

Guidelines for Conducting Inquiry and Preparing Report

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Sexual harassment complaints by any aggrieved woman with an allegation in the workplace, has dual impact –

- one is the Reputation of the employer and
- other one being the troubles they face Legally.

Very few establishments have sensibly handling such issues at the workplace, by

- dealing every allegation with due sensitivity
- constitute the Internal Committee as per the provisions of the legislation
- empower such team to provide a right recommendation, after a due course of inquiry

Above only shows the genuineness of an employer to safeguard the safety of women at workplace.

In an Order by the Hon'ble Bombay High Court, in *Jaya Kodate v. Rashtrasant Tukdoji Maharaj Nagpur University* (2014 SCC Bom 814), the Hon'ble court opined that employers need to genuinely be concerned with the safety of women at workplace rather than “staging a farce of compliance” under the POSH Act.

What made the Hon'ble court to state it? Following are the excerpts of the Order, which will throw light on how an Internal Committee needs to work in the interest of the provisions of the Act.

- Respondent means a person against whom the aggrieved woman has made a complaint
- Definition of Respondent is Gender free and does not associate him/her with any workplace at all
- Grievance of aggrieved woman has to be in relation to workplace and she need not be an “employee” of the workplace
- Definition of Workplace is inclusive and deliberately kept wide by the Parliament ensure that they area where woman may be subjected to sexual harassment is not left unattended or unprovided for
- The intention of workplace is to provide protection and prevention at all possible workplaces whether either Aggrieved woman

- works or
 - may be or
 - visit in connection with her duty or
 - the Respondent at work
- In the Internal Committee, there shall be an association of one member from amongst,
 - Non-governmental organization or
 - Associations committed to the cause of women
 - A Person familiar with the issues relating to sexual harassment
- The external member shall be present in the proceedings, in time
- Legislative object of providing a NGO member is to keep on Internal Committee an independent and impartial person in position to command respect and compliance from influential management
- Presiding Officer shall record the statements of External member, mentioned during the course of inquiry
- The Internal Committee shall prepare a report of its findings, with a collective application of mind and shall be a combined report.
- It is inherent that all (Internal Committee members) hear the controversy together and are benefitted by the experience and expertise of each other by sharing/exchanging their views.
- The purpose of providing a multi-membered body gets frustrated, when every member submits their own findings without deliberations or consultations with the others
- A joint inquiry committee is prescribed to eliminate such elements specific to every individual and to bestow advantage of the expertise of every individual in his own field.
- An artificial body (IC) acquires its personality only when the several members forming it sit together, share their view points and gain advantage of the perspective of the other members and give a combined single inquiry report which shall be a unanimous decision by all
- IC members shall give their thoughts and cannot be just placing their signatures at the end of the personal report prepared by other
- Qualification of External NGO member
 - Concerned with the IC proceedings
 - Make efforts to coordinate with various members of IC and see the provisions of law are respected and implemented
 - Ensure healthy and comfortable atmosphere prevails and restored in the workplace

With the above statements, it proves that the said employer did not genuinely constitute the Internal Committee and sensitively organized an inquiry, hence on the limelight of being branded that they are “staging a farce of compliance”

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