



### INTRODUCTION



- Why POSH ?
- What is violation of human rights at workplace?
- What is Prevention, Prohibition and Redressal?



### OUR COMMITMENT

- Zero Tolerance
- Creating Awareness
- Fair Workplace
- Gender Equality







### **Bhanwari Devi**

Indian Dalit Woman Village Bhateri, Rajasthan

Winner of "Neerja Bhanot Memorial Award" for her "extraordinary courage, conviction and commitment;

"Bhanwari Devi, residing on the outskirts of Bhateri village, approximately 55 kilometers from Jaipur, faced a gang rape in 1992 at the hands of higher-caste men. The attack was in retaliation for her attempts to stop a child marriage within their family. This event garnered extensive national and international media coverage, marking a significant moment in India's women's rights movement. Currently, Bhanwari Devi leads a self-help group alongside other women from her community and collaborates with an NGO to provide support for her"



### VISHAKHA GUIDELINES



### Supreme Court of India Judgement 1997

(Ref: Vishakha and Ors. Vs. State of Rajasthan and Ors)

Landmark judgment of August 1997

Established that "Sexual Harassment violates a woman's right in the workplace and is thus not just a matter of personal injury"



### 2012 DELHI GANG RAPE



- Nirbhaya case Delhi gang rape
- Judicial committee was appointed by "The Central Government"
- Amendments suggested by justice J. S.
   Verma
- Approval of an ordinance by "The Cabinet Ministers" on 1st February 2013
- The Criminal Law (Amendment)
   Ordinance, 2013 passed
- Later replaced by the Criminal Law (Amendment) Act, 2013, commonly known as the Nirbhaya Act.



# ADVENT OF

The Criminal Law (Amendment) Act, 2013 (Nirbhaya Act) (effective from Dec 2013)



- This statute supersedes the Vishakha Guidelines for prevention of sexual harassment introduced by the Supreme Court of India.
- The Statute extends to the "Whole of India"
- It is only for the protection of "Women at Workplace"



## IMPORTANT CONCEPTS

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DEFINITIONS



#### **PREAMBLE**

An Act to protect women at work from sexual harassment and address related complaints and matters.

#### **AGGRIEVED WOMAN**

Women working or visiting any workplace -Regular employee / Temporary employee / Adhoc / Daily wages /contractor/working for remuneration/volunteers/co-worker, contract worker, probationer, trainee, apprentice, visitor



Cont...





Includes places visited during employment including transportation provided by the employer spanning organized and unorganized sectors, government, private organizations, hospitals/nursing homes, sports institutes, dwellings, or houses.

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#### **SEXUAL HARASSMENT**

Gross violation of women's right to equality and dignity.

#### (Sec 2(n) of the Act)

Sexual Harassment includes unwelcome acts or behavior, physical contact and advances (whether directly or by implication)

#### (Sec 3(2) of the Act)

Any act or behavior that may amount to Sexual Harassment

## IMPORTANT CONCEPTS

&

DEFINITIONS





# FORMS OF WORKPLACE SEXUAL HARASSMENT



#### (Sec 3(2) of the Act)

#### **Quid Pro Quo (this for that)**

- Implies or explicit promise of preferential / detrimental treatment in employment
- Implied or express threat about her present or future employment status

#### **Hostile Work Emviornment**

- Creating hostile, intimidating or an offensive work environment
- Humiliating treatment likely to affect her health and safety



#### **SEXUAL ADVANCES**













#### **UNSAVOURY REMARKS**







Singing embarrassing film songs

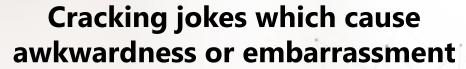




# JOKES CAUSING OR LIKELY TO CAUSE AWKWARDNESS OR EMBARRASSMENT











### INNUENDOS AND TAUNTS

You're just a woman. We need a man for this assignment!











### GENDER BASED INSULTS OR SEXIST REMARKS

Scenario



Making babies is all you women are good for



**Using gender based insults** 



### UNWELCOME SEXUAL OVERTONES IN ANY MANNER











# TOUCHING OR BRUSHING AGAINST ANY PART OF THE BODY AND THE LIKE

Scenario



Arrey, you are like my beti...



Hugging or touching on some pretext

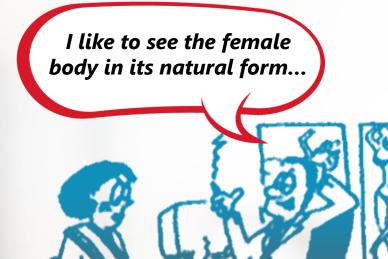




DISPLAYING PORNOGRAPHIC OR OTHER OFFENSIVE OR DEROGATORY PICTURES, CARTOONS, PAMPHLETS OR SAYINGS

### Scenario







Displaying pomographic material at the workplace





### FORCIBLE PHYSICAL TOUCH OR MOLESTATION





Molestation



# PHYSICAL CONFINEMENT AGAINST ONE'S WILL AND ANY OTHER ACT LIKELY TO VIOLATE ONE'S PRIVACY











### ABUSE OF AUTHORITY OR POWER

**Scenario** 





Threatening adverse consequences on raising objections or resisting advances





### following behaviors: • Unwelcome

- Sexual in Nature
- A Subjective Experience
- Impact not the intent matters

### It typically involves acts on which the victim has reasonable apprehension that they are:

**Workplace Sexual Harassment includes the** 

- Humiliating
- Unsafe
- Unhealthy
- Discriminatory
- Career limiting
- Otherwise causing adverse circumstances

# IMPORTANT CONCEPTS





# FEW PROVISIONS OF THE IPC



### Sexual Harassment is a Serious Criminal Offense!!!

**Section 354** : Assault of criminal force to woman with

intent to outrage her modesty.

**Section 354A**: Physical contact and advances

**Section 354B**: Assault or use of criminal force to woman

with intent to disrobe

**Section 354C**: Voyeurism

**Section 354D**: Stalking

**Section 294** : Obscene acts and songs

**Section 509** : Word, gesture or act intended to insult the

modesty of a woman



### REDRESSAL

### WHO CAN

# MAKE THE COMPLAIN?/ COMPLAINANT





- ☐ The woman herself
- ☐ In case of mental incapacity
  - Her relative
  - Friend
  - Special educator
  - Qualified psychiatrist/ psychologist
  - Guardian under whom she is receiving care
  - Any person who has information about incident with written consent of any of the above
- ☐ In case of Physical incapacity
  - Her relative
  - Friend
  - Co-worker
  - Officer of the National / State commission for women
  - Any person who has information about incident with the written consent of woman
- ☐ In case of death any person who has information about incident with the written consent of legal heir
- ☐ In any other case, by any person who has information about incident with the written consent of woman



# THE COMPLAINT CONTENTS



# The complaint (six copies) by the aggrieved person should contain all the material and relevant details concerning the alleged sexual harassment which includes:

- The name of contravener
- The complainant
- Date
- Time
- Location
- Working Relationship between parties
- Names and addresses of witnesses, if any



# THE COMPLAINT MECHANISM



- □ Complaint to be raised in writing to icc@csm.tech within a period of three months from the date of incident
  - ICC to provide assistance in case victim is incapable to make complaint in written
  - The first meeting to be held within 7 working days of receiving the written complaint
  - Investigation to be done by ICC followed by submission of relevant documents
  - Participation of minimum three members of ICC during inquiry including Chairperson
  - Review the written complaint to ensure it has all the desired information regarding the incident
  - Send complaint to respondent within seven days
  - Respondent needs to respond within 10 days of receipt.
  - Meet up with complainant for any settlement/conciliation



### CONCILIATION



- ☐ Initiate conciliation process in the form of
  - Verbal warning
  - Counseling
  - Educating
  - Appoint neutral conciliator to resolve
- ☐ Forward the findings/ conciliation resolution to employer



### INQUIRY PROCEDURE BY





- Initiate enquiry
- Interview the Complainant, Respondent, Witnesses
- Listing of the Events
- Fact Finding
- Confidentiality and Impartiality is the key
- Follow the Principles of natural Justice
- Order Ex-parte or terminate the proceedings if the complainant or Respondent fail to be present for three consecutive hearings
- Legal Practitioners are not permitted
- Confidentiality to be maintained

### Principles of Natural Justice have to be observed by the Committee:

- Nobody can be condemned without being heard
- The judge must be impartial and act fairly and in good faith



### **TIMELINES**



TIMELINES	
Submission of Complaint	Within 3 months of occurrence of incident
Notice to the Respondent	Within 7 days of receiving copy of the complaint
Completion of Inquiry	Within 90 days of complaint
Submission of Report by ICC to employer	Within 10 days of completion of the inquiry
Implementation of Recommendations	Within 60 days of the recommendations



# RECOMMENDATIONS / PENALTY



#### In case allegations are proven:

- Service Rules to be followed as for "misconduct"
- Disciplinary Actions like Written Apology;
   Warning;
- Reprimand
- With-holding of promotion
- With-holding of pay increase or increments
- Counseling Sessions
- Community Service
- Termination from services
- Financial Damages
- Additional recommendations to address underlying factors



### CONFIDENTIALITY



#### The Act prohibits the disclosure of:

- Contents of the complaint;
- Identity and address of complainant, respondent and witnesses;
- Information pertaining to conciliatory / inquiry proceedings or recommendations of the ICC;
- Action taken by the employer / DO
- Shall not be published, communicated or made known to public, press and media in any manner



### **ICC MEMBERS**

CHAIR PERSON /
PRESIDING OFFICER

Lagna Panda, (CHRO)

**INTERNAL MEMBER** 

Pradyut Mohan Das, CTO
Soumya Ranjan Sahoo, Manager Pre-sales
Shweta Janardhan Sharma, Company Secretary
Manasi Das, AVP – HR

**EXTERNAL MEMBER** 

Subhra Misra, SPARC



### Thank You

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