

Gender Sensitization & Sexual Harassment of Women at Industrial Court/Labour Court, Ahmedabad (Prevention, Prohibition and Redressal) Regulations, 2013

GUJARAT

India

Gender Sensitization & Sexual Harassment of Women at Industrial Court/Labour Court, Ahmedabad (Prevention, Prohibition and Redressal) Regulations, 2013

Rule

GENDER-SENSITIZATION-SEXUAL-HARASSMENT-OF-WOMEN-AT-IN of 2013

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Gender Sensitization & Sexual Harassment of Women at Industrial Court/Labour Court, Ahmedabad (Prevention, Prohibition and Redressal) Regulations, 2013Published vide Notification No. EST/2/2014/4133, dated 8.5.2014Last Updated 5th November, 2019Whereas gender discrimination and sexual harassment results in violation of the fundamental right 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 of India 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 under Article 19(1)(g) of the Constitution of India;And whereas in Writ Petition (Civil) No. 162 of 2013, Ms. Binu Tamta & Anr. vs. High Court of Delhi & Ors., vide order dated. 17.07.2013, the Hon'ble Supreme Court has approved of and accepted "The Gender Sensitization & Sexual Harassment of Women at the Supreme Court of India (Prevention, Prohibition Redressal), Regulations, 2013" and directed the Hon'ble Supreme Court in its administrative jurisdiction to take note of the same and to arrange that the same are promulgated and given wide publicity and further directed that the copies of the same be sent to the different High Courts in the different States, so that they too may formulate their own Regulations in the same manner, in order to certain harassment of women in Court Premises and that the High Courts may also ensure that the same are implemented at the District level as well.The Industrial Court/Labour Court, Ahmedabad hereby makes the following regulations for the Industrial Court/Labour Court, Ahmedabad.Chapter-I

Eliminary

1. Short title, extent and commencement.

- (i) These regulations may be called the Gender Sensitization & Sexual Harassment of Women at Industrial Court/Labour Court, Ahmedabad (Prevention, Prohibition and Redressal) Regulations, 2013.(ii)These Regulations shall come into force on the date of its publication in the Government Gazette.

2. Definitions.

- In these regulations, unless the context otherwise requires :-(a)"aggrieved woman" means, in relation to the Industrial Court/Labour Court, Ahmedabad any female, of any age, whether employed or not, who claims to have been subjected to any act of sexual harassment by any person in the precincts of Industrial Court/Labour Court, Ahmedabad but does not include any female who is already governed by the Gujarat Civil Services (Conduct) Rules, 1971;(b)"appropriate authority" means, in relation to the Industrial Court/Labour Court, Ahmedabad Principal Judicial Officer/Principal District Judge of the Industrial Court/Labour Court;(c)"Chairperson" means the Chairperson of the Gender Sensitization and Internal Complaints Committee (GSICC), constituted at the Industrial Court/Labour Court, Ahmedabad;(d)"Principal Judicial Officer" in context of the present regulations means the sitting Principal Judicial Officer of the Industrial Court/Labour Court, Ahmedabad;(e)"Principal District Judge" in context of the present regulations means the sitting Principal District Judge of the Industrial Court/Labour Court, Ahmedabad";(f)"habitual respondent" is a person against whom a previous complaint of sexual harassment has been received by the GSICC on earlier occasion, irrespective of whether the matter was resolved with or without an inquiry and except where the respondent has been exonerated in the previous complaint;(g)"GSICC" means the Industrial Court/Labour Court, Ahmedabad Gender Sensitisation and Internal Complaints Committee constituted under Regulation 4;(h)"Internal Sub-Committee" means the Sub-committee set up under Regulation 9;(i)"Member" means a member of the GSICC;(j)"prescribed" means prescribed by the present regulations;(k)"respondent" means a person against whom the aggrieved woman has made a complaint under the present regulations;(l)"Sexual harassment" includes any one or more of the following unwelcome acts or behaviour namely:-(i)physical contact and advances;(ii)a demand or request for sexual favours;(iii)making sexually coloured remarks;(iv)showing or exhibiting pornography and/ or sexually explicit material by any means;(v)sending undesirable sexually coloured oral or written messages, text messages, e-mail messages, or any such messages by electronic, manual or other means;(vi)stalking or consistently following aggrieved woman in the precincts of Industrial Court/Labour Court, Ahmedabad and outside;(vii)voyeurism including overt or tacit observation by the respondent by any means of the aggrieved woman in her private moments;(viii)any conduct whereby the respondent takes advantage of his position and subjects the aggrieved woman to any form of sexual harassment and seeks sexual favours specially while holding out career advancements, as an incentive or a natural result of submitting to the insinuations/ demands of the respondent;(ix)any other unwelcome physical, verbal or non-verbal conduct of sexual nature;(x)any promise of preferential treatment in her legal career with an intention to gain any sexual favour;(xi)any threat

of detrimental treatment in her legal career with an intention to gain any sexual favour;(xii)any threat about her present or future legal career with an intention to gain any sexual favour;(xiii)any treatment having a sexual colour or content likely to affect her emotional and/or physical health or safety.(m)"Court" means the Industrial Court/Labour Court, Ahmedabad;(n)"Court precincts" means the whole premises of the Industrial Court/Labour Court, Ahmedabad including the Court Block, open grounds, parking, Chamber Blocks, libraries, canteens, Bar-rooms, health centres and/or any other part of the premises under the control of Principal Judicial Officer/Principal District Judge of the Industrial Court/Labour Court, Ahmedabad;(o)"Volunteer" means lawyers or other persons enlisted by the GSICC without any remuneration basis for carrying out the objects and purpose of these regulations.

3. Prevention of sexual harassment.

- No woman shall be subjected to sexual harassment at the precincts of the Industrial Court/Labour Court, Ahmedabad.Chapter-II Composition & Constitution of Gender Sensitisation & Internal Complaints Committee

4. Constitution of the Gender Sensitization & Internal Complaints Committee.

(1)The GSICC is constituted herein to fulfil a very important public function of sensitizing the public to gender issues and to address any complaints made with regard to sexual harassment at the precincts of the Industrial Court/Labour Court, Ahmedabad;(2)The Principal Judicial Officer/Principal District Judge of the Industrial Court/Labour Court, Ahmedabad, by an order in writing, constitute a Committee to be known as the "Gender Sensitisation and Internal Complaints Committee" (GSICC) which shall consist of not less than seven members and not more than thirteen members and shall include the following, as far as practicable:-(a)one or two Judges of the Industrial Court/Labour Court, Ahmedabad, in terms of the Judgement in the case of Vishaka, one of whom shall be the Chairperson of the Committee, to be nominated by the Principal Judicial Officer/Principal District Judge, Industrial Court/Labour Court, Ahmedabad;(b)one or two senior members of the Bar of the Industrial Court/Labour Court, Ahmedabad, with at least 20 years of membership of the said Bar Association, to be nominated by the Principal Judicial Officer/Principal District Judge, Industrial Court/Labour Court, Ahmedabad, one of whom being a woman;(c)one or two members to be elected by General Ballot of the Bar Association of the Industrial Court/Labour Court, Ahmedabad who shall be registered member/s of the said Bar Association for at least ten years out of whom at least one shall be a woman;(d)one woman member being a member of the Advocate Clerks' Association of the Industrial Court/Labour Court, Ahmedabad elected by General Ballot of the Advocate Clerks' Association of the Industrial Court/Labour Court, Ahmedabad;(e)one woman officer in the service of the Court, not below the rank of a Registrar/Deputy Registrar/Superintendent, to be nominated by the Principal Judicial Officer/Principal District Judge, who shall function as the Member Secretary of the GSICC; and(f)any other member that the Principal Judicial Officer/Principal District Judge may deem fit to nominate:Provided that it shall be ensured that the majority of the members of GSICC shall be women members.(3)Where the Chairperson or any Member of the GSICC-(a)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/her;(b)fails to constitute

an Internal Sub-Committee to inquire into a particular complaint;(c)fails to take action under Regulation 11;(d)contravenes or attempts to contravene or abets contravention of other provisions of these regulations or any notifications/orders issued thereunder; or(e)in the opinion of the Principal Judicial Officer/Principal District Judge has so abused his/her position as to render his /her continuance in office prejudicial to the exercise of functions of the GSICC;such Chairperson or Member, as the case may be, shall stand removed forthwith from the GSICC by a written order of the Principal Judicial Officer/Principal District Judge and the vacancy so created shall be filled by fresh nomination/election in accordance with the provisions of these regulations.

5. Term of Gender Sensitization and Internal Complaints Committee members.

- The term of each member of the GSICC shall be for two years, subject to the member being elected/nominated for a maximum period of two terms, but a member who has been removed under Regulation 4(3) shall not be eligible for re-nomination or re-election.

6. Meetings of the Gender Sensitisation and Internal Complaints Committee.

- (i) The GSICC shall meet at least once in four months in a calendar year.(ii)Members shall be intimated of meetings and agenda in writing and/or by electronic communication, by the Member Secretary.(iii)Minutes of all meetings shall be recorded, confirmed and adopted. The Member Secretary shall circulate the minutes of a meeting and the resolutions so passed to all members of the GSICC within seven days of the holding of the meeting or the passing of the resolution.(iv)The Ordinary Meeting shall be called by the Chairperson with minimum seven days notice to all members.(v)Any member of the GSICC may, at anytime, request the Chairperson to call an Emergency Meeting with a notice of forty-eight hours. However, this will not prevent the Chairperson from convening an emergency meeting without forty eight hours notice.(vi)The quorum for all meetings shall be one-third of the members of the GSICC. In the event the quorum is not completed for any meeting an adjourned meeting shall be held within the next ten days following, for which no quorum shall be required.(vii)All motions shall be carried by a simple majority of those present and voting at all meetings, except where it is specifically provided for. Whenever a complaint is received or a report of the Internal Sub-Committee is submitted, the Member-Secretary shall, within a period of seven days, request the Chairperson to call either an Ordinary or Emergency Meeting to take action on the same, and the Chairperson shall call a meeting for this purpose, not later than fifteen days from the date of the Complaint or the Report.If a member does not attend three consecutive meetings he/she shall be liable to removal forthwith by the Principal Judicial Officer/Principal District Judge, and the vacancy so created shall be filled in accordance with regulation, unless such absence has been caused by reasons beyond his/her control.

7. Functions of the Gender Sensitization and Internal Complaints Committee.

(1)GSICC shall be responsible for framing a policy, from time to time, and implementation with regard to gender sensitization and prevention and redressal of sexual harassment in the

Court.(2)Gender Sensitization and Orientation: GSICC shall take the following steps with regard to gender sensitization and orientation :-(i)GSICC will ensure the prominent publicity of the policy on gender sensitization and prevention and redressal of sexual harassment in the Court, in all places in the Court precincts, such as the Court Building, Chamber Blocks, Bar-rooms, library, health centre, canteens etc.(ii)GSICC will organize programmes for the gender sensitization of the Court community through workshops, seminars, posters, film shows, debates, displays etc.(iii)GSICC shall submit an Annual Report by December 31 every year to the Principal Judicial Officer/Principal District Judge which shall be made public, outlining the activities undertaken by it and charting out a blueprint for the activities/steps to be taken up in the following year along with necessary budget allowances required by it. The GSICC shall include in its Annual Report the number of cases filed, if any, and their disposal under these regulations in the annual report.(iv)GSICC may enlist the help of NGOs, associations, volunteers, lawyer's bodies, or the concerned legal services authorities to carry out these programmes.(v)GSICC will enlist and activate an adequately representative team of volunteers and shall ensure the widespread publicity of the contact details (both official and personal) of all its members and volunteers. The services of such volunteers shall be available at all times to any aggrieved woman or any person in need of consultation or guidance. Volunteers will also assist in the gender sensitization, crisis mediation and crises management duties of GSICC, but shall not participate in the task of formal redressal of complaints under these regulations and procedures.(vi)GSICC will organize and train members and volunteers to equip them to handle sexual harassment cases including legal and medical aspects of aid.(3)Crisis Management and Mediation: GSICC shall ensure that there is quick and responsive crises management, counselling and mediation available to aggrieved women expeditiously, which shall include the following activities:-(i)GSICC will assist in the mediation of crises arising out of incidents of sexual harassment at the Court precincts.(ii)No mediation shall conclude without approval of the GSICC, and the mediated settlement shall be effected and be enforceable only upon it being duly approved by the GSICC, which shall satisfy itself that the said mediation settlement is voluntary, fair, unbiased and free from any extraneous consideration or influence.GSICC will coordinate with the Court security services to devise ways and means by which, a system of prevention of and crisis management that is both gender sensitive as well as prompt and effective is put in place. It will maintain regular contact through the Member Secretary with the Court security services to ensure that in crises arising out of incidents of sexual harassment, GSICC members, and/or the volunteers identified by it, shall be intimated of such incidents without delay.(4)Complaint Redressal: The GSICC shall ensure that every complaint of an aggrieved woman is adequately dealt with in accordance with the established procedure and with complete sensitivity. The GSICC shall have the power to inquire into and pass orders against the respondent/deviant/delinquent in a complaint made in relation to any form of sexual harassment in the entire Court precincts.Chapter-III Complaint & Inquiry Into Complaint

8. Complaint of Sexual Harassment.

(1)Any aggrieved woman may make a complaint in writing of sexual harassment at the Court precincts to the GSICC through the Member Secretary in accordance with the form and procedure so notified by it:Provided that where the aggrieved woman is unable to make such a complaint in writing due to any reason, the Member of the GSICC or volunteer, as the case may be, shall render

all reasonable assistance to the woman for making the complaint in writing.(2)Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or for any other reason, her legal heir or such other person directly concerned with her interests may make a complaint under this Regulation.

9. Inquiry into complaint.

(1)On receiving a complaint and upon being satisfied with regard to the genuineness of the complaint, the GSICC shall constitute an Internal Sub-Committee to conduct a fact finding inquiry, which shall comprise of three members of the GSICC itself, or such other persons as to be so nominated by the GSICC in its meeting, with majority members being women, and at least one person being an outside member.(2)The Internal Sub-Committee shall conduct an inquiry and shall hear and duly record the statements of the aggrieved woman, the respondent, and any other person the said parties wish to examine, subject to the provisions of Regulation 13(2), and thereafter it shall prepare a report and enclose therein the complete proceedings of the inquiry.(3)The fact finding inquiry into a complaint shall be conducted and completed within 90 days of the constitution of the Internal Sub-Committee:Provided that the validity of any inquiry shall not be called into question upon the inquiry not being completed with the stipulated period, due to reasons beyond the control - : of the Internal Sub-Committee.

10. Inquiry Report.

- (i) On the completion of an inquiry under these regulations, the Internal Sub-Committee shall provide the Inquiry Report of its findings, alongwith the complete record of the inquiry proceedings including pleadings and all the material on record to the GSICC, within a period of Ten days from the date of completion of the inquiry and such report shall also be made available to the concerned parties.(ii)Where the Internal Sub-Committee arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the GSICC that no action is required to be taken in the matter.(iii)Where the Internal Sub-Committee arrives at the conclusion that the allegation against the respondent has been proved,. it shall recommend to the GSICC to take appropriate action for gender discrimination and/or sexual harassment.(iv)Upon consideration of the material on record and the Inquiry Report of the Internal Sub-Committee, if more that two thirds of the members of the GSICC differ from the conclusion of the Internal Sub-Committee, the GSICC shall, after hearing the aggrieved woman and respondent in person, record its reasons to so differ and take consequent action accordingly.(v)The GSICC shall pass orders either accepting or rejecting the Inquiry Report of the Internal Sub-committee and thereafter pass consequent orders that may be appropriate and necessary for putting an end to the sexual harassment and take all steps to secure justice to the victim of sexual harassment within forty five working days of the submission of the Inquiry Report of the Internal Sub-Committee, excluding the period of holidays, and/or vacation of the Court:Provided that the validity of the orders of the GSICC shall not be called into question upon the same not being passed within the stipulated time.

11. Orders on Inquiry Report.

(1) Subject to Regulation 9 (1) above, the GSICC shall have the power to pass the following orders to secure justice to the victim of sexual harassment: (i) admonition; (ii) admonition with publication of such admonition in the Court precincts including cause lists and Court's Website; (iii) prohibition from harassing the victim in any manner including, but not limited to, prohibition from communicating with her in any manner such as phones, messages, electronic means, physical or other means for a specified period; and (iv) subject to Regulation 11(2), pass all orders, directions, and/or direct taking steps necessary for putting an end to the sexual harassment of the aggrieved woman. (2) GSICC will also have the power to recommend to the Principal Judicial Officer/Principal District Judge to pass orders against the respondent including, but not limited, to the following: (i) debarment of entry into the Court precincts for a specified period extending upto a maximum period of one year; and (ii) in appropriate cases, to recommend filing of a criminal complaint and/or a disciplinary complaint before the concerned disciplinary authority governing the respondent (including the concerned Bar Council) for taking appropriate action, and the Principal Judicial Officer/Principal District Judge may pass orders thereon subject to Regulation 12. (3) The GSICC shall pass orders on the Inquiry Report and/or shall make recommendations to the Principal Judicial Officer/Principal District Judge within forty five working days of the submission of the Inquiry Report, excluding the period of vacation of the Court and communicate the same to the parties forthwith. (4) The GSICC and the Internal Sub-Committee shall have the jurisdiction to inquire into a complaint and take any action thereon notwithstanding that any criminal complaint or any other complaint under any other law (including a disciplinary proceeding under the Advocates Act, 1961) may have been filed with respect to the same complaint/actions. (5) The orders of the Principal Judicial Officer/Principal District Judge and the GSICC shall be final and binding on the parties.

12. Representation.

(1) Any person aggrieved by the order passed (or not passed) by the GSICC under Regulation 11(1), or recommendation made by the GSICC to the Principal Judicial Officer under Regulation 11(2), or non-implementation of such orders or action may make a representation to the Principal Judicial Officer/Principal District Judge who shall have the power to set aside or modify the orders passed or the recommendation made as the Principal Judicial Officer/Principal District Judge may deem fit, and also have the power to issue such orders or directions that may be necessary to secure complete justice to the victim of sexual harassment. (2) The representation under Regulation 12(1) shall be preferred within a period of ninety days of communication of the order or recommendation.

13. Restraint Order.

(1) On the receipt of a complaint and during the pendency of an inquiry, on a written request made by the aggrieved woman, the GSICC if it considers it fit and proper, may recommend specific interim measures to be taken in a signed decision to the Principal Judicial Officer/Principal District Judge, who on receipt thereof may pass such interim orders that may be required for the personal safety and for safeguarding the dignity of the aggrieved woman and both the aggrieved woman and the

respondent shall be bound by the same.(2)Upon disobedience, defiance or violation of the order passed under clause (1) above by the respondent, the GSICC shall close and/ or strike off the defence of the respondent and pass final orders under Regulation 10(5) and Regulation 11.Chapter-IV Powers & Duties

14. Powers of GSICC & Internal Sub-Committee.

(1)The GSICC shall have the power to issue circulars/notifications prescribing its procedure and for the purpose of carrying out and implementing the provisions of the present regulations in their spirit and intent.(2)The GSICC shall have the power to pass any orders to be able to carry out the objectives and mandate of the present regulations including directing any party or person to take any suitable action.(3)For the purpose of making an inquiry, the GSICC and the Internal Sub-committee shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:-(i)summoning and enforcing the attendance of any person and examining him on oath;(ii)requiring the discovery and production of documents; and(iii)any other matter which may be prescribed.(4)The GSICC by resolution to be passed by two-thirds majority may remove any member of the Internal Sub-Committee and appoint a new member in his/her place, only if it is of the view that such a member has acted prejudicially to the principles of natural justice, fair play and has acted with bias in the conduct of the Inquiry.(5)The GSICC shall at all times have supervisory powers over the Internal Sub-Committee and it may issue directions to Internal Sub-Committee from time to time in accordance with the provisions of the present regulations.

15. Duties.

- The GSICC in coordination with and with the assistance of the Court shall-(i)take measures to provide a safe working environment at the Court precincts;(ii)display at any conspicuous place in the Court and on its web-site, the penal consequences of sexual harassment's and the order constituting the Internal Committee under the present regulations;(iii)display at any conspicuous place in the Court and on its web-site, the status and outcome of complaints of sexual harassment, subject to the restrictions contained in Regulation 16;(iv)organize workshops and awareness programmes at regular intervals for sensitizing the persons carrying out work at the Court premises with the provisions of the present regulations and orientation programmes for the members of the Internal Committee in the manner as may be prescribed;(v)provide necessary facilities to the Internal Sub-Committee for dealing with the complaint and conducting an inquiry;(vi)assist in securing the attendance of respondent and witnesses before the Internal Sub-Committee;(vii)obtain such information for the Internal Sub-Committee as it may require having regard to the complaint;(viii)cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the respondent and/or the perpetrator;(ix)monitor the timely submission of reports by the Internal Sub-Committee; and(x)take any other action and/ or measures to ensure an effective and meaningful implementation of the present regulations.Chapter -V Miscellaneous

16. Confidentiality.

(1)The contents of the complaint made under the present regulations, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to the inquiry proceedings, recommendations of the GSICC and the action taken by the GSICC shall be confidential 'and shall not be published, communicated or made known to the public, press and media in any manner except upon the aggrieved woman submitting a specific request to do so in writing and upon the GSICC acceding to the said request.(2)Upon the respondent being found guilty, information may be disseminated regarding the justice secured to any victim of sexual harassment under these regulations without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

17. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against the Chief Justice, GSICC and the Internal Sub-Committee or its members in respect of anything which is done or intended to be done in good faith in pursuance of these Regulations, and the circulars/orders/notifications issued thereunder.

18. Allocation of funds.

- The Principal Judicial Officer/Principal District Judge may, subject to the availability of financial and other resources, allocate and provide suitable funds as may be prescribed,(a)for the effective implementation of the present regulations;(b)for development of relevant information, education, communication and training materials, for organization of awareness programmes, and for advancement of the understanding of the public of the provisions of these regulations; or(c)for organizing orientation and training programmes for the members of the GSICC, Internal Sub-Committees, volunteers, counsellors etc.

19. Regulations not in derogation of any other law.

(1)The provisions of these regulations shall be in addition to and not in derogation of the provisions of any other law for the time being in force.(2)The provisions of the present regulations shall not bar any Court from taking cognizance of any offence punishable under any other enactment or law.