



उ०प्र० पावर कॉरपोरेशन लिमिटेड

(उ०प्र० सरकार का उपक्रम)

शक्ति भवन, 14-अशोक मार्ग,

लखनऊ

(सिन नं०-U32201UP1999SGC024928)

संख्या: 2986-स०प्र०-11/पाकालि/2023-04-स०प्र०/02

दिनांक ०६ सितम्बर, 2023

कार्यालय ज्ञाप

मा० उच्चतम न्यायालय में योजित Civil Appeal No. 2482/2014 Aureliano Fernandes Vs State of Goa & Ors. में मा० न्यायालय द्वारा पारित आदेश दिनांक 12.05.2023 के माध्यम से प्रदत्त दिशानिर्देशों के अनुपालन में कार्यस्थल पर महिलाओं का लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतितोष) अधिनियम-2013 की धारा-4 के अन्तर्गत पूर्व में कारपोरेशन के कार्यालय ज्ञाप सं०-2265-स०प्र०-11/पाकालि/2023 दिनांक 10.07.2023 द्वारा गठित आन्तरिक परिवाद समिति (Internal Complaint Committee) को एतद्वारा निम्नानुसार संशोधित किया जाता है:-

क्र. सं.	नाम	तैनाथी स्थल	नामित	मो०नं०	ई-मेल
1.	श्रीमती आरती कटियार	मुख्य अभियन्ता, म०वि०वि०नि०लि०, 4-ए, गोखले मार्ग, लखनऊ	अध्यक्ष	9415099013	ce.mvvn@gmail.com
2.	इ० रवि कुमार	अधिशासी अभियन्ता एवं उप सचिव, शक्ति भवन (मु०), लखनऊ	सदस्य	9453005831 9918599693	ravivermaknit@gmail.com
3.	श्री प्रभात सहगल	अनु सचिव, शक्ति भवन (मु०), लखनऊ	सदस्य	9415609575	us02auppcl@gmail.com
4.	सुश्री मधु गर्ग	अखिल भारतीय जनवादी महिला समिति, उ०प्र०, लखनऊ	सदस्य, एनजीओ	9335519777 8948098777	garg.madhuashok@gmail.com
5.	सुश्री आकांक्षा गुप्ता	लेखाधिकारी, कारपोरेट (लेखा), शक्ति भवन विस्तार, लखनऊ	सदस्य	7607999918 8004940306	akanksha.corporate999@gmail.com
6.	श्रीमती अनीता जोतवानी	अनुभाग अधिकारी, शक्ति भवन (मु०), लखनऊ	सदस्य	9454468996	anitajotwani@gmail.com
7.	मु० जावेद मंसूरी	उप सचिव, शक्ति भवन (मु०), लखनऊ	सदस्य एवं संयोजक	9415787711 9454469017	mmmjmansuri@gmail.com

2. उपरोक्त उल्लिखित आंतरिक परिवाद समिति की अध्यक्ष मा० उच्चतम न्यायालय द्वारा पारित आदेश दिनांक 12.05.2023 में प्रदान किये गये दिशा निर्देशों के बिन्दु सं०-(ii) के अनुपालनार्थ ऑनलाइन शिकायत प्रस्तुत करने की प्रक्रिया (Procedure prescribed for submitting an online complained), सम्बन्धित नियम, प्राविधान एवं

(क्रमशः2)

(2)

आंतरिक नीति (Relevant rules, Regulations & Internal Policies) को उ०प्र० पावर कारपोरेशन लि० की वेबसाइट www.uppcl.org पर उपलब्ध कराये जाने हेतु, मुख्य अभियन्ता (आई०टी०), उ०प्र० पा० का० लि० से सम्पर्क स्थापित कर यथोचित कार्यवाही कराया जाना सुनिश्चित करेंगी।

3. उक्त समिति के कार्यक्षेत्र में उ०प्र० पावर कारपोरेशन लि०, लखनऊ के अन्तर्गत समस्त कार्यालय होंगे। समिति का यह दायित्व होगा कि यौन उत्पीड़न प्रतिषेध के सम्बन्ध में निर्धारित नीति के क्रियान्वयन हेतु कार्य योजना तैयार करें।

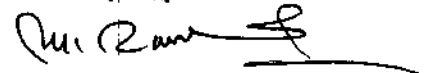
निदेशक (कार्मिक प्रबन्धन एवं प्रशासन)

संख्या: 2986(i) स०प्र०-11/पाकालि/2023 तददिनांक।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

1. अध्यक्ष, उ०प्र० पावर कारपोरेशन लि०, शक्ति भवन, लखनऊ के निजी सचिव।
2. प्रबन्ध निदेशक, उ०प्र० पावर कारपोरेशन लि०, शक्ति भवन, लखनऊ के निजी सचिव।
3. समस्त निदेशकगण, उ०प्र० पा० का० लि० / उ०प्र० पा० ट्रा० का० लि० / उ०प्र० रा० वि० उ० नि० लि०, शक्ति भवन, लखनऊ के निजी सचिव।
4. निदेशक, महिला कल्याण, उ०प्र० शासन, लखनऊ।
5. सचिव, उ०प्र० राज्य महिला आयोग, गोमती नगर, लखनऊ।
6. संयुक्त सचिव, सार्वजनिक उद्यम विभाग, उ०प्र० शासन, लखनऊ।
7. विधि अधिकारी, उ०प्र० पावर कारपोरेशन लि०, शक्ति भवन, लखनऊ।
8. सचिव, महिला कल्याण अनुभाग-3, उ०प्र० शासन, लखनऊ को उनके पत्र सं०-739/60-3-2023-सी-1723848/23, दिनांक 11.07.2023 के सन्दर्भ में।
9. उ०प्र० पावर कारपोरेशन के अन्तर्गत तैनात समस्त मुख्य अभियन्ता/महाप्रबन्धक(लेखा प्रशा०)/महाप्रबन्धक (औ०सं०) को इस आशय से प्रेषित कि कामकाजी महिलाओं के यौन उत्पीड़न प्रतिषेध आदि के सम्बन्ध में अपने कार्यालय के किसी अधिकारी को नोडल अधिकारी नामित कराते हुए समिति की अध्यक्षा, श्रीमती आरती कटियार, मुख्य अभियन्ता, म० वि० वि० नि० लि०, 4-ए, गोखले मार्ग, लखनऊ को सूचित करें।
10. मुख्य अभियन्ता (आई०टी०), उ०प्र० पा० का० लि०, शक्ति भवन विस्तार, लखनऊ।
11. श्रीमती आरती कटियार, मुख्य अभियन्ता, म० वि० वि० नि० लि०, 4-ए, गोखले मार्ग, लखनऊ को मा० उच्चतम न्यायालय के आदेश दिनांक 12.05.2023 एवं महिलाओं का लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतितोष), अधिनियम, 2013 की छायाप्रति सहित।
12. इं० रवि कुमार, उप सचिव (गोपन), उ०प्र० पा० का० लि०, शक्ति भवन, लखनऊ।
13. श्री मु० जावेद मंसूरी, उप सचिव (गोपन-06), उ०प्र० पा० का० लि०, शक्ति भवन, लखनऊ।
14. श्री प्रभात सहगल, अनु सचिव, अ०प्र०-02(अ), उ०प्र० पा० का० लि०, शक्ति भवन, लखनऊ।
15. श्रीमती अनीता जोतवानी, अनुभाग अधिकारी, स०प्र०-11, उ०प्र० पा० का० लि०, शक्ति भवन, लखनऊ।
16. सुश्री आकांक्षा गुप्ता, लेखाधिकारी (कारपोरेट-लेखा), उ०प्र० पा० का० लि०, शक्ति भवन विस्तार, लखनऊ।
17. सुश्री मधु गर्ग द्वारा श्री अशोक गर्ग, अखिल भारतीय जनवादी महिला समिति, डी-122, साउथ सिटी, निकट अम्बेडकर विश्वविद्यालय, लखनऊ-226025।
18. अधिशासी अभियन्ता (वेब), उ०प्र० पा० का० लि०, शक्ति भवन विस्तार, लखनऊ को मा० उच्चतम न्यायालय के आदेश दिनांक 12.05.2023 एवं महिलाओं का लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतितोष), अधिनियम, 2013 की छायाप्रति सहित www.uppcl.org पर अपलोड किये जाने हेतु।
19. सूचना पट/कट फाईल।

आज्ञा से,



(मु० जावेद मंसूरी)

उप सचिव (स०प्र०-11)

4. Immediate and effective steps shall be taken by the authorities/managements/ employer to familiarize member of the ICCs/LCs/ICs with their duties and the manner in which and inquiry ought to be conducted on receiving a complaint of sexual harassment at the workplace, from the point when the complaint is received, till the inquiry is finally concluded and the Report submitted.

5. The authorities/management/employer shall regularly conduct orientation programmes, workplace, seminars and awareness programmes to upskill members of the ICCs/LCs/ICs and to educate women employees and to educate women employees and women's group about the provision of the Act, the Rules and relevant regulation.

2. मा0 उच्चतम न्यायालय में विधाराधीन प्रश्नगत सिविल अपील में मा0 न्यायालय द्वारा दिये गये उपर्युक्त निर्देशों का विन्दुवार अनुपालन निम्नवत् किया जाना है :

(i) 'महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिषेध और प्रतिकार) अधिनियम-2013' में दिये गये प्राविधानों के अनुरूप अधिनियम की धारा-4 के अन्तर्गत किसी कार्यस्थल का प्रत्येक नियोजक, लिखित आदेश द्वारा "आंतरिक परिवार समिति" (ICC) का गठन करेगा परन्तु जहां कार्यस्थल के कार्यालय या प्रशासनिक यूनिटें भिन्न-भिन्न स्थानों या खंडीय या उपखंडीय स्थलों पर स्थित हैं, वहां आंतरिक समिति सभी प्रशासनिक यूनिटों या कार्यालयों में गठित की जाएगी।

(ii) प्रत्येक जिलाधिकारी के द्वारा ऐसे स्थापनों में जहाँ दस से कम कर्मकार होने के कारण आंतरिक परिवार समिति गठित नहीं की गई हो, या परिवार स्वयं नियोजक के विरुद्ध हो, वहां स्थानीय परिवार समिति (LCC) का गठन किया जायेगा।

(iii) आंतरिक समिति नियोजक द्वारा नाम निर्देशित किये जाने वाले निम्नलिखित सदस्यों से मिलकर बनेगी :

(क) एक पीठासीन अधिकारी, जो कर्मचारियों में से कार्यस्थल पर वरिष्ठ स्तर की नियोजित महिला होगी परन्तु किसी वरिष्ठ स्तर की महिला कर्मचारी के उपलब्ध न होने की दशा में पीठासीन अधिकारी अधिनियम की उपधारा-1 में निर्दिष्ट कार्यस्थल के अन्य कार्यालयों या प्रशासनिक यूनिटों से नाम निर्देशित किया जायेगा परन्तु यदि कार्यस्थल के अन्य कार्यालय या प्रशासनिक एककों में कोई वरिष्ठ स्तर की महिला कर्मचारी नहीं है तो पीठासीन अधिकारी उसी नियोजक के किसी अन्य कार्यस्थल या अन्य विभाग या संगठन से नाम निर्दिष्ट किया जायेगा।

(ख) कर्मचारियों में से दो से अन्तून ऐसे सदस्य, जो महिलाओं की समस्याओं के प्रति अधिमानी रूप से प्रतिबद्ध हैं, या जिनके पास समाज सुधार के कार्य में अनुभव है या विधिक ज्ञान है।

(ग) गैर सरकारी संगठनों या समूहों से ऐसे एक सदस्य, जो महिलाओं की समस्याओं के प्रति प्रतिबद्ध हैं या ऐसा कोई व्यक्ति, जो लैंगिक उत्पीड़न से सम्बन्धित

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मुद्दों से परिचित है परन्तु इस प्रकार नाम निर्देशित कुल सदस्यों में से कम से कम आधे सदस्य महिलायें होंगी।

(घ) आन्तरिक समिति का पीठासीन अधिकारी और प्रत्येक सदस्य अपने नाम निर्देशन की तारीख से तीन वर्ष से अधिक की ऐसी अवधि के लिये पद धारण करेगा, जो नियोजक द्वारा विनिर्दिष्ट की जाय।

(iv) गठित आन्तरिक परिवार समितियों/स्थानीय समितियों/समितियों में नाम निर्दिष्ट अध्यक्ष/पीठासीन अधिकारी एवं सदस्यों का विवरण, उनके ई-मेल आईडी0 एवं दूरभाष का विवरण, आनलाइन शिकायत दर्ज करने की प्रक्रिया, संगत नियमों, उप नियमों तथा आंतरिक पालिसी इत्यादि का विवरण प्रत्येक प्राधिकारी, संस्था की वेबसाइट पर उपलब्ध कराया जाय।

(v) उपर्युक्त कार्यवाही शीर्ष स्तर और राज्य स्तर पर विषय विशेषज्ञों से सम्बन्धित सभी सांविधिक निकायों (All the Statutory bodies of Professionals) यथा-डॉक्टरों, वकीलों, आर्किटेक्ट्स, चार्टर्ड एकाउन्टेन्ट्स, आय-टैक्स लेखक, इंजीनियर्स, बैंकर्स व अन्य विषय विशेषज्ञ को विनियमित करने वाले अभिकरणों के अतिरिक्त विश्वविद्यालयों, कॉलेजों, प्रशिक्षण केन्द्रों और शैक्षणिक संस्थानों एवं सरकारी तथा निजी चिकित्सालयों/नर्सिंग होम्स आदि के द्वारा भी की जाय।

(vi) अधिकारियों/प्रबन्धकों/नियोक्ताओं द्वारा अपने कार्यालयों में गठित ICCs/LCs/ICs के सदस्यों को उनके कर्तव्यों से परिचित कराने एवं कार्यस्थल पर यौन उत्पीड़न की शिकायत प्राप्त होने पर नियमानुसार जांच की कार्यवाही पूर्ण कर रिपोर्ट/जांच आख्या प्रस्तुत किये जाने की सम्पूर्ण प्रक्रिया को नियमानुसार सम्पादित किये जाने के विषय से अवगत कराये जाने हेतु तत्काल व प्रभावी कदम उठाये जाय।

(vii) आन्तरिक परिवार समितियों/स्थानीय समितियों/आन्तरिक समितियों के सदस्यों के क्षमतावर्धन एवं कार्यालयों में कार्यरत महिला कार्मिकों एवं महिला समूहों को अधिनियम, 2013 एवं संगत नियमों के सम्बन्ध में शिक्षित एवं जागरूक किये जाने हेतु निरन्तर अभिमुखीकरण कार्यक्रमों, सेमिनार एवं जागरूकता कार्यक्रमों का आयोजन कराया जाय।

3. सूच्य है कि महिला एवं बाल विकास मंत्रालय, भारत सरकार द्वारा दिनांक 09 दिसम्बर, 2013 को 'महिलाओं का कार्यस्थल पर लैंगिक उत्पीड़न (निवारण, प्रतिरोध और प्रतिक्रिया) अधिनियम-2013' प्रख्यापित किया गया है। यह अधिनियम प्रख्यापन की तिथि से पूरे भारत वर्ष में प्रभावी है। इस अधिनियम के प्रभावी कियान्वयन हेतु शासन के पत्र संख्या-1मु0मं0/60-3-14-13(7)/14 दिनांक 09.06.2014 द्वारा निर्देश दिये गये हैं। तत्काल में अपेक्षित स्तरों पर आन्तरिक परिवार समितियों/स्थानीय परिवार समितियों के गठन की कार्यवाही अतिशीघ्र कराने तथा अधिनियम के प्राविधानों का पूर्णतया अनुपालन कराये जाने की अपेक्षा करते हुये समय-समय पर वांछित समितियों के गठन तथा शिकायतों के निस्तारण के निर्देश भी दिये गये हैं।

4. अस्तु, कृपया मा0 उच्चतम न्यायालय में विद्यमान Civil Appeal No.2482/2014 Aureliano Fernandes Vs State of Goa & Ors. में मा0 न्यायालय के आदेश दिनांक 12.05.2023 (प्रति संलग्न) द्वारा दिये गये निर्देशों का यथाशीघ्र अनुपालन कराना सुनिश्चित किया जाय।
संलग्न-यथोक्त।

भवदीय,
Signed by दुर्गा शंकर
मिश्र
Date: 06-07-2023 17:59:05
Reason: Approved

(दुर्गा शंकर मिश्र)
मुख्य सचिव।

संख्या व दिनांक तदैव।

प्रतिलिपि निम्नलिखित को आवश्यक कार्यवाही हेतु प्रेषित :

1. प्रमुख सचिव, सार्वजनिक उद्यम ब्यूरो, उ0प्र0 को सार्वजनिक उपक्रमों/निगमों के सन्दर्भ में आवश्यक निर्देश जारी करने हेतु।
2. प्रमुख सचिव/सचिव, श्रम विभाग, उ0प्र0 शासन को श्रमिकों, औद्योगिक कर्मचारियों एवं असंगठित क्षेत्र के कर्मचारियों के सन्दर्भ में प्रभावी व्यवस्था सुनिश्चित करने हेतु।
3. प्रमुख सचिव, शिक्षा, उ0प्र0 शासन को विश्वविद्यालयों, महाविद्यालयों, प्राविधिक शिक्षा संस्थाओं एवं सहायता प्राप्त माध्यमिक/बेरिक शिक्षण संस्थाओं के सम्बन्ध में प्रभावी व्यवस्था सुनिश्चित कराने हेतु।
4. निदेशक, स्थानीय निकाय, उ0प्र0 को समस्त नगर निकायों में प्रभावी व्यवस्था सुनिश्चित कराने हेतु।
5. निबन्धक, रोसाइटीज चिट फण्ड, उ0प्र0, लखनऊ को इस निर्देश के साथ प्रेषित कि अपने कार्यालय में पंजीकृत समस्त फर्म एवं संगठनों में आन्तरिक परिणाम समिति (ICC) का नियमानुसार गठन कराया जाना सुनिश्चित करें।
6. अध्यक्ष, भार काउन्सिल, उत्तर प्रदेश।
7. उत्तर प्रदेश आर्किटेक्ट्स एसोसिएशन।

आज्ञा से,

(अनामिका सिंह)
सचिव।

ITEM NO.1501 COURT NO.17 *REVISED ROP ONLY FOR APPEARANCE SECTION III

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 2482/2014

AURELIANO FERNANDES

Appellant(s)

VERSUS

STATE OF GOA & ORS.

Respondent(s)

Date : 12-05-2023 This appeal was called on for pronouncement of judgment today.

For Appellant(s) Mr. Bishwajit Bhattacharyya, Sr. Adv.
*Mr. Atul Jha, Adv.
Mr. Pragyan Pradip Sharma, Adv.
Mr. Sandeep Jha, Adv.
Mr. N. B. V. Srinivasa Reddy, Adv.
Mr. P. V. Yogeswaran, AOR

For Respondent(s) Ms. Ruchira Gupta, Adv.
Mr. Shishir Deshpande, AOR
Ms. Harshita Sharma, Adv.
Mr. Deep Narayan Sarkar, Adv.

Hon'ble Ms. Justice Hima Kohli pronounced the judgment of the Bench comprising Hon'ble Mr. Justice A.S. Bopanna and Her Ladyship.

The appeal is allowed in terms of the signed reportable judgment. The conclusion (Paragraph Nos.70-73) and directions (Paragraph Nos. 77-78) in the judgment are reproduced hereunder:

"M. CONCLUSION

Seal of the Court
Date: 12/05/2023
Page: 1501
AOR

70 In the instant case, though the Committee appointed by the Disciplinary Authority did not hold an inquiry strictly in terms of the step-by-step procedure laid down in Rule 14 of the CCS (CCA) Rules, nonetheless, we have seen that it did furnish copies of all the complaints, the

depositions of the complainants and the relevant material to the appellant, called upon him to give his reply in defence and directed him to furnish the list of witnesses that he proposed to rely on. Records also reveal that the appellant had furnished a detailed reply in defence. He had also submitted a list of witnesses and depositions. This goes to show that he was well-acquainted with the nature of allegations levelled against him and knew what he had to state in his defence. Given the above position, non-framing of the articles of charge cannot be said to be detrimental to the interest of the appellant.

71. In fact, the glaring defects and the procedural lapses in the inquiry proceedings took place only thereafter, in the month of May, 2009, when 12 hearings, most of them back-to-back, were conducted by the Committee at a lightning speed. On the one hand, the Committee kept on forwarding to the appellant, depositions of some more complainants received later on and those of other witnesses and called upon him to furnish his reply and on the other hand, it directed him to come prepared to cross-examine the said complainants and witnesses as also record his further deposition, all in a span of one week. Even if the medical grounds taken by the appellant seemed suspect, the Committee ought to have given him reasonable time to prepare his defence, more so when his request for being represented through a lawyer had already been declined. It was all this undue anxiety that had led to short-circuiting the inquiry proceedings conducted by the Committee and damaging the very fairness of the process.

72. For the above reasons, the appellant cannot be faulted for questioning the process and its outcome. There is no doubt that matters of this nature are sensitive and have to be handled with care. The respondents had received as many as seventeen complaints from students levelling serious allegations of sexual harassment against the appellant. But that would not be a ground to give a complete go by to the procedural fairness of the inquiry required to be conducted, more so when the inquiry could lead to imposition of major penalty proceedings. When the legitimacy of the

decision taken is dependent on the fairness of the process and the process adopted itself became questionable, then the decision arrived at cannot withstand judicial scrutiny and is wide open to interference. It is not without reason that it is said that a fair procedure alone can guarantee a fair outcome. In this case, the anxiety of the Committee of being fair to the victims of sexual harassment, has ended up causing them greater harm.

73. This Court is, therefore, of the opinion that the proceedings conducted by the Committee with effect from the month of May, 2009, fell short of the "as far as practicable" norm prescribed in the relevant Rules. The discretion vested in the Committee for conducting the inquiry has been exercised improperly, defying the principles of natural justice. As a consequence thereof, the impugned judgment upholding the decision taken by the EC of terminating the services of the appellant, duly endorsed by the Appellate Authority cannot be sustained and is accordingly quashed and set aside with the following directions:

- (i) The matter is remanded back to the Complaints Committee to take up the inquiry proceeding as they stood on 5th May 2009.
- (ii) The Committee shall afford adequate opportunity to the appellant to defend himself.
- (iii) The appellant shall not seek any adjournment of the proceedings.
- (iv) A Report shall be submitted by the Committee to the Disciplinary Authority for appropriate orders.
- (v) Having regard to the long passage of time, the respondents are directed to complete the entire process within three months from the first date of hearing fixed by the Committee.
- (vi) The procedure to be followed by the Committee and the Disciplinary Authority shall be guided by the principles of natural justice.
- (vii) The Rules applied will be as were applicable at the relevant point of time.
- (viii) The decision taken by the Committee and the Disciplinary Authority shall be purely on merits and in accordance with law.
- (ix) The appellant will not be entitled to claim immediate reinstatement or back wages till the

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inquiry is completed and a decision is taken by the Disciplinary Authority.

0. DIRECTIONS

77. To fulfil the promise that the PoSH Act holds out to working women all over the country, it is deemed appropriate to issue the following directions :

(I) The Union of India, all State Governments and Union Territories are directed to undertake a timebound exercise to verify as to whether all the concerned Ministries, Departments, Government organizations, authorities, Public Sector Undertakings, institutions, bodies, etc. have constituted ICCs/LCs/ICs, as the case may be and that the composition of the said Committees are strictly in terms of the provisions of the PoSH Act.

(ii) It shall be ensured that necessary information regarding the constitution and composition of the ICCs/LCs/ICs, details of the e-mail IDs and contact numbers of the designated person(s), the procedure prescribed for submitting an online complaint, as also the relevant rules, regulations and internal policies are made readily available on the website of the concerned Authority/Functionary/Organisation/Institution/Body as the case may be. The information furnished shall also be updated from time to time.

(iii) A similar exercise shall be undertaken by all the Statutory Bodies of professionals at the Apex level and the State level (including those regulating doctors, lawyers, architects, chartered accountants, cost accountants, engineers, bankers and other professionals by Universities, colleges, Training Centres and educational institutions and by Government and private hospitals/nursing homes).

(iv) Immediate and effective steps shall be taken by the authorities/managements/employers to familiarize members of the ICCs/LCs/ICs with their duties and the manner in which an inquiry ought to

be conducted on receiving a complaint of sexual harassment at the workplace, from the point when the complaint is received, till the inquiry is finally concluded and the Report submitted.

(v) The authorities/management/employers shall regularly conduct orientation programmes, workshops, seminars and awareness programmes to upskill members of the ICCs/LCs/ICs and to educate women employees and women's groups about the provisions of the Act, the Rules and relevant regulations.

(vi) The National Legal Services Authority (NALSA) and the State Legal Services Authorities (SLSAs) shall develop modules to conduct workshops and organize awareness programmes to sensitize authorities/managements/employers, employees and adolescent groups with the provisions of the Act, which shall be included in their annual calendar.

(vii) The National Judicial Academy and the State Judicial Academies shall include in their annual calendars, orientation programmes, seminars and workshops for capacity building of members of the ICCs/LCs/ICs established in the High Courts and District Courts and for drafting Standard Operating Procedures (SOPs) to conduct an inquiry under the Act and Rules.

(viii) A copy of this judgment shall be transmitted to the Secretaries of all the Ministries, Government of India who shall ensure implementation of the directions by all the concerned Departments, Statutory Authorities, Institutions, Organisations etc. under the control of the respective Ministries. A copy of the judgment shall also be transmitted to the Chief Secretaries of all the States and Union Territories who shall ensure strict compliance of these directions by all the concerned Departments. It shall be the responsibility of the Secretaries of the Ministries, Government of India and the Chief Secretaries of every State/Union Territory to ensure implementation of the directions issued.

(ix) The Registry of the Supreme Court of India shall transmit a copy of this judgment to the

Director, National Judicial Academy, Member Secretary, NALSA, Chairperson, Bar Council of India and the Registrar Generals of all the High Courts. The Registry shall also transmit a copy of this judgment to the Medical Council of India, Council of Architecture, Institute of Chartered Accountants, Institute of Company Secretaries and the Engineering Council of India for implementing the directions issued.

(x) Member-Secretary, NALSA is requested to transmit a copy of this judgment to the Member Secretaries of all the State Legal Services Authorities. Similarly, the Registrar Generals of the State High Courts shall transmit a copy of this judgment to the Directors of the State Judicial Academies and the Principal District Judges/District Judges of their respective States.

(xi) The Chairperson, Bar Council of India and the Apex Bodies mentioned in sub-para (ix) above, shall in turn, transmit a copy of this judgment to all the State Bar Councils and the State Level Councils, as the case may be.

78. The Union of India and all States/UTs are directed to file their affidavits within eight weeks for reporting compliances. List after eight weeks."

(NEETU KHAJURIA)
ASTT. REGISTRAR-cum-PS

(R.S. NARAYANAN)
COURT MASTER

(Signed reportable judgment is placed on the file.)

ITEM NO.1501

COURT NO.17

SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 2482/2014

AURELIANO FERNANDES

Appellant(s)

VERSUS

STATE OF GOA & ORS.

Respondent(s)

Date : 12-05-2023 This appeal was called on for
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For Appellant(s) Mr. Bishwajit Bhattacharyya, Sr. Adv.
Mr. Arul Jha, Adv.
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For Respondent(s) Ms. Ruchira Gupta, Adv.
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(iii) A similar exercise shall be undertaken by all the Statutory bodies of professionals at the Apex level and the State level (including those regulating doctors, lawyers, architects, chartered accountants, cost accountants, engineers, bankers and other professionals), by Universities, colleges, Training Centres and educational institutions and by government and private hospitals/nursing homes.

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(viii) A copy of this judgment shall be transmitted to the Secretaries of all the Ministries, Government of India who shall ensure implementation of the directions by all the concerned Departments, Statutory Authorities, Institutions, Organisations etc. under the control of the respective Ministries. A copy of the judgment shall also be transmitted to the Chief Secretaries of all the States and Union Territories who shall ensure strict compliance of these directions by all the concerned Departments. It shall be the responsibility of the Secretaries of the Ministries, Government of India and the Chief Secretaries of every State/Union Territory to ensure implementation of the directions issued.

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(NEETU KHAJURIA)
ASTY. REGISTRAR-cum-PS

(R.S. NARAYANAN)
COURT MASTER

(Signed reportable judgment is placed on the file.)



Managing Director UPPCL <mduppcl12@gmail.com>


मा० उच्चतम न्यायालय में योजित Civil Appeal No. 2482/2014 Aureliano Fernandes Vs
State of Goa & Ors. में मा० न्यायालय द्वारा दिये गये निर्देशों के अनुपालन 73 के सम्बन्ध में ।

1 message

ARVIND KUMAR <sourja03@gmail.com>

18 July 2023 at 16:50

To: Managing Director <mduppcl12@gmail.com>, "electricalsafety.upgovt" <electricalsafety.upgovt@gmail.com>

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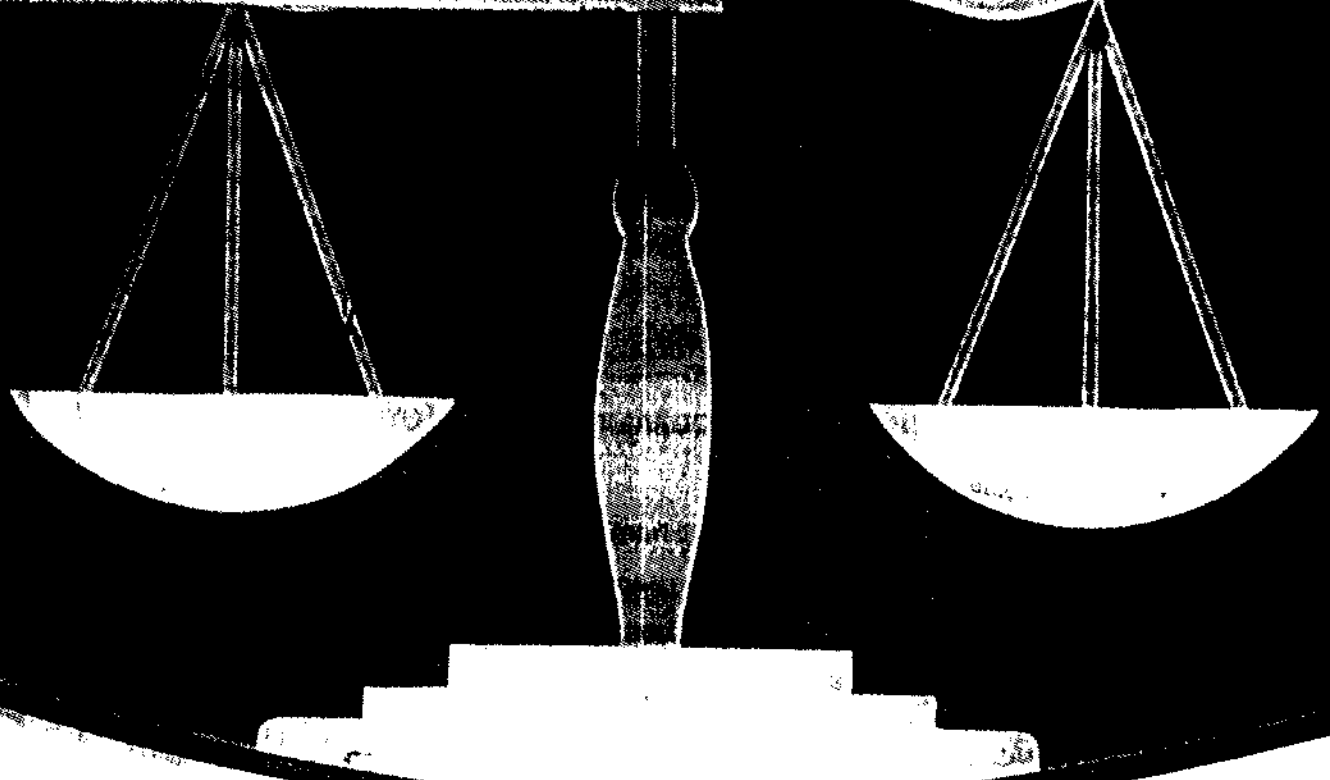


MINISTRY OF WOMEN & CHILD DEVELOPMENT

GOVERNMENT OF INDIA

AS A RESOURCE COMPANY

FOR PROVIDING POSH TRAINING



**THE SEXUAL HARASSMENT
OF WOMEN AT WORKPLACE
(PREVENTION, PROHIBITION
AND REDRESSAL) ACT, 2013**



Complykaro



WEB-BASED SENSITISATION PROGRAMME FOR EMPLOYEES IN ENGLISH & HINDI

- ⊙ Evolution of the Law
- ⊙ Understanding what is sexual harassment
- ⊙ How to deal with an incident as a victim or as an accused
- ⊙ Guidelines to create a sexual harassment free zone
- ⊙ Check your understanding

WEB-BASED ORIENTATION & SKILL BUILDING PROGRAMME FOR INTERNAL COMPLAINTS COMMITTEE (ICC) MEMBERS :

- ⊙ What is ICC & It's Importance
- ⊙ Role & responsibilities of an ICC Member
- ⊙ Understanding the Inquiry procedure for providing redressal
- ⊙ Identify redressal options – Inquiry and Conciliation
- ⊙ Do's and Don'ts for the Committee members

EXPERIENCE THROUGH ONLINE SIMULATION-BASED TRAINING PROGRAMME FOR ICC MEMBERS

- ⊙ Deciphering prima-facie maintainability of complaints through various case studies
- ⊙ Experiencing the redressal mechanism for different situations

Disclaimer

While every care has been exercised in compiling and publishing the information contained in this book, Complykaro accepts no responsibility for any errors or omissions. For authoritative information, please refer to the Gazette Notification.

**THE SEXUAL HARASSMENT
OF WOMEN AT WORKPLACE
(PREVENTION, PROHIBITION
AND REDRESSAL) ACT, 2013**

[As amended by The Repealing and Amending Act, 2016]

with

**The Sexual Harassment of Women at
Workplace (Prevention, Prohibition
and Redressal) Rules, 2013**

and

**Relevant Extract of The Indian Penal
Code**

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: Notes:

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(PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013**

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**THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE
(PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013**

[No. 14 of 2013]

An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

WHEREAS sexual harassment results in violation of the fundamental rights 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 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;

AND WHEREAS the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

Chapter I

Preliminary

1. Short title, extent and commencement

(1) This Act may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions

In this Act, unless the context otherwise requires,

(a) "aggrieved woman" means

(i) in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;

(ii) in relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

(b) "appropriate Government" means

1. Comes in force on 09-12-2013 vide Notification No. S.O. 3606(E), dt. 09-12-2013

(I) In relation to a workplace which is established, own, controlled or wholly or substantially financed by funds provided directly or indirectly

(A) by the Central Government or the Union territory administration, the Central Government;

(B) by the State Government, the State Government;

(II) In relation to any workplace not covered under sub-clause (I) and falling within its territory, the State Government;

(c) "Chairperson" means the Chairperson of the Local Complaints Committee nominated under sub-section (1) of section 7;

(d) "District Officer" means an officer notified under section 5;

(e) "domestic worker" means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency, on a temporary, permanent, part time or full time basis, but does not include any member of the family of the employer;

(f) "employee" means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name;

(g) "employer" means

(I) In relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;

(II) In any workplace not covered under sub-clause (I), any person responsible for the management, supervision and control of the workplace;

Explanation - For the purposes of this sub-clause "management" includes the person or board or committee responsible for formulation and administration of policies for such organisation;

- (iii) in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his other employees;
- (iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, on the nature of the employment or activities performed by the domestic worker;
- (h) "Internal Committee" means an Internal Complaints Committee constituted under section 4;
- (i) "Local Committee" means the Local Complaints Committee constituted under section 6;
- (j) "Member" means a Member of the Internal Committee or the Local Committee, as the case may be;
- (k) "prescribed" means prescribed by rules made under this Act;
- (l) "Presiding Officer" means the Presiding Officer of the Internal Complaints Committee nominated under sub-section (2) of section 4;
- (m) "respondent" means a person against whom the aggrieved woman has made a complaint under section 9;
- (n) "sexual harassment" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:
 - (i) physical contact and advances; or
 - (ii) a demand or request for sexual favours; or
 - (iii) making sexually coloured remarks; or
 - (iv) showing pornography; or
 - (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;
- (o) "workplace" includes
 - (i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;
 - (ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-

(ii) governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service;

(iii) hospitals or nursing homes;

(iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not, used for training, sports or other activities relating thereto;

(v) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey;

(vi) a dwelling place or a house;

(p) "unorganised sector in relation to a workplace means an enterprise owned by individuals or self-employed workers and engaged in the production, or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.

3. Prevention of sexual harassment

(1) No woman shall be subjected to sexual harassment at any workplace.

(2) The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:

(i) implied or explicit promise of preferential treatment in her employment; or

(ii) implied or explicit threat of detrimental treatment in her employment; or

(iii) implied or explicit threat about her present or future employment status; or

(iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or

(v) humiliating treatment likely to affect her health or safety.

~~Section 3. Prevention of sexual harassment~~
~~Every employer of a workplace shall, by an order in writing constitute a Committee to be known as the "Internal Complaints Committee":~~

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Provided that where the offices or administrative units of the workplaces are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committee shall consist of the following members to be nominated by the employer namely:

(a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section (1):

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;

(b) not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or legal knowledge;

(c) one member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment;

Provided that at least one half of the total Members so nominated shall be women.

(3) The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

(4) The Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

(5) Where the Presiding Officer or any Member of the Internal Committee,

(a) contravenes the provisions of section 16; or

(b) 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;

or

(c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or
(d) has so abused his position as to render his continuance in office prejudicial to the public interest;

such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so treated or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

Chapter III

CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE

5. Notification of District Officer

The appropriate Government may notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act.

6. Constitution and Jurisdiction of Local Committee

(1) Every District Officer shall constitute in the district concerned, a committee to be known as the "Local Committee" to receive complaints of sexual harassment from establishments where the Internal Committee has not been constituted due to having less than ten workers or if the complaint is against the employer himself.

(2) The District Officer shall designate one nodal officer in every block, taluka and tehsil in rural or tribal area and ward or municipality in the urban area, to receive complaints and forward the same to the concerned Local Committee within a period of seven days.

(3) The jurisdiction of the Local Committee shall extend to the areas of the district where it is constituted.

7. Composition, tenure and other terms and conditions of Local Committee

(1) The Local Committee shall consist of the following members to be nominated by the District Officer, namely:-

(a) a woman to be nominated from amongst the eminent women in the field of social work and committed to the cause of women;

(b) one Member to be nominated from amongst the women working in block, taluka or tehsil or ward or municipality in the district;

(c) two Members, of whom at least one shall be a woman, to be nominated from amongst such non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed:

Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge;

Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government from time to time;

(d) the concerned officer dealing with the social welfare or women and child development in the district shall be a member *ex officio*.

(2) The Chairperson and every Member of the Local Committee shall hold office for such period, not exceeding three years, from the date of their appointment as may be specified by the District Officer.

(3) Where the Chairperson or any Member of the Local Committee-

(a) contravenes the provisions of section 16; or

(b) 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; or

(c) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest;

such Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

(4) The Chairperson and Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed.

8. Grants and audit

(1) The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the State Government

grants of such sums of money as the Central Government may think fit for being utilised for the payment of fees or allowances referred to in sub-section (4) of section 7.

(2) The State Government may set up an agency and transfer the grants made under sub-section (1) to that agency.

(3) The agency shall pay to the District Officer, such sums as may be required for the payment of fees or allowances referred to in sub-section (4) of section 7.

(4) The accounts of the agency referred to in sub-section (2) shall be maintained and audited in such manner as may, in consultation with the Accountant General of the State, be prescribed and the person holding the custody of the accounts of the agency shall furnish to the State Government before such date, as may be prescribed, its audited copy of accounts together with auditors' report thereon.

Chapter IV COMPLAINT

9. Complaint of sexual harassment

(1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident.

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman in making the complaint in writing.

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may make a complaint under this section.

10. Conciliation

(1) The Internal Committee or, as the case may be, the Local Committee,

may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation:

Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where a settlement has been arrived at under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation.

(3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section (1), no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.

11. Inquiry into complaint

(1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist in such manner as may be prescribed or, in case of a domestic worker, the Local Committee shall, if *prima facie* case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code, (45 of 1860) and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

Provided further that where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

- (2) Notwithstanding anything contained in section 509 of the Indian Penal Code, (45 of 1860) the court may, when the respondent is convicted of the offence, order payment of such sums as it may consider appropriate to the aggrieved woman by the respondent, having regard to the provisions of section 15.
- (3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely:
- (a) summoning and enforcing the attendance of any person and examining him on oath;
 - (b) requiring the discovery and production of documents; and
 - (c) any other matter which may be prescribed.
- (4) The inquiry under sub-section (1) shall be completed within a period of ninety days.

Chapter V

INQUIRY INTO COMPLAINT

12. Action during pendency of inquiry

- (1) During the pendency of an inquiry, on a written request made by the aggrieved woman, the Internal Committee or the Local Committee, as the case may be, may recommend to the employer to-
- (a) transfer the aggrieved woman or the respondent to any other workplace; or
 - (b) grant leave to the aggrieved woman up to a period of three months; or
 - (c) grant such other relief to the aggrieved woman as may be prescribed.

(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled to.

(3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.

13. Inquiry report

- (1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide

a report of its findings to the employer or as the case may be, the District Officer, within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer as the case may be:

(i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;

(ii) to deduct, notwithstanding anything in the service rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine, in accordance with the provisions of section 15:

Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment, it may direct to the respondent to pay such sum to the aggrieved woman:

Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee or, as the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

(4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

14. Punishment for false or malicious complaint and false evidence

(1) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint

has produced any forged or misleading document, it may recommend to the employer or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:

Provided that a mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant under this section:

Provided further that the malicious intent on part of the complainant shall be established after an inquiry in accordance with the procedure prescribed before any action is recommended.

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed:

15. Determination of compensation

For the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, the Internal Committee or the Local Committee, as the case may be, shall have regard to

- (a) the mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
- (b) the loss in the career opportunity due to the incident of sexual harassment;
- (c) medical expenses incurred by the victim for physical or psychiatric treatment;
- (d) the income and financial status of the respondent;
- (e) feasibility of such payment in lump sum or in installments.

16. Prohibition of publication or making known contents of complaint and inquiry proceedings

Notwithstanding anything contained in the Right to Information Act 2005 (22 of 2005), the contents of the complaint made under section 9, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings,

recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner:

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

17. Penalty for publication or making known contents of complaint and inquiry proceedings

Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of this Act, contravenes the provisions of section 16, he shall be liable for penalty in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist, in such manner as may be prescribed.

18. Appeal

(1) Any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (i) or clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.

(2) The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations.

Chapter VI

DUTIES OF EMPLOYER

19. Duties of employer

Every employer shall

- (a) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
- (b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting the Internal Committee under sub-section (1) of

section 4;

- (c) organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed;
- (d) provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry;
- (e) assist in securing the attendance of respondents and witnesses before the Internal Committee or the Local Committee, as the case may be;
- (f) make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under subsection (1) of section 9;
- (g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code (45 of 1860) or any other law for the time being in force;
- (h) cause to initiate action, under the Indian Penal Code (45 of 1860) or any other law for the time being in force, against the perpetrator or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;
- (i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
- (j) monitor the timely submission of reports by the Internal Committee.

Chapter VII

DUTIES AND POWERS OF DISTRICT OFFICER

20. Duties and powers of District Officer

The District Officer shall

- (a) monitor the timely submission of reports furnished by the Local Committee;
- (b) take such measures as may be necessary for engaging non-governmental organisations for creation of awareness on sexual harassment and the rights of the women.

Chapter VIII
MISCELLANEOUS

21. Committee to submit annual report

- (1) The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.
- (2) The District Officer shall forward a brief report on the annual reports received under sub-section (1) to the State Government.

✓ 22. Employer to include information in annual report

The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organisation or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.

23. Appropriate Government to monitor implementation and maintain data

The appropriate Government shall monitor the implementation of this Act and maintain data on the number of cases filed and disposed of in respect of all cases of sexual harassment at workplace.

24. Appropriate Government to take measures to publicise the Act

The appropriate Government may, subject to the availability of financial and other resources -

- (a) develop relevant information, education, communication and training materials, and organise awareness programmes, to advance the understanding of the public of the provisions of this Act providing for protection against sexual harassment of woman at workplace,
- (b) formulate orientation and training programmes for the members of the Local Committee.

25. Power to call for information and inspection of records

- (1) The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees at a workplace to do so, by order in writing -
 - (a) call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require;
 - (b) authorise any officer to make inspection of the records and workplace in relation to sexual harassment, who shall submit a report of such inspection to it within such period as may be

specified in the order.

- (2) Every employer and District Officer shall produce on demand before the officer making the inspection all information, records and other documents in his custody having a bearing on the subject matter of such inspection.

26. Penalty for non-compliance with provisions of Act

- (1) Where the employer fails to—
 (a) constitute an Internal Committee under sub-section (1) of section 4;
 (b) take action under sections 13, 14 and 22; and
 (c) contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder,
 he shall be punishable with fine which may extend to fifty thousand rupees.

- (2) If any employer, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to—

- (i) twice the punishment which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence.

Provided that in case a higher punishment is prescribed under any other law for the time being in force, for the offence for which the accused is being prosecuted, the court shall take due cognizance of the same while awarding the punishment.

- (ii) Cancellation of his licence or withdrawal or non-renewal, or approval, or cancellation of the registration, as the case may be, by the Government or local authority required for carrying on his business or activity.

27. Cognizance of offence by courts

- (1) No court shall take cognizance of any offence punishable under this Act or any rules made thereunder, save on a complaint made by the aggrieved woman or any person authorised by the Internal Committee or Local Committee in this behalf.

- (2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

- (3) Every offence under this Act shall be non-cognizable.

28. Act not in derogation of any other law

The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

29. Power of appropriate Government to make rules

- (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
 - (a) the fees or allowances to be paid to the Members under sub-section (4) of section 4;
 - (b) nomination of members under clause (c) of sub-section (1) of section 7;
 - (c) the fees or allowances to be paid to the Chairperson and Members under sub-section (4) of section 7;
 - (d) the person who may make complaint under sub-section (2) of section 9;
 - (e) the manner of inquiry under sub-section (1) of section 11;
 - (f) the powers for making an inquiry under clause (c) of sub-section (2) of section 11;
 - (g) the relief to be recommended under clause (c) of sub-section (1) of section 12;
 - (h) the manner of action to be taken under clause (i) of sub-section (3) of section 13;
 - (i) the manner of action to be taken under sub-sections (1) and (2) of section 14;
 - (j) the manner of action to be taken under section 17;
 - (k) the manner of appeal under sub-section (1) of section 18;
 - (l) the manner of organising workshops, awareness programmes for sensitising the employees and orientation programmes for the members of the Internal Committee under clause (c) of section 19; and
 - (m) The form and time for preparation of annual report by Internal Committee and the Local Committee under sub-section (1) of section 21.
- (3) Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days

which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be; but, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Any rule made under sub-section (4) of section 8 by the State Government shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

30. Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty: Provided that no such order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) RULES, 2013

In exercise of the powers conferred by section 29 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement

- (1) These rules may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013.
- (2) They shall come into force on the date of its publication in the Official Gazette.

2. Definitions

In these rules, unless the context otherwise requires,

- (a) "Act" means the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013);
- (b) "complaint" means the complaint made under section 9;
- (c) "Complaints Committee" means the Internal Committee or the Local Committee, as the case may be;
- (d) "incident" means an incident of sexual harassment as defined in clause (n) of section 2;
- (e) "section" means a section of the Act
- (f) "special educator" means a person trained in communication with people with special needs in a way that addresses their individual differences and needs;
- (g) words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act

3. Fees or allowances for Member of Internal Committee

- (1) The Member appointed from amongst non-government organisations shall be entitled to an allowance of two hundred rupees per day for holding the proceedings of the Internal Committee and also the reimbursement of travel cost incurred in travelling by train in three tier air condition or air conditioned bus and auto rickshaw or taxi, or the actual amount spent by him on travel, whichever is less

The employer shall be responsible for the payment of allowances referred to in sub-rule (1)

4. Person familiar with issues relating to sexual harassment

For the purpose of clause (c) of sub-section (1) of section 7, shall be a person who has expertise on issues relating to sexual harassment and may include any of the following:-

(a) a social worker with at least five years' experience in the field of social work which leads to creation of societal conditions favourable towards empowerment of women and in particular in addressing workplace sexual harassment;

(b) a person who is familiar with labour, service, civil or criminal law.

5. Fees or allowances for Chairperson and Members of Local Committee

(1) The Chairperson of the Local Committee shall be entitled to an allowance of two hundred and fifty rupees per day for holding the proceedings of the said Committee.

(2) The Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) of section 7 shall be entitled to an allowance of two hundred rupees per day for holding the proceedings of the said Committee and also the reimbursement of travel cost incurred in travelling by train in three tier air condition or air conditioned bus and auto-rickshaw or taxi, or the actual amount spent by him on travel, whichever is less.

The District Officer shall be responsible for the payment of allowances referred to in sub-rules (1) and (2).

6. Complaint of sexual harassment

For the purpose of sub-section (2) of Section 9,

(i) Where the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed by -

(a) her relative or friend, or
(b) her co-worker, or
(c) an officer of the National Commission for Women or State Women's Commission, or

(d) any person who has knowledge of the incident with the written consent of the aggrieved woman.

(ii) Where the aggrieved woman is unable to make a complaint on account of her mental incapacity, a complaint may be filed by -

(a) her relative or friend, or
(b) a special educator, or
(c) a qualified psychiatrist or psychologist, or

(d) the guardian or authority under whose care she is receiving treatment or care; or

(e) any person who has knowledge of the incident jointly with her relative or friend or special educator or qualified psychiatrist or psychologist or guardian or authority under whose care she is receiving treatment or care.

(iii) where the aggrieved woman for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident with her written consent;

(iv) where the aggrieved woman is dead, a complaint may be filed by any person who has knowledge of the incident with the written consent of her legal heir.

Manner of inquiry into complaints

(1) Subject to the provisions of section 11, at the time of filing the complaint, the complainant shall submit to the Complaints Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.

(2) On receipt of the complaint, the Complaints Committee shall send one of the copies received from the aggrieved woman under sub-rule (1) to the respondent within a period of seven working days.

(3) The respondent shall file his reply to the complaint along with his list of documents, and names and addresses of witnesses, within a period not exceeding ten working days from the date of receipt of the documents specified under sub-rule (1).

(4) The Complaints Committee shall make inquiry into the complaint in accordance with the principles of natural justice.

(5) The Complaints Committee shall have the right to terminate the inquiry proceedings or to give an *ex-parte* decision on the complaint, if the complainant or respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Chairperson or Presiding Officer, as the case may be:

Provided that such termination or *ex-parte* order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.

(6) The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Complaints Committee.

(7) In conducting the inquiry, a minimum of three Members of the Complaints Committee including the Presiding Officer or the

Chairperson, as the case may be, shall be present.

8. Other relief to complainant during pendency of inquiry

The Complaints Committee, at the written request of the aggrieved woman, may recommend to the employer to:

(a) restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report and assign the same to another officer;

(b) restrain the respondent in case of an educational institution from supervising any academic activity of the aggrieved woman.

9. Manner of taking action for sexual harassment

Except in cases where service rules exist, where the Complaints Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be, to take any action, including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service or undergoing a counselling session or carrying out community service.

10. Action for false and malicious complaint or false evidence

Except in cases where service rules exist, where the Complaints Committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or District Officer, as the case may be, to take action in accordance with the provisions of rule 9.

11. Appeal

Subject to the provisions of sections 18, any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clauses (i) or clause (ii) of sub-sections 2 or sub-section (1) of sub-section (2) of section 14 or section 17, or non-implementation of such recommendations may prefer an appeal to the appellate authority notified under clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946).

12. Penalty for contravention of provisions of section 16

Subject to the provisions of section 17, if any person contravenes the provisions of section 16, the employer shall recover a sum of five thousand rupees as penalty from such person.

13. Mannento organise workshops, etc.

Subject to the provisions of section 19, every employer shall:

- (a) formulate and widely disseminate an internal policy or charter or resolution or declaration for prohibition, prevention and redressal of sexual harassment at the workplace intended to promote gender sensitive safe spaces and remove underlying factors that contribute towards a hostile work environment against women;
- (b) carry out orientation programmes and seminars for the Members of the Internal Committee;
- (c) carry out employees awareness programmes and create forum for dialogues which may involve Panchayat Raj Institutions, Gram Sabha, women's groups, mothers' committee, adolescent groups, urban local bodies and any other body as may be considered necessary;
- (d) conduct capacity building and skill building programmes of all the Members of the Internal Committee;
- (e) declare the names and contact details of all the Members of the Internal Committee;
- (f) use modules developed by the State Governments to conduct workshops and awareness programmes for sensitising the employees with the provisions of the Act.

14. Preparation of annual report

The annual report which the Complaints Committee shall prepare under section 21, shall have the following details:-

- (a) number of complaints of sexual harassment received in the year;
- (b) number of complaints disposed off during the year;
- (c) number of cases pending for more than ninety days;
- (d) number of workshops or awareness programme against sexual harassment carried out;
- (e) nature of action taken by the employer or District Officer.

RELEVANT EXTRACT OF THE INDIAN PENAL CODE

107.

Abetment of a thing

A person abets the doing of a thing who

First- Instigates any person to do that thing; or

Secondly- Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly- Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1- A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose voluntarily, causes or procures, or attempts to cause or procure a thing to be done, is said to instigate the doing of that thing.

Illustration- A public officer is authorized by a warrant from a Court of Justice to apprehend Z. B knowing that fact and also that C is not Z, willfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2- Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

354A. Sexual Harassment and punishment for sexual harassment

(1) A man committing any of the following acts-

(i) physical contact and advances involving unwelcome and explicit sexual overtures; or

(ii) a demand or request for sexual favours; or

(iii) showing pornography to the will of a woman; or

(iv) making sexually coloured remarks;

shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Sexual Harassment Application SFA Rules

About Complykaro :

Complykaro is one of India's first end-to-end compliance service provider which helps companies comply with their legal obligations. Our versatile range of services specifically focuses on the needs of small and medium-sized enterprises and also tailor-makes user friendly and cost effective solutions to cater to large organisations.

To be exemplary and truly top-notch, it is vital for us to have a highly distinguished blend of legal knowledge and technology. Our tie-up with India's leading law firm, Rajani Associates not only ensures this but also optimizes our product offering.

In fact to help you comply with the law against sexual harassment, your organisation can look upto us as compliance partner providing the entire gamut of services which would include services right from policy making to training and advisory services, and not just place meal solutions.

Complykaro uses the latest innovations in training pedagogy and helps foster a gender sensitive work ethic at your workspace. With the understanding that small actions make big changes, Complykaro aims at creating an environment conducive to the growth of your organisation.

- ④ Complykaro has been recognized as one of the 50 most valuable consultant companies of India by Insights Success Magazine.
- ④ In recognition of our efforts to prevent sexual harassment in Corporate India, our Founder & Director, Mr. Vishal Kedia was earlier conferred "The Leading CEO of the Year Award" at the 6th Annual Greentech HR Awards 2016.
- ④ Complykaro was awarded "The Best Compliance Training Program" for our training solution, at The India Human Capital Summit & Awards, 2016.
- ④ Complykaro also won "Start-Up Company of the Year" Award at the HR Tech Conference | Award 2016 at 15th Asia Pacific HRM Congress.

How can we support your organisation ?

- ④ Formulation of anti-sexual harassment policy.
- ④ Providing posters to display within the organisation which accentuates the legal consequences of sexual harassment.
- ④ Create an Internal Complaints Committee (ICC) at each location to address the sexual harassment complaints (compulsory if organisation employs 10 or more workers).
- ④ Help identify and nominate an External Member for the Internal Complaints Committee (ICC) situated at each location.
- ④ Formulate order constituting the Internal Complaints Committee (ICC) at each location, incorporating therein the names and contact details of its members.
- ④ Help formulate nomination and acceptance letters for the Internal Complaints Committee (ICC) Members.
- ④ Sensitise employees and skill-build Internal Complaints Committee (ICC) Members with the provisions of the law, through online or classroom training and awareness programmes.
- ④ Help formulate the annual report to be submitted by the Internal Complaints Committee (ICC) to the organisation and the District Officer.
- ④ Help formulate and submit it's Annual Report to the appropriate authority.

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