

HRV Post

Weekly Newsletter from HR Vidyalaya Corporate Services LLP

INSIDE

Workplace Diversity in Indian Organization - A Critical analysis

Workplace Diversity

Even before the Era of Covid, Indian Organizations had put “Diversity and Inclusion” in their Corporate Agenda.

Whether it is an Influence from Western countries or not, it is essential for the survival of Indian Industry, in a Global competitive business.

But on the other side, what happened after the amendment of Maternity Benefit Act, (26 weeks for first 2 pregnancies), was unhealthy. Many Organizations were consciously reluctant to hire Women. Irrespective, few larger enterprises have promoted Diversity, Inclusion and Gender Parity in workplace agenda.

Inclusion of LGBT is far from the reality in India Industry. Though there is a specific Legislation notified in India – Transgender Persons (Protection of Rights) Act, 2019 – it is still to “wish” to have such persons in the mainstream of any Organization. The other Legislation – Rights of Persons with Disabilities Act, 2016 – is now being actively implemented by most of States in India (eg.TN)

To have Diversity & Inclusion in an Organization, is not a Vanity. It does not stop with the preparation & display of Policy Statement.

Why Diversity? Organizations will benefit, from bottom line to top line of the business. It enhances Morale of the Organization. With the thoughts of diverse individuals the efficiency and effectiveness of Business is set to increase. Competencies and Skills of such diverse background helps the Organization to critically examine and provide appropriate solutions to any problem or a task.

Professionalism from diverse background drives Innovation which leads to Organization Growth. Working together in such Diverse culture will fosters Individuality within the Organization.

Days have come, that Women, dislikes an Organization which poses questions to them in an interview, which cannot be asked to the other Gender, in a similar situation. EMPLOYER BE AWARE.....



Disclaimer

The views, opinions and information provided in this Newsletter are in no way to be considered legal or consultative advice. We do not make any warranty (Anandan Subramaniam – Author)

The Rights of Persons with Disabilities (RPWD) Act, 2016 and Rules, 2017

Mandatory Duties of Private Establishments - **engaging 20 or more persons**)

Private establishment means a company, firm, cooperative or other society, associations, trust, agency, institution, organization, union, factory, or such other establishments.






In Tamilnadu, there was a circular to all Factories & Offices for compliance. Comply at the earliest

1. Prepare and publish an Equal Opportunity Policy
 - HR-V facility and amenity to be provided
 - HR-V list of posts identified suitable for persons with disabilities
 - HR-V the manner of selection of persons with disabilities
 - HR-V provisions for assistive devices, barrier-free accessibility and other provisions for persons with disabilities;
 - HR-V appointment of **Liaison Officer**
2. Display a copy in a Conspicuous Place in the Premises
3. Send a Copy to the Appropriate Authority for the Legislation (usually State Commissioner for Persons with Disabilities)
4. Publish a copy of Equal Opportunity Policy in the Company Website
5. Safeguard the Rights and Safety of the Persons with Disability. There shall not be any Discrimination on the ground of Disability, which shall be one of the Primary duties of the Employer
6. Explore all possibilities to allot certain jobs only to those “Persons with Benchmark Disabilities” – at least 5% of total headcount
7. Maintenance of Records for Persons with Disabilities is the Statutory duty of the Employer: containing the following particulars, namely:-
 - a. the number of persons with disabilities who are employed and the date from when they are employed;
 - b. the name, gender and address of persons with disabilities;
 - c. the nature of disability of such persons;
 - d. the nature of work being rendered by such employed person with disability; and
 - e. the kind of facilities being provided to such persons with disabilities
8. If the Employer receives a complaint from an aggrieved persons regarding discrimination on the ground of disability, he shall-
 - HR-V initiate action in accordance with the provisions of the Act; or
 - HR-V inform the aggrieved person in writing as to how the impugned act or omission is a proportionate means of achieving a legitimate aim.
9. No establishment shall compel a person with disability to partly or fully pay the costs incurred for reasonable accommodation. (“reasonable accommodation” means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others)
10. Liaison Officer to oversee the recruitment of persons with disabilities and the provision of facilities and amenities for such employees.
11. Have a grievance redressal mechanism in place to investigate any complaints received regarding discrimination on the grounds of disability.
12. Ensure that physical infrastructure (buildings, furniture, facilities and services in the building/campus and transportation) adheres to the accessibility standards as prescribed by the Act











The Transgender Persons (Protection of Rights) Act, 2019 and Transgender Persons (Protection of Rights) Rules, 2020

**** Contravention of provisions of the Act - imprisonment for a term which shall not be less than 6 months but which may extend to 2 years & with fine**

No establishment shall discriminate against a transgender person on any of the following grounds, namely (Section 3)

-  **3(b) the unfair treatment in, or in relation to, employment or occupation;**
-  **3(c) the denial of, or termination from, employment or occupation;**
-  **3(f) the denial or discontinuation of, or unfair treatment with regard to the right of movement;**
-  **3(h) the denial or discontinuation of, or unfair treatment in, the opportunity to stand for or hold public or private office; and**
-  **3(i) the denial of access to, removal from, or unfair treatment in, Government or private establishment in whose care or custody a transgender person may be.**

Employer Duties:

- 1. Every establishment shall publish an equal opportunity policy for Transgender persons**
- 2. The establishment shall display the equal opportunity policy, including the details of the complaints officer, preferably on their website, failing which, at conspicuous places in their premises**
- 3. The equal opportunity policy of an establishment shall, inter alias, contain details of-**
 -  **Infrastructural facilities (such as unisex toilets), measures put in for safety and security (transportation and guards) and amenities (such as hygiene products) to be provided to the transgender persons so as to enable them to effectively discharge their duties in the establishment.**
 -  **Applicability of all rules and regulations of the company regarding service conditions of employees;**
 -  **confidentiality of the gender identity of the employees;**
 -  **Measures for Safety and Security (transportation and guards)**
 -  **Details of complaint officers (to look into grievances)**
- 4. Every establishment shall implement all measures for providing a safe working environment and to ensure that no transgender person is discriminated in any matter relating to employment including, but not limited to,**
 -  **infrastructure adjustments,**
 -  **recruitment,**
 -  **employment benefits,**
 -  **promotion and**
 -  **other related issues**

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

Any establishment which has **10 or more employees** it is applicable – whether Big or Small or Shop or Office or Manufacturing or Start-up or even only has MALE Employees – the Act is still applicable

Duties of an employer

- HR-V The employer has the obligation to put in place, a well-drafted anti-sexual harassment policy
- HR-V Exhibit the penal consequences of sexual harassment in workplace
- HR-V Employer has to impart periodical trainings to
 - Employees – Awareness programs
 - New Joinees - Orientation programs
 - IC members - Capacity building programs
- HR-V Certified Standing Order to include Sexual Harassment as a “misconduct”.
- HR-V Clause in CSO to include “appropriate action” under POSH Act, in case of Workplace Sexual Harassment findings
- HR-V Have a strong & efficient Internal Committee for aggrieved woman to make a complaint with Internal Committee
- HR-V It is mandatory to have Internal Committee at Head office and every Branch location, if available
- HR-V Exhibit Name, Contact details of Members of Internal Committee, in conspicuous place
- HR-V To Assist Complainant to make a complaint with the police,
 - Where the Aggrieved Woman wants to make a simultaneous complaint or
 - Where the Harasser is an outsider
- HR-V If the establishment does not have IC due to non-applicability, then the employer has to assist the woman employee to make complaint before Local Committee (LC)
- HR-V Provide necessary facilities to the Internal Committee for dealing with the complaint and conducting an inquiry
- HR-V Assist in securing the attendance of respondent and witnesses
- HR-V Ensure Confidentiality of Complaint, Complainant, Respondent, Witnesses and Findings
- HR-V Monitor the timely submission of reports by the Internal Committee.
- HR-V Monitor IC to Prepare Annual Report
 - Submit one copy to Management | Submit one copy to Appropriate Authority
 - Submit details to Ministry of Corporate Affairs | SEBI (those public listed companies)
- HR-V Ensure smooth workplace environment for all employees to perform their duties

