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**Sexual Harassment of Women at their Work Place
(Prevention) Bill, 2003**

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A Bill to provide for prevention of sexual harassment of women and women employees that is work related or arises during the course of employment or custodial in nature by any one including their employers, superiors, colleagues and matters connected therewith.

Be it enacted by the Parliament in the fifty fifth year of the Republic of India as follows.

1. Short title extent and commencement (1) This Act may be called Sexual Harassment of Women at their Work Place (Prevention) Bill 2003.

(2) It extends to whole of India.

(3) It shall come into force with immediate effect.

2. Definition : in this Act, unless the context otherwise requires –

(a) “Appropriate Government” means in relation to the centrally owned undertakings or departments, the Central Government and in relation to the other undertakings and departments, the State Government.

(b) Employer means :-

(i) In relation to an establishment which is under control of the Appropriate Government a person or authority appointed by the appropriate Government for the supervision and control of employees or where no person or authority is appointed, the Head of the Department.

(ii) In relation to an establishment under any local authority, the person appointed by such authority for the supervision and control of employees or where no person is so appointed the Chief Executive Officer;

(iii) In any other case, the person who or the authority which, has the ultimate control over the affairs of establishment or house

and where-such affairs are entrusted to any other person whether called a Manager, Managing Director, Managing Agent or by any other name, such person.

- ⇒ (c) “Sexual Harassment” includes any avoidable ^{or unwanted} sexual advances either verbal or through gestures or through use of sexually suggestive or pornographic material, and includes amongst others; whistling, sexually slanting and obscene remarks or jokes; comments about physical appearance; demands for sexual favours; threats, innuendoes; avoidable physical contacts, touching, patting, pinching; physical assaults and molestation of and towards woman workers by their male colleagues, or any one who for the time being [is in a position to sexually harass] the women.
- ⇒ (d) “Woman” means and includes a [woman employed] whether directly or through any agency, for wages or for similar other consideration in any establishment, house, industry, or at a construction site, or a self employed woman, and also includes a student in an educational or other institution of learning.
- (e) **“Workplace”** includes
- (i) a factory
 - (ii) a mine
 - (iii) a plantation
 - (iv) an agricultural field;
 - (v) place of sale of agricultural or other products;
 - (vi) a brick kiln
 - (vii) a construction site
 - (viii) a shop or business establishment
 - (ix) any private office or house including a farm house;
 - (x) any banking or financial institution;
 - (xi) any Government, semi government, establishment or department including telegraph office, post office, telephone exchange etc.
 - (xii) a hospital or nursing home
 - (xiii) court premises, police stations; remand homes or other judicial establishments
 - (xiv) restaurants, clubs, hotels; resorts or any other hospitality establishment;
 - (xv) school, college, university or like institution;

- (xvi) a training institution;
- (xvii) an establishment wherein persons are employed for exhibition of equestrian, acrobatic, athletic and other sports related performance.
- (xviii) Any other place where a woman visits in connection with work.

3. **Conduct of sexual harassment to amount to misconduct in employment :** Notwithstanding anything contained in any other law for the time being in force, the conduct of sexual harassment would amount to a misconduct in employment.

⇒ 4. **Joint responsibility of employer in offence of sexual harassment :** Notwithstanding anything contained in any other law for the time being in force, if an act of sexual harassment is committed at work place, the supervisor, manager and managing director or the overall administrative head, shall also be jointly responsible for commission of sexual harassment in the establishment and irrespective of the intention and prior meeting of minds; section 34 of the IPC shall be made applicable in their case

crime of job.

5. **Women employees not to be harassed :** No person being an employer or manager or supervisor in charge of the office/organisation or a factory or establishment or any other work place or any other employee or any other person shall indulge or caused to be indulged in sexual harassment of women employees.

⇒ 6. **Punishment for sexual harassment of women :** Notwithstanding anything contained in any other law for the time being in force whoever sexually harasses a woman at work place shall be punished with simple imprisonment for a term which may extend to five years or with fine which may extend to twenty thousand rupees or both.

*# crime of job.
- that for job case - how?
- how to complain to
the employer?*

7. **Burden of Proof :** Notwithstanding anything contained in any other law for the time being in force the onus of proving the innocence shall be on the accused and the victim shall have the right to lead the evidence in rebuttal.

8. **Pleading in case of harassed women worker :** Notwithstanding anything contained in any other law for the time being in force the case of a sexually harassed woman at a work place shall be pleaded at

her option either by herself; or by her counsel or by a woman's organisation or by a trade union of which she is a member.

substantiated?
admitted by whom?

9. **Trial to be held in camera** : At the option of the victim the trial of the offence committed under the Act shall be held in camera.

10. Criminal Proceedings:

Why would you or initiate
if he liable?
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how to ensure x pick-up at
victim?

(i) Where the conduct of sexual harassment amounts to a specific offence under the Indian Penal Code or under any other law; the employer shall initiate action in accordance with law by making a complaint with the appropriate authority ensuring that the victim or witnesses are not victimized or discriminated against while dealing with the complaints of sexual harassment.

x under the heading

(ii) The employer shall at the option of the victim, transfer the perpetrator or the victim from the place of posting.

(iii) Notwithstanding anything contained in clauses (i) & (ii), where the perpetrator of sexual harassment happens to be the employer of the victim, the Complaint Committee shall at the option of the victim transfer the perpetrator and ensure that the victim or witnesses are not victimized or discriminate against while dealing with the complaint of sexual harassment.

11. **Disciplinary Action** : Where sexual harassment takes place at the instance of or by the employee, the employer shall also initiate appropriate disciplinary action in accordance with the rules relating to misconduct.

12. **Complaint Mechanism** : The employer shall create an appropriate complaint mechanism as stated in Section 13, within the organization for redressal of complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

13. Complaint Committee :

= permanent (temp body)?
procedure for dealing w. complaints
punishment to be imposed on guilty

(i) A Complaint Committee shall be constituted consisting of seven members headed by a woman and not less than half of its members shall be women.

- (ii) It shall include at least three non-governmental organization or bodies familiar with the issue of sexual harassment.
- (iii) In case the establishment has a number of branches / offices etc. each such place shall have a separate committee.
- (iv) The committee shall complete its report within a period of six months from the date of receipt of the complaint of sexual harassment from the victim.
- (v) The committee shall recommend appropriate punishment and the employer shall implement the same.
- (vi) It shall make an annual report to the Government Department concerned, of the complaints and action taken by them.

14. Third party harassment : Where sexual harassment occurs as a result of an action or omission by any third party or outsider, employer and person incharge will take all necessary and reasonable steps to assist the affected person in terms of support and preventive action.

15. Special Officers to deal with the cases in the government office :

- (i) The appropriate Government shall designate a female officer to be a Special Officer in every department or office under its jurisdiction to deal with cases arising out of this Act.
- (ii) The Government shall widely publicize the designation and duties of such Officer in every department or office.
- (iii) The Special Officer so designated shall deal with complaints lodged by female employees in her department or office or establishment and shall forward it to the Complaint Committee constituted under section 14, and the Complaint Committee shall complete the report within six months from the date of receiving such complaint.

16. **District Level Officer for every district :** (i) The appropriate Government shall appoint a female District Level Officer other than those covered under section 16 (i) for every district to deal with cases arising out of provisions of this Act within the jurisdiction of that district.

(ii) The District Level Officer specified in clause (i) shall be based in Labour Department and shall look after the complaints of sexual harassment at workplace by all women of the district irrespective of whether they are employed in organised or unorganised sector or are self employed.

17. **District Level Officer make inquiries :** As soon as a complaint has been lodged with the District Level Officer she shall investigate the matter and shall direct the concerned employer to forward it to the Complaint Committee constituted under sec. 14 to further inquire into the facts and circumstances of the complaint and send a report to her in a time bound manner.

18. **District Level Officer to ensure action against guilty :** If after inquiry the District Level Officer receives a report against any person guilty of violating the provisions of this Act, she shall –

a) in case the guilty is an employee of the Government, **ensure** that disciplinary action is taken against him by the appropriate authority.

b) in case the guilty (harasser) is not employed in Government service **ensure** that the employer or other person in charge of affairs of the organisation where the harasser is employed takes necessary action in accordance with the provisions of this Act.

19. **Duty of the Employer :** (a) It shall be the duty of the employer to inform the Complaints Committee and the District Level Officer about the disciplinary action initiated against the accused.

(b) Where the employer himself is the accused the District Level Officer shall be empowered to initiate the disciplinary action against such employer in accordance with the service rules.

- 20. Non compliance of the report of District Level Officer :** Where no action has been taken by the employer or the person in charge of the affairs of the organisation where the accused is employed, on a report by the District Level Officer.
- i) in case it is an office or establishment under the control of the appropriate government, the appropriate government may terminate the services of both the accused person and the person in charge of the office where the victim is working.
 - ii) in case the work place where the victim is employed is not under the control of the government, the facilities and concessions extended to that organisation by the appropriate government shall be withdrawn forthwith.
- 21. Power of the District Level Officer :** A District Level Officer while discharging her function under the provisions of this Act shall have the powers of a Civil Court and the proceeding thereof shall be in accordance with the Code of Civil Procedure 1908.
- 22. Workers Initiative :** Employees should be allowed to raise issues of sexual harassment at the worker's meeting and in any other appropriate forum and it shall be affirmatively discussed in employer – employee meeting.
- 23. Power to Make rules :** The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.