

# SC norms to check sexual harassment

By T. Padmanabha Rao

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The Supreme Court today laid down guidelines and norms for the effective enforcement of the basic human right of gender equality and guarantee against sexual harassment at work places.

The Chief Justice, Mr. J. S. Verma, who delivered the judgment of the Bench, said these guidelines and norms, rendered in exercise of the Court's power under Article 32 of the Constitution for enforcement of the fundamental rights, should be treated as "the law declared by this Court (Apex Court) under Article 141 of the Constitution."

The Bench, which included Mrs. Justice Sujata V. Manohar and Mr. Justice B. N. Kirpal, was disposing of a "class action petition" brought by certain social activists and non-governmental organisations (NGOs) for the Court's directions to prevent sexual harassment of working women.

The following are the guidelines and norms issued by the Court:

It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

Sexual harassment includes such unwelcome behaviour (whether directly or by implication) as: a) Physical contact or advances; b) A demand or request for sexual favours; c) Sexually coloured remarks; d) Showing pornography; e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances whereunder the victim has a reasonable apprehension that, in relation to the victim's employment or work, whether she is in Government, public or private enterprise, such conduct can be humiliating and may constitute a health and safety problem, it constitutes an act of sexual harassment. An act would be considered discriminatory, for instance, when the woman has reasonable grounds to believe that her objection to such advances would put her at a disadvantage in connection with her employment or work including recruitment or promotion or when it cre-

ates a hostile work environment or she has sufficient reason to believe that adverse consequences might follow if she raises any objection to such advances.

All employers or persons in charge of work place, whether in the public or private sector, should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation, they should take the following steps: a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways; b) The rules/regulations of Government and public sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender; c) As regards private employers, steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946; d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no woman employee should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority. In particular, it should ensure that victims or witnesses are not victimised or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek their own transfer or that of the perpetrator.

Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organisation for redress of the complaint made by the victim. Such complaint mechanism should ensure time-bound

treatment of complaints. The complaint mechanism should be adequate to provide, where necessary, a complaints committee, a special counsellor or other support service, including the maintenance of confidentiality.

The committee should be headed by a woman and not less than half of its members should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such a committee should involve a third party, either an NGO or another body which is familiar with the issue of sexual harassment.

The complaints committee must make an annual report to the Government department concerned of the complaints and action taken by it.

The employer and person in charge will also report on the compliance with the aforesaid guidelines including the reports of the complaints committee to the Government department.

Employees should be allowed to raise issues of sexual harassment at workers' meetings and in other appropriate forum and they should be affirmatively discussed in employer-employee meetings.