

Due compliance of 90 days Inquiry period during Lockdown

Blog Series - 37 April 28 2020 PoSH - Vol.19

The Lockdown due to Covid-19 impact has unleashed, various facets of managing, in every establishment.

As per section 11(1) of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, "*Inquiry into complaint must be proceeded by the Internal Committee, where the respondent is an employee...*".

And as per the section 11(4) of the said Act, "*the inquiry under sub section (1) shall be completed within a period of ninety days*".

Where there is a lockdown, how the Internal Committee can conduct an inquiry and comply with the provision of section 11(4) of the Act and complete the Inquiry within 90 days?

It is challenging for such Inquiries which were received before Lockdown and in the process and complaints received during the Lockdown period.

Here are few suggestions, where the Internal Committee can establish connection with the (a) Complainant aggrieved woman (b) Respondent (c) witness/es, if any and complete the Inquiry within the timeline.

- 1) Complaint can be received (if it is a case during the Lockdown period) through email. But preferably, a handwritten-with physical signature of the Aggrieved woman which can be sent to any of the Internal Committee member through Email or any other social medial platform.
- 2) Presiding officer and Internal Committee members, together can discuss with the External member and decide on 'accepting the complaint'. Such communication can happen through Email, as everyone would have such facility, else through other social media tools. Each member shall give his/her consent or reasons for rejecting it as a Sexual Harassment complaint. Presiding Officer can decide on the majority decision.
- 3) Presiding Officer shall convey the same to all Internal Committee members and to the Aggrieved woman. Communication to the aggrieved woman can

be through (a) Email if she has or (b) through social media or (c) through telephone/mobile.

- 4) If the complaint is acceptable then a copy of the same shall be sent by mail (if possible) or conveyed to the Respondent thorough other modes and requesting him to respond to the complaint. Such communication to if sent through email or social media, Presiding Officer or any of the Internal Committee members or all, can reach out to him and explain about the complaint, process to be followed and timeline available for all to complete the Inquiry. Ensure the Respondent is not emotionally reacting to the complaint.
- 5) Once the copy of complaint is sent/conveyed to the respondent, Presiding Officer or any of the Internal Committee members or all, can connect to the Aggrieved woman and discuss about the “option of conciliation”. If she agrees, then same can be discussed, over phone with the Respondent and accordingly it can be closed.
- 6) If the aggrieved woman does not agree to conciliation, then the inquiry can be commenced.
- 7) Mode of communication of conducting Inquiry with each, shall be finalised with date & time. This includes the witness/es, if any.
- 8) Ensure the external member is present in all such Inquiry sessions.
- 9) To the extent possible, the Inquiry may be conducted through “conference calls through Internet or through social media tools, where the individuals can be identified. Entire proceedings shall be recorded.
- 10) If any of the parties – Complainant woman or Respondent or Witness/es could not able to attend the Inquiry through such facility, then it can be done through Phone/Mobile – conference call. Any of the Internal Committee shall record the entire conversation and circulate the same to all members once the Inquiry session is completed.
- 11) Crossing of parties through questionnaire, may happen through emails or conference calls.
- 12) Ensure the following throughout such Inquiry sessions:
 - a. Coram of the Internal Committee, during every session
 - b. Attendance of External Committee member

- c. Parties (Aggrieved woman or Respondent or witness/es) are alone and not assisted or accompanied by anyone else (especially family members of the individuals)
- d. Every session is recorded and same is circulated with all committee members
- e. Recording transcripts are preserved and documented for future reference if any
- f. Official the Internal committee can request the Parties not to record the session from their side, if it is through Conference calls or phone. They should be cautioned about the misuse of the same, which is not allowed, which can be termed as illegal.

13) Individual comments of Internal & External members shall be documented and shared to Presiding Officer to consolidate and prepare a final report. Final Inquiry report cannot be finalised through a discussion over con call/phone. It shall be on documented report / observations from each Internal committee member, especially external committee member.

14) Any final decision also can be circulated/informed to the Complainant woman and the Respondent through the acceptable mode of communication.

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