher punishment is prescribed under any other law for the time being in force, for the offence for which the accused is being prosecuted, the court shall take due cognizance of the same while awarding the punishment;

(ii) cancellation, of his licence or withdrawal, or non-renewal, or approval, or cancellation of the registration, as the case may be, by the Government or local authority required for carrying on his business or activity.

27. Cognizance of offence by courts.—(1) No court shall take cognizance of any offence punishable under this Act or any rules made thereunder, save on a complaint made by the aggrieved woman or any person authorised by the Internal Committee or Local Committee in this behalf.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Every offence under this Act shall be non-cognizable.

28. Act not in derogation of any other law.—The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

29. Power of appropriate Government to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the fees or allowances to be paid to the Members under sub-section (4) of section 4;

(b) nomination of members under clause (c) of sub-section (1) of section 7;

(c) the fees or allowances to be paid to the Chairperson, and Members under sub-section (4) of section 7;

(d) the person who may make complaint under sub-section (2) of section 9;

(e) the manner of inquiry under sub-section (1) of section 11;

(f) the powers for making an inquiry under clause (c) of sub-section (2) of section 11;

(g) the relief to be recommended under clause (c) of sub-section (1) of section 12;

(h) the manner of action to be taken under clause (i) of sub-section (3) of section 13;

(i) the manner of action to be taken under sub-sections (1) and (2) of section 14;

(j) the manner of action to be taken under section 17;

(k) the manner of appeal under sub-section (1) of section 18;

(l) the manner of organising workshops, awareness programmes for sensitising the employees and orientation programmes for the members of the Internal Committee under clause (c) of section 19; and

(m) the form and time for preparation of annual report by Internal Committee and the Local Committee under sub-section (1) of section 21.

(3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Any rule made under sub-section (4) of section 8 by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

30. Power to remove difficulties.— (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.



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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

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अधिसूचना

नई दिल्ली, 9 दिसम्बर, 2013

सा.का.नि. 769(अ).—केंद्रीय सरकार, महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध एवं प्रतितोष) अधिनियम, 2013 (2013 का 14) की धारा 29 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित नियम बनाती है, अर्थात्:—

1. संक्षिप्त नाम और प्रारंभ.—(1) इन नियमों का संक्षिप्त महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध एवं प्रतितोष) नियम, 2013 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. परिभाषाएं.—इन नियमों में, जब तक संदर्भ में अन्यथा अपेक्षित न हो, —

(क) "अधिनियम" से कार्यस्थल पर महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध एवं प्रतितोष) अधिनियम, 2013 (2013 का 14) अभिप्रेत है;

(ख) "शिकायत" से धारा 9 के अधीन की गई शिकायत अभिप्रेत है;

(ग) "शिकायत समिति" से आंतरिक समिति अथवा स्थानीय समिति अभिप्रेत है;

(घ) "घटना" से धारा 2 के खंड (द) में यथा-परिभाषित लैंगिक उत्पीड़न की घटना अभिप्रेत है;

(ङ) "धारा" से अधिनियम की कोई धारा अभिप्रेत है;

(च) "विशेष शिक्षक" से कोई ऐसा व्यक्ति अभिप्रेत है जो विशेष जरूरतों वाले लोगों के साथ ऐसे ढंग से संचार करने के लिए प्रशिक्षित है, जिससे उनके व्यक्तिगत मतभेदों एवं आवश्यकताओं का समाधान होता है;

(छ) यहां शब्द और पद जो यहां प्रयुक्त हैं और परिभाषित नहीं किए गए हैं, किंतु अधिनियम में परिभाषित किए गए हैं, उनके अर्थ वही होंगे, जो अधिनियम में दिए गए हैं।

3. आंतरिक समिति के सदस्यों के लिए फीस या भत्ते :

(1) गैर-सरकारी संगठनों में नियुक्त सदस्य, आंतरिक समिति की कार्यवाहियों के आयोजन के लिए प्रतिदिन 200 रुपये के भत्ते के हकदार होंगे, और उक्त सदस्य रेलगाड़ी से थ्री टायर वातानुकूलन या वातानुकूलित बस से तथा आटोरिक्शा या टैक्सी से अथवा यात्रा पर उसके द्वारा खर्च की गई वास्तविक राशि, जो भी, कम हो प्रतिपूर्ति के भी हकदार होंगे।

(2) नियोक्ता उप-नियम (1) में निर्दिष्ट भत्तों के संदाय के लिए उत्तरदायी होगा।

4. लैंगिक उत्पीड़न से संबंधित मुद्दों से परिचित व्यक्ति : धारा 7 की उप-धारा (1) के खण्ड (ग) के प्रयोजन के लिए लैंगिक उत्पीड़न से संबंधित मुद्दों से परिचित व्यक्ति ऐसा व्यक्ति होगा जिसे लैंगिक उत्पीड़न से संबंधित मुद्दों पर विशेषज्ञता प्राप्त हो तथा इसमें निम्नलिखित में से कोई सम्मिलित हो सकेगा -

- (क) समाज कार्य के क्षेत्र में कम से कम 5 साल के अनुभव वाला कोई सामाजिक कार्यकर्ता जो महिलाओं के सशक्तीकरण तथा विशिष्टतया कार्यस्थल पर लैंगिक उत्पीड़न की समस्या को दूर करने के लिए अनुकूल सामाजिक स्थितियों का सृजन करने का मार्ग प्रशस्त करता है;
- (ख) ऐसा व्यक्ति जिसे श्रम, रोजगार, सिविल या दांडिक विधि में अर्हता प्राप्त है।

5. स्थानीय समिति के अध्यक्ष तथा सदस्यों के लिए फीस या भत्ता :

- (1) स्थानीय समिति के अध्यक्ष उक्त समिति की कार्यवाहियों के आयोजन के लिए प्रतिदिन 250 रुपये (दो सौ पचास रुपये) के भत्ते के लिए हकदार होंगे।
- (2) धारा 7 की उप-धारा (1) के खंड (ख) और खंड (घ) के अधीन नामनिर्दिष्ट सदस्यों से भिन्न स्थानीय समिति के सदस्य, उक्त समिति की कार्यवाहियों के आयोजन के लिए प्रतिदिन दो सौ रुपये के भत्ते के हकदार होंगे और रेलगाड़ी से श्री टायर वातानुकूलन, वातानुकूलित बस से तथा आटोरिक्षा या टैक्सी से अथवा यात्रा पर उसके द्वारा खर्च की गई वास्तविक लागत जो भी कम हो, की प्रतिपूर्ति के भी हकदार होंगे।
- (3) जिला अधिकारी, उपनियम (1) और उपनियम (2) में निर्दिष्ट भत्तों के संदाय के लिए उत्तरदायी होगा।

6. लैंगिक उत्पीड़न की शिकायत : धारा 9 की उप-धारा (2) के प्रयोजन के लिए,

- (i) जहां व्यथित महिला, अपनी शारीरिक असमर्थता के कारण शिकायत करने में असमर्थ है, वहां निम्नलिखित द्वारा शिकायत फाइल की जा सकती है -
 - (क) उसका नातेदार या मित्र ; अथवा ;
 - (ख) उसका सहकर्मी; या
 - (ग) राष्ट्रीय महिला आयोग या राज्य महिला आयोग का कोई अधिकारी; या
 - (घ) व्यथित महिला की लिखित सम्मति से कोई ऐसा व्यक्ति जिसे घटना की जानकारी है।
- (ii) जहां व्यथित महिला, अपनी मानसिक अक्षमता के कारण शिकायत करने में असमर्थ है, वहां निम्नलिखित द्वारा शिकायत फाइल की जा सकती है -
 - (क) उसका नातेदार या मित्र; अथवा
 - (ख) कोई विशेष शिक्षक; या
 - (ग) कोई अर्हित मनोविकार विज्ञानी या मनोवैज्ञानिक; अथवा
 - (घ) संरक्षक या प्राधिकारी जिसके अधीन वह उपचार या देखरेख प्राप्त कर रही है; अथवा
 - (ङ) उसके नातेदार या दोस्त या विशेष शिक्षक या अर्हता-प्राप्त मनोविकार विज्ञानी या मनोवैज्ञानिक या संरक्षक अथवा प्राधिकारी जिसके अधीन वह उपचार या देखरेख प्राप्त कर रही है, के साथ संयुक्त रूप से कोई ऐसा व्यक्ति जिसे लैंगिक उत्पीड़न की जानकारी है।
- (iii) जहां व्यथित महिला, किसी कारण से शिकायत करने में असमर्थ है, वहां उसकी लिखित सम्मति से ऐसे व्यक्ति द्वारा शिकायत फाइल की जा सकती है, जिसे घटना की जानकारी है।
- (iv) जहां व्यथित महिला की मृत्यु हो जाती है वहां एक शिकायत, घटना के जानकार द्वारा उसके विधिक वारिस की सम्मति से लिखित रूप में फाइल की जा सकेगी।

7. शिकायत की जांच का ढंग -

- (1) शिकायत फाइल करते समय, धारा 11 के उपबंधों के अधीन शिकायतकर्ता समर्थक दस्तावेजों तथा साक्षियों के नाम एवं पता के साथ शिकायत की छह प्रतियां शिकायत समिति को प्रस्तुत करेगा।
- (2) शिकायत प्राप्त होने पर, शिकायत समिति उपनियम (1) के अधीन व्यथित महिला से प्राप्त प्रतियों में से एक प्रति सात कार्य दिवस की अवधि के भीतर प्रत्यर्थी को भेजेगी।
- (3) प्रत्यर्थी उपनियम (1) के अधीन विनिर्दिष्ट दस्तावेजों की प्राप्ति की तारीख से दस दिन से अधिक अवधि के भीतर दस्तावेजों की सूची तथा साक्षियों के नाम एवं पता के साथ शिकायत पर अपना उत्तर फाइल करेगा।
- (4) शिकायत समिति नैसर्गिक न्याय के सिद्धांतों के अनुसार, शिकायत की जांच करेगी।
- (5) शिकायत समिति को जांच की कार्यवाही समाप्त करने या शिकायत पर एक पक्षीय निर्णय देने का अधिकार होगा, यदि शिकायतकर्ता या प्रत्यर्थी पर्याप्त कारण के बिना यथास्थिति अध्यक्ष या पीठासीन अधिकारी द्वारा आयोजित लगातार तीन सुनवाईयों में अनुपस्थित रहता है या रहती है :

परंतु संबंधित पक्षकार को अग्रिम में लिखित रूप में पन्द्रह दिन का नोटिस दिए बिना ऐसी समाप्ति या एक पक्षीय आदेश पारित नहीं किया जा सकेगा।

- (6) पक्षकारों को शिकायत समिति के समक्ष कार्यवाही के किसी चरण में अपने मामले का प्रतिनिधित्व करने के लिए किसी विधिक व्यावसायी को लाने की अनुमति नहीं होगी।
- (7) जांच का संचालन करते समय, शिकायत समिति के कम से कम तीन सदस्य जिसमें यथास्थिति पीठासीन अधिकारी अथवा अध्यक्ष, हो, उपस्थित होंगे।

8. जांच लंबित रहने के दौरान शिकायतकर्ता को अन्य अनुतोष : व्यथित महिला के लिखित रूप में अनुरोध पर, शिकायत समिति नियोक्ता से निम्नलिखित की सिफारिश कर सकती है :

- (क) व्यथित महिला के कार्य निष्पादन या उसकी गोपनीय रिपोर्ट लिखने तथा इसे किसी अन्य अधिकारी को आबंटित करने से प्रत्यर्थी को अवरुध करना।
- (ख) शैक्षिक संस्था के मामले में व्यथित महिला की किसी शैक्षिक गतिविधि का पर्यवेक्षण करने से प्रत्यर्थी को अवरुध करना।

9. लैंगिक उत्पीड़न के लिए कार्रवाई करने की रीति : ऐसे मामलों को छोड़कर, जहां सेवा नियम विद्यमान हैं जहां शिकायत समिति इस निष्कर्ष पर पहुंचती है कि प्रत्यर्थी के विरुद्ध अभिकथन साबित हो गए हैं, यह यथास्थिति नियोक्ता या जिलाधिकारी से कार्रवाई करने की सिफारिश कर सकती है जिसमें लिखित रूप में क्षमा याचना करना, चेतावनी जारी करना, डांटना या निंदा करना, प्रोन्नति रोकना, वेतनबढ़ोत्तरी या वेतनवृद्धि रोकना, प्रत्यर्थी को सेवा समाप्ति करना या परामर्श सत्र में भाग लेने या सामुदायिक सेवा करने का आदेश देना शामिल है।

10. मिथ्या अथवा दुर्भावपूर्ण शिकायत अथवा मिथ्या साक्ष्य पर कार्रवाई : उन मामलों के सिवाय जहां सेवा नियम विद्यमान हैं, जहां शिकायत समिति इस निष्कर्ष पर पहुंचती है कि प्रत्यर्थी के विरुद्ध अभिकथन दुर्भावपूर्ण है अथवा व्यथित महिला अथवा शिकायत करने वाली अन्य किसी व्यक्ति ने यह जानते हुए कि यह मिथ्या है शिकायत की है अथवा व्यथित महिला या शिकायत करने वाले किसी व्यक्ति ने कूटरधित अथवा भ्रामक दस्तावेज प्रस्तुत किए हैं तो यह यथास्थिति नियोक्ता अथवा जिला अधिकारी को नियम 9 के उपबंधों के अनुसार कार्रवाई करने की सिफारिश कर सकेगी।

11. अपील : धारा 18 के उपबंधों के अधीन, धारा 13 की उप-धारा (2) के अधीन या धारा 13 की उप-धारा (3) के खण्ड (i) या खण्ड (ii) के अधीन अथवा धारा 14 की उपधारा (1) या उप-धारा (2) या धारा 17 के अधीन की गयी सिफारिशों या ऐसी सिफारिशों को कार्यान्वित न किए जाने से व्यथित कोई व्यक्ति औद्योगिक नियोजन (स्थायी आदेश) अधिनियम, 1946 (1946 का 20) की धारा 2 के खण्ड (क) के अधीन अधिसूचित अपीली प्राधिकारी को अपील कर सकेगा।

12. धारा 16 के उपबंधों के उल्लंघन के लिए दंड - धारा 17 के उपबंधों के अधीन, यदि कोई व्यक्ति धारा 16 के उपबंधों का उल्लंघन करता है, तो नियोक्ता ऐसे व्यक्ति से शरित के रूप में पांच हजार रुपये की राशि की वसूली करेगा।

13. कार्यशालाएं आदि आयोजित करने की रीति : धारा 19 के उपबंधों के अधीन, प्रत्येक नियोक्ता,-

- (क) कार्यस्थल पर लैंगिक उत्पीड़न के प्रतिशोध, निवारण एवं प्रतितोष के लिए एक आंतरिक नीति या चार्टर या संकल्प या घोषणा तैयार करेगा तथा उसका व्यापक प्रसार करेगा, जिसका आशय लिंग संवेदी सुरक्षित स्थानों को बढ़ावा देना तथा ऐसे अंतर्निहित कारकों का निवारण करना है, जो महिलाओं के विरुद्ध प्रतिकूल कार्य परिवेश में योगदान करते हैं;
- (ख) आंतरिक समिति के सदस्यों के लिए, प्रबोधन कार्यक्रमों एवं सेमिनारों का क्रियान्वयन करेगा;
- (ग) कर्मचारी जागरूकता कार्यक्रमों का क्रियान्वयन करेगा तथा संवादों के लिए मंच का सृजन करेगा जिसमें पंचायती राज संस्थाएं, ग्राम सभा, महिला समूह, मातृ समितियां, किशोर समूह, शहरी स्थानीय निकाय तथा कोई अन्य निकाय, जिसे आवश्यक समझा जाए, अंतर्बलित हो सकते हैं;
- (घ) आंतरिक समिति के सदस्यों के लिए क्षमता निर्माण एवं कौशल निर्माण कार्यक्रमों का संचालन करेगा;
- (ङ) आंतरिक समिति के सभी सदस्यों के नामों एवं संपर्क के ब्यौरों की घोषणा करेगा;
- (च) अधिनियम के उपबंधों के बारे में कर्मचारियों को संवेदनशील बनाने के लिए, कार्यशालाओं एवं जागरूकता कार्यक्रमों के आयोजन के लिए, राज्य सरकारों द्वारा विकसित मापदंडों का उपयोग करेगा।

14. वार्षिक रिपोर्टें तैयार करना : वार्षिक रिपोर्टें जिसे धारा 21 के अंतर्गत शिकायत समिति द्वारा तैयार किया जाएगा, में निम्नलिखित ब्यौरे होंगे :

- (क) वर्ष में प्राप्त लैंगिक उत्पीड़न की शिकायतों की संख्या;
- (ख) ऐसी शिकायतों की संख्या जिनका वर्ष के दौरान निस्तारण किया गया;
- (ग) ऐसे मामलों की संख्या जो नब्बे दिन से अधिक अवधि तक लंबित हैं;

- (घ) लैंगिक उत्पीड़न के विरुद्ध क्रियान्वित कार्यशालाओं या जागरूकता कार्यक्रमों की संख्या;
 (ङ) नियोक्ता या जिला अधिकारी द्वारा की गई कार्रवाई का स्वरूप।

[फा. सं. 19-5/2013-डब्ल्यूडब्ल्यू]

डॉ. श्रीरंजन, संयुक्त सचिव

MINISTRY OF WOMEN AND CHILD DEVELOPMENT

NOTIFICATION

New Delhi, the 9th December, 2013

G.S.R. 769(E).—In exercise of the powers conferred by section 29 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement. – (1) These rules may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions. – In these rules, unless the context otherwise requires,–

- (a) "Act" means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013);
 (b) "complaint" means the complaint made under section 9;
 (c) "Complaints Committee" means the Internal Committee or the Local Committee, as the case may be;
 (d) "incident" means an incident of sexual harassment as defined in clause (n) of section 2;
 (e) "section" means a section of the Act;
 (f) "special educator" means a person trained in communication with people with special needs in a way that addresses their individual differences and needs;
 (g) words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Fees or allowances for Member of Internal Committee.– (1) The Member appointed from amongst non-government organisations shall be entitled to an allowance of two hundred rupees per day for holding the proceedings of the Internal Committee and also the reimbursement of travel cost incurred in travelling by train in three tier air condition or air conditioned bus and auto rickshaw or taxi, or the actual amount spent by him on travel, whichever is less.

The employer shall be responsible for the payment of allowances referred to in sub-rule (1).

4. Person familiar with issues relating to sexual harassment.– Person familiar with the issues relating to sexual harassment for the purpose of clause (c) of sub-section (1) of section 7 shall be a person who has expertise on issues relating to sexual harassment and may include any of the following:–

- (a) a social worker with at least five years' experience in the field of social work which leads to creation of societal conditions favourable towards empowerment of women and in particular in addressing workplace sexual harassment;
 (b) a person who is familiar with labour, service, civil or criminal law.

1. Fees or allowances for Chairperson and Members of Local Committee.– (1) The Chairperson of the Local Committee shall be entitled to an allowance of two hundred and fifty rupees per day for holding the proceedings of the said Committee.

(2) The Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) of section 7 shall be entitled to an allowance of two hundred rupees per day for holding the proceedings of the said Committee and also the reimbursement of travel cost incurred in travelling by train in three tier air condition or air conditioned bus and auto rickshaw or taxi, or the actual amount spent by him on travel, whichever is less.

The District Officer shall be responsible for the payment of allowances referred to in sub-rules (1) and (2).

6. Complaint of sexual harassment. – For the purpose of sub-section (2) of Section 9,–

- (i) where the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed by –

- (a) her relative or friend; or
 - (b) her co-worker; or
 - (c) an officer of the National Commission for Women or State Women's Commission; or
 - (d) any person who has knowledge of the incident, with the written consent of the aggrieved woman;
- (ii) where the aggrieved woman is unable to make a complaint on account of her mental incapacity, a complaint may be filed by-
- (a) her relative or friend; or
 - (b) a special educator; or
 - (c) a qualified psychiatrist or psychologist; or
 - (d) the guardian or authority under whose care she is receiving treatment or care; or
 - (e) any person who has knowledge of the incident jointly with her relative or friend or a special educator or qualified psychiatrist or psychologist, or guardian or authority under whose care she is receiving treatment or care;
- (iii) where the aggrieved woman for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident, with her written consent;
- (iv) where the aggrieved woman is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of her legal heir.

7. **Manner of inquiry into complaint.-** (1) Subject to the provisions of section 11, at the time of filing the complaint, the complainant shall submit to the Complaints Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.

(2) On receipt of the complaint, the Complaints Committee shall send one of the copies received from the aggrieved woman under sub-rule (1) to the respondent within a period of seven working days.

(3) The respondent shall file his reply to the complaint along with his list of documents, and names and addresses of witnesses, within a period not exceeding ten working days from the date of receipt of the documents specified under sub-rule (1).

(4) The Complaints Committee shall make inquiry into the complaint in accordance with the principles of natural justice.

(5) The Complaints Committee shall have the right to terminate the inquiry proceedings or to give an *ex-parte* decision on the complaint, if the complainant or respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Chairperson or Presiding Officer, as the case may be:

Provided that such termination or *ex-parte* order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.

(6) The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Complaints Committee.

(7) In conducting the inquiry, a minimum of three Members of the Complaints Committee including the Presiding Officer or the Chairperson, as the case may be, shall be present.

8. **Other relief to complainant during pendency of inquiry.-** The Complaints Committee at the written request of the aggrieved woman may recommend to the employer to-

- (a) restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, and assign the same to another officer;
- (b) restrain the respondent in case of an educational institution from supervising any academic activity of the aggrieved woman.

9. **Manner of taking action for sexual harassment.-** Except in cases where service rules exist, where the Complaints Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be, to take any action including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service or undergoing a counselling session or carrying out community service.

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10. Action for false or malicious complaint or false evidence.- Except in cases where service rules exist, where the Complaints Committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or District Officer, as the case may be, to take action in accordance with the provisions of rule 9.

11. Appeal.- Subject to the provisions of section 18, any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clauses (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the appellate authority notified under clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946).

12. Penalty for contravention of provisions of section 16.- Subject to the provisions of section 17, if any person contravenes the provisions of section 16, the employer shall recover a sum of five thousand rupees as penalty from such person.

13. Manner to organise workshops, etc.- Subject to the provisions of section 19, every employer shall-

- (a) formulate and widely disseminate an internal policy or charter or resolution or declaration for prohibition, prevention and redressal of sexual harassment at the workplace intended to promote gender sensitive safe spaces and remove underlying factors that contribute towards a hostile work environment against women;
- (b) carry out orientation programmes and seminars for the Members of the Internal Committee;
- (c) carry out employees awareness programmes and create forum for dialogues which may involve Panchayati Raj Institutions, Gram Sabha, women's groups, mothers' committee, adolescent groups, urban local bodies and any other body as may be considered necessary;
- (d) conduct capacity building and skill building programmes for the Members of the Internal Committee;
- (e) declare the names and contact details of all the Members of the Internal Committee;
- (f) use modules developed by the State Governments to conduct workshops and awareness programmes for sensitising the employees with the provisions of the Act.

14. Preparation of annual report.- The annual report which the Complaints Committee shall prepare under Section 21, shall have the following details:-

- (a) number of complaints of sexual harassment received in the year;
- (b) number of complaints disposed off during the year;
- (c) number of cases pending for more than ninety days;
- (d) number of workshops or awareness programme against sexual harassment carried out;
- (e) nature of action taken by the employer or District Officer.

[F. No. 19-5/2013-WW]

Dr. SHREERANJAN, Jt. Secy.