

## Constitution of IC in case of multiple offices

**Blog Series – 89**   **October 27, 2020**   **PoSH – Vol.45**

Where there are two entities functioning in the same or adjacent premises, whether One Internal Committee is enough or Two separate IC is required.

In the case of *Jaya Kodate V/S Rashtrasant Tukdoji Maharaj Nagpur University*, Hon'ble *Mumbai High Court* has ruled as per the following:

Para 35. Question whether a senior college and junior college need to be treated as two distinct workplaces now calls for attention. Section 2(o) which defines "workplace" reads :---

**"workplace"** includes -

- (i) any department, organization, 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 organization or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organization, unit or service provider carrying on commercial, professional, vocational, educational, entertain mental, 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;

This definition is inclusive and again deliberately kept wide by the Parliament to ensure that any area where women may be subjected to Sexual Harassment is not left

unattended or unprovoked for. Its Clause (v) highlighted by us above shows even an artificial extension thereof and it may include workplace of other employer. Section 2(p) defining "unorganized sector" in relation to a workplace also brings out this intention. This wide canvass brings to fore the intention to provide protection and prevention at all possible workplaces where either Aggrieved Woman works or may be or visit in connection with her duty or the Respondent is at work. Hence any Woman at her workplace can not be disrespected by any body but similarly, she can not also be disrespected when she is at workplace of the Respondent. Section 19 dealing with the duties of employer mandates that every employer has to provide a safe working environment for a woman at the workplace which includes even safety from the third persons coming into contact with her at the workplace. Clause (h) of Section 19 is also conducive to this interpretation.

Para 36. Whether this noble object of the 2013 Act can be allowed to be defeated by the technicalities like need of a separate ICC for each establishment of the Employer. Surprisingly, here the Aggrieved Women urge for such separate ICCs while the Respondents attempt to point out unity and integrity of otherwise two separate establishments. Standards 11th and 12th constitute a Junior College and student thereof is examined by the Maharashtra Higher Secondary and Secondary Board at the end of 12th class. Service conditions of teaching and non-teaching staff therein are regulated by Maharashtra Employees of Private Schools (conditions of service) Regulations Act, 1977 and 1981 Rules framed thereunder. Students passing 12th standard may then take admission in Senior College of same management or go to other Colleges or Streams. It is not necessary for management to run both the types of Colleges. Service conditions of teaching and non-teaching staff in Senior Colleges are regulated by Maharashtra Universities Act and Statutes or Rules framed thereunder as per UGC guide lines. Recruitment process to both these Colleges is different. Hence, legally Junior and Senior Colleges form two distinct and independent establishments which have no functional integrality.

Thus, even if very same management may run both these type of Colleges, they can never be clubbed together. Hence, ideally there need to be two ICCs for both these establishments. However the problem arises when the staff and students of both these establishments use same classrooms, same playground, library or laboratory and other common facilities like office room, waiting hall or common room or rest rooms. The staff of otherwise distinct establishments must thus be frequently coming in contact with each other and this may lead to frictions or problems like one dealt with in the 2013 Act. A situation where Aggrieved Woman is from Junior College and Respondent is from a Senior College or vice-versa, therefore, may also emerge. It is workplace for all of them. When above definition of workplace is scrutinized in this background, it does not contain a bar against providing a single ICC for such a single or common workplace. It may at the most only desire a separate ICC for distinct workplaces when the same are geographically separate or inconveniently located. This obligation is cast upon the employer for the convenience of Aggrieved Woman. Common or one ICC in a contingency like present one is definitely helpful to all and also to smoothly deal with the allegations of Sexual Harassment at one go avoiding the duplication and other related difficulties.

Para 37. We therefore find the constitution of one/common ICC for a junior college and senior college in this case justified.

**Anandan S**

**Feature Writer, Skill Enhancer & Webinar Specialist**