

Topic: Right Against Sexual Harassment Under Article 21

Name of the case: Visakha and Anr v. State of Rajasthan

Bench: Chief Justice J.S. Verma, Justice Sujata Manohar, Justice BN Kirpal

Facts of the Case: During 1990, Bhanvari Devi who was employed to the Rajasthan State Government was raped by landlords of Gujjar community in attempt to prevent child marriage. The rape survivor did not get justice from Rajasthan High Court and the rapist were allowed to go free. This case was brought to the attention of Supreme Court in the absence of domestic law to deal with sexual harassment of working women at all workplace.

Ratio: The Supreme Court has declared sexual harassment of working woman at her work amounting to violation of right of gender equality and right to life and liberty which is a clear violation of Article 14, 15 and 21 of the Constitution.

Sexual harassment also violates victims Fundamental Right under Article 19 (1) (g) "to practise any profession or to carry out any occupation trade or business".

Further, the court has accepted the proposition that international conventions and norms are to be read into Fundamental Rights where there is no inconsistency between them and there is a void in the domestic law. According to the court, "it is now in accepted rule of judicial construction that regard must be had to international conventions and norms for construing domestic law when there is no inconsistency between them and there is void in the domestic law."

This landmark judgement led to the foundation of the sexual harassment of women at workplace prevention, Prohibition and redressal act 2013 by the government of India.
