

Dated, Chandigarh, the 1/2/2002

To

All the Heads of Departments,  
Commissioners of Divisions,  
Deputy Commissioners and Sub-Divisional  
Magistrates in the State of Punjab.

**Subject:** Guidelines to be observed in the matter of sexual harassment to women at their work places

Sir,

I am directed to refer to Punjab Govt. circular letter No. 4/9/97-2PPII/15380, dated 20.11.1998 on the subject cited above and to say that the following guidelines may be observed while proceedings in the matter of sexual harassment to women at their work places and for conducting the work of Complaints Committee set up in view of the judgement delivered in case of Vishakha and others V/s State of Rajasthan & others:-

1. The work status of the complainant should not change for the worse, once she has complained, or post enquiry;
2. The guidelines should be made applicable to all i.e. to service beneficiaries, patients, students customers, clients, passengers, guests, lawyers, independent professional, members of the judiciary, institutions including the courts, vendors, self employed women, and not just at the workplace but work related which also includes Free Trade Zones, Special Economic Zones and Multi National Corporations as well as harassment during transit to work;
3. It is mandatory for all workplace/departments to make a report of the constitution and functioning of the Complaints Committee (CC). The frequency of meetings, alongwith the preventive steps taken, may also be reported to the Labour Department in the (Proforma enclosed). This report will then be tabled before the Assembly. When the report is placed before the Assembly, a shadow report may also be prepared through the Women's groups, which will mandatorily be presented to the Assembly.

\* The complaint mechanism as per the Vishakha guidelines will look into prevention as well as complaints resolution. The CC will as part of the preliminary enquiry take action to ascertain whether a prima facie case exists/investigate/interview/mediate/counsel & take all necessary steps to deal with the issue. However where necessary, an Enquiry Committee (EC) will be formed as a part of the CC, which will be, called the EC. This EC will consist of the outside NGO, a lady Enquiry Officer (EO), also an outsider who is familiar with the manner in which enquiries are conducted, the harasser and the complainant both represented if they choose to. This EC will function as the disciplinary body with powers and guidelines governing Domestic Enquiry.

\* The names, addresses and contact numbers of all the CC members will be prominently displayed at the workplace.

\* The victim will have a right to not to appear before a particular member or members and on a request to this effect made by the victim, the committee will be reconstituted.

\* In places where a complaints committee cannot be formed (e.g. informal sector, professional offices etc.) an independent Committee at the area level, district level and State level must be set up by the Government. The Complainant will be at liberty to approach these committees even in cases where an in house committee exists;

\* An enquiry once started cannot be stopped without the consent of the complainant.

\* The complainant will have the right to remain present throughout the enquiry and put relevant questions during the enquiry.

- \* The enquiry report has to be given to the complainant.
  - \* The complaint will be handled in a time bound manner and in any case must be disposed within three months.
  - \* Depending on the nature of the punishment recommended, when the perpetrator is found guilty, the complainant should not be forced to work under/with the harasser. Where appropriate the harasser should be transferred.
  - \* The complainant should get a report and copies of all the proceedings and findings.
  - \* There will be a record made that the CC is seized of the complaint.
  - \* The enquiry will be conducted at a place suitable to the complainant.
  - \* A record of all complaints should be made and a complaint number along with date to be given to the complainant, and where requested, the name of the complainant be kept confidential.
2. \* The recommendations of the CC will be binding on the Management.

Guidelines during the enquiry:-

1. The Complaint may be made in writing or orally. Oral complaints will be reduced in writing by the number of the CC. All complaints must be acknowledged and the Complainant informed about the next course of action that the CC proposes to take in writing;
2. The complaint may be made to any member of the CC who will then call a meeting of the CC within three days of the receipt of the Complaint. The Committee will ensure to maintain a minimum quorum in the meeting and an Enquiry Committee who will look into the Complaint will be formed in cases where the Committee is of the opinion that the complaint cannot be disposed by way of mediation/counseling etc. The Complainant will be informed within seven days about the constitution of the Committee in cases where a Committee is being formed and about the course of action that the Complaints Committee proposed to take and the outcome of the meeting of the Complaints Committee in cases where it is decided to dispose the case through mediation;
3. The Complainant can appear before the Committee either herself or through a representative of her choice. She should also be allowed to bring a lawyer if she chooses to. The Employer should be asked by the Committee to assist the Complainant if she is unable to get a representative herself;
4. The Enquiry Committee must be headed by a lady member and must also have a representative from an NGO who is active in advocating for the rights of the women;
5. Past sexual history / personal life of the complaint should not be allowed to be raised.
6. Questions of a delicate/sensitive nature during cross examination or other times will be directed to the Enquiry Officer or the NGO on the Enquiry Committee, who will then put it to the complainant. The Complainant may respond to these question in writing, oral, or state it to her representative who will repeat it orally if the Complainant finds it uncomfortable to speak out;
7. The absence of eyewitnesses or delay in filling the complaint should not be the only ground for disbelieving the complaint.
8. The SH (complaint Mechanism) of Tamil Nadu has a penal provision which says that if the complaint is proved to be false, disciplinary action should be taken against the complainant. This goes against the spirit of the guidelines issued by this Hon'ble Court and would ensure that no woman comes forward to lodge a complaint hence this provision should be withdrawn.
9. Merely the fact that a criminal case is filed in relation to the same offence should not be a ground for staying the enquiry proceedings.
10. The Complainant must get immunity from all the allegations she makes during the course of the proceedings and no action must be taken against her by the employer;

11. The complainant will have immunity against defamation suits/cases in respect of complaint made by her, on the institution of enquiry proceedings and on completion, even in the case where the complaint has not been proved.
12. The enquiry committee (EC) of the Complaints Committee will have the powers to award compensation to victims taking into account direct costs, indirect costs and mental distress.
13. Harassment and intimidation of witnesses and the complaint will be met with a severe disciplinary action.
14. Every employer who fails to perform or neglects his obligations and duties as prescribed under these guidelines and further fails to take action when a complaint of sexual harassment is made, shall be deemed to have abetted the offence of sexual harassment.

3. I say that the guidelines sought hereinabove must be brought into force immediately. It is submitted that Hon'ble Court passed the judgement in 1997. However, even after four years after the judgement, little has been done to implement the guidelines. It is therefore, most respectfully prayed that this Hon'ble Court directs that these guidelines are implemented with immediate effect.

These instructions may be brought to the notice of all concerned for meticulous compliance.

Yours sincerely,

Sd/-

(Kulwant Singh)

Additional Secretary Social Security

A copy is forwarded to all the Financial Commissioner, Principal Secretaries and Administrative Secretaries to Govt. Punjab for information and necessary action.

Sd/-

(Kulwant Singh)

Additional Secretary Social Security

To

All the Financial Commissioners/  
Principal Secretaries and Administrative  
Secretaries to Govt. Punjab

I.D. No. 1/77/2000-2SS/479

Dated: 1.2.2002