

INTRODUCTION

Harassment of sexual nature is an infringement on life and liberty and is also condemned as a form of violation of the fundamental rights to equality under articles 14 and 15 of the Constitution of India and his/her right to life and to live with dignity under article 21 of the Constitution and the right to practice any profession or to carry on any occupation, which includes a right to a safe environment free from sexual harassment.

The protection against sexual harassment and the right to work with dignity are universally recognized human rights by international conventions and instruments such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which has been ratified on the 25 June 1993 by the Government of India.

The Constitution of India and the international convention, CEDAW to which India is a signatory, decrees this so and therefore, it is a prerogative of employers/administration of workplaces/Institutions to cater to and meet justice to those victims of harassment.

Sexual Harassment at the Workplace (SHW) has remained one of the central concerns of the women's movement in India since the early-'80s. Before 1997, women experiencing SHW had resort to certain Section of IPC viz Section 354 of the Indian Penal Code, 1860 that deals with the 'criminal assault of women to outrage women's modesty', and Section 509 of Indian Penal Code,1860 that punishes individual/individuals for using a 'word, gesture or act intended to insult the modesty of a women'. These sections left the interpretation of 'outraging women's modesty' to the discretion of the police officer/s. In 1997, the Supreme Court passed a landmark judgment in the Vishakha case laying down guidelines to be followed by establishments in dealing with complaints about sexual harassment and The Sexual Harassment of Women At the Workplace (Prevention, Prohibition and Redressal) Act was passed on 9th December, 2013.

Haryana State Electronics Development Corporation Limited, is committed to promote a work environment that is conducive to the professional growth of its employees and to take all necessary steps to ensure that its employees are not subjected to any form of harassment, hereby adopts this Policy as “ Policy for prevention of Sexual Harassment at workplace” under The Sexual Harassment Of Women At the Workplace (Prevention, Prohibition and Redressal) Act, 2013.

POLICY

- I. The Corporation adopts a “zero-tolerance” policy towards sexual misconduct including sexual harassment. This zero tolerance policy means that no form of sexual harassment by or towards any employee, or other person in our workplace or jobsites will be tolerated.

- II. Corporation stands committed to changing the culture that upholds such bad behaviour by creating awareness about gender equality and sensitization through holding workshops, seminars etc. and maintain a community in which the employees of the Corporation can work together in a healthy, friendly and safe environment.

- III. Standing true to its commitment to provide a safe work environment, the Corporation extends the policy to the male employees as well.

- IV. The Corporation is further committed to enforcing its policy at all its levels. Any officer, director, manager, supervisor, or employee who engages in sexual harassment will be subject to disciplinary action.

- V. In Compliance to the Policy, the Corporation shall:
 1. Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
 2. Display at any conspicuous place at the workplace, the penal consequences of sexual harassment and the order constituting the Internal Complaint Committee (ICC).
 3. Assist the ICC, HARTRON to organise one or more workshop/s annually to sensitise the employees with the provisions of the Act and orientation programmes for members of the ICC.
 4. Provide necessary facilities to the ICC to organise meetings, deal with the complaint and conduct the inquiry.
 5. Provide assistance to the individual to file a complaint under IPC, if the complainant so desires.

6. Treat sexual harassment as misconduct under the service rules and initiate action against misconduct.
7. Monitor the timely submission of the reports by the ICC.

VI. Applicability of this Policy

1. This policy is applicable in case/instance of-
 - a. Every employee across the Company- permanent, temporary, on training and on contract;
 - b. Every Director of the Company;
 - c. An alleged act of sexual harassment that has occurred during or beyond office hours;
 - d. An alleged act of sexual harassment, which has taken place within or outside the Company premises;
 - e. An alleged act of sexual harassment, which has taken place at any social, business or other events where the conduct may have an adverse impact on the workplace or workplace relations;
 - f. An alleged act of sexual harassment, which has taken place whether in the office premises or outside while on assignment.
 - g. Where sexual harassment occurs to an employee including male as a result of an act by third party or outsider while on official duty, Haryana State Electronics Development Corporation Ltd. (HARTRON) will take all necessary and reasonable steps to assist the affected person in terms of support, redress and preventive action.

VII. Definitions:

1. The workplace shall include:
 - a. All offices or other premises where Corporation business is conducted
 - b. All activities related to Corporation performed at any other site away from the Corporation premises.

- c. Any social, business or other functions where the conduct or comments may have an adverse impact on the workplace or workplace relations.

2. For the purpose of this Policy, Sexual Harassment shall mean

- a. Any act falling under the purview of following cases will be considered as an incident of sexual harassment (Clarification of Unwelcome acts or behaviour):
 1. When submission to unwelcome sexual advances, requests for sexual favours, and verbal or physical conduct of a sexual nature are, implicitly or explicitly, made a term or condition of guidance, employment, participation or evaluation of a person's engagement in any activity.
 2. Unwelcome sexual advances, and verbal, non- verbal and/ or physical conduct such as loaded comments, remarks or jokes, letters, phone calls or e-mails, gestures, exhibition of pornography, lurid stares, physical contact, stalking, sounds or display of a derogatory nature.
 3. Interfering with his/her work or creating an intimidating, offensive or hostile environment for him/her.
 4. When a person uses the body or any part of it or any object as an extension of the body with a sexual purpose in relation to another person without the latter's consent or against that person's will.
 5. When deprecatory comments, conduct or any such behaviour is based on the gender identity/ sexual orientation of the person and/ or when the premises or any public forum of the institute is used to denigrate/ discriminate against persons or create a hostile environment on the basis of a person's gender identity/ sexual orientation.
 6. When a person shows any humiliating treatment to person that is likely to affect his/her health and safety.

GRIEVANCE REDRESSAL MECHANISM

I. Internal Complaint Committee

1. Constitution of the Internal Complaints Committee.

- i. Every employer of a workplace shall, by an order in writing constitute a Committee to be known as the “Internal Complaints Committee”:

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

- ii. The Internal Committee shall consist of the following members to be nominated by the employer, namely:—

- a. A Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section (i):

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organisation;

- b. Not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;

- c. One member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:

Provided that at least one-half of the total Members so nominated shall be women.

- d. The Member appointed from amongst the non-governmental organisations or associations may be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer, as may be prescribed.

2. Disqualifications:

No person shall be appointed or continue as member of the committee if he/she is:

- a. Declared insolvent by the competent court;
- b. Lunatic or person of unsound mind;
- c. Convicted for an offence of moral turpitude;
- d. Involved in a misconduct amounting to immoral trafficking;
- e. Convicted in any criminal offence/s;
- f. Facing any inquiry relating to sexual harassment or found guilty of sexual harassment; punished for any misbehaviour or misconduct.

II. Working of Committee

1. Statutory status/ Power of Court

The internal committee to prevent harassment of women at the workplace is empowered to carry out the mandate of the policy and has statutory power as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters:-

- a. Summoning and enforcing the attendance of any person (complainant/complainee/witness) and examining him/her on Oath and recording statements.
- b. Requiring the discovery and production of valid documents
- c. Any other matter which may be prescribed.

2. Tenure of the Committee:

- a. The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer
- b. The members of the new committee will be elected according to the procedures outlined above at least two months before the end of the tenure of the existing committee.
- c. The new committee (including the outside expert) has to be fully constituted at least one month before the end of the tenure of the existing committee.

III. Duties of committee:-

1. The committee is NOT to act as a moral police; and shall not intrude on anyone's privacy.
2. The role of the Committee is to create awareness about sexual harassment and to deal with and recommend punishment for non-consensual acts of sexual harassment, and to curtail sexual expression within the Corporation premises.
3. Members are expected to be sensitive to the issue and not let personal biases and prejudices (whether based on gender, caste, class) and stereotypes (e.g., predetermined notions of how a "victim" or "accused" should dress or behave) affect their functioning as members of the committee.
4. Any case arising on issues of sexual harassment should be brought to the committee.
5. Since issues connected to gender are sensitive the committee will be approachable and not violate the confidentiality of the persons involved.
6. After the committee has been constituted the committee members will constitute the procedure to be adopted in terms of resolution of complaints.

7. The Committee should meet twice a year; additional meetings could be held as necessary to deal with issues or complaints that may arise.
8. The quorum for all meetings shall be more than half of the existing members of the Committee.
9. If and when complaints arise, the committee should deliberate and seek resolution and submit the recommendations to the managing director of the Corporation.
10. The committee is also responsible for arranging gender awareness programs such as workshops, panel discussions, lectures, interactive sessions, poster presentations etc. that will help create a sexual harassment free environment.
11. Minutes of all meetings shall be recorded, confirmed and adopted.
12. The committee shall work on Gender Sensitization. Gender Sensitization involves creating awareness about issues of gender and sexuality and working towards and creating an enabling environment of gender justice where all can work together with a sense of personal security and dignity. Sensitization and Awareness will be a basic function of the Committee formed.

IV. Complaint Mechanism

Any employee, regular or on contract or engaged through a service provider, may in writing, make a complaint of sexual harassment at the workplace to any member of the Internal Complaints Committee, within a period of three months from the date of the last incident.

- Provided that where such complaint cannot be made in writing, the presiding officer or any member of the ICC as the case may be shall render all reasonable assistance to the complainant for making the complaint in writing;
- Provided further that the ICC for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the complainant from filing a complaint within the given period.

- Where the complainant is unable to make a complaint on account of his/her physical or mental incapacity or death or otherwise, his/her legal heir or such other person as prescribed make a complaint under this section.
- Upon receipt of the complaint, ICC member to whom the complaint is made shall forward the same to the Chairperson of ICC.
- The Chairperson of ICC shall call an emergency meeting within two working days of the receipt of the complaint.

1. Inquiry Process

After the registration of the Complaint, the ICC shall furnish the complaint to the accused and the complainant along with a written notice requiring both parties to furnish a written submission. The ICC shall also provide the accused and the complainant with a copy of the Policy on Gender Sensitization against Sexual Harassment. In case the complainant does not have any additions to make to the complaint filed earlier, she/he can just submit a statement to that effect.

- a. The ICC shall conduct the proceedings in a fair manner and shall provide reasonable opportunity to the complainant and the accused for presenting and defending his/ her case.
- b. At no time in the enquiry proceedings shall the accused and the complainant be placed face to face, or put in a situation where they may be face to face.
- c. The ICC may consider as relevant any earlier complaints against the accused. However, at no time in the enquiry process shall the past sexual history of the complainant be probed into, as such information shall be deemed irrelevant to a complaint of sexual harassment.
- d. If the accused fails, without valid ground, to present her/him for three hearings convened by the ICC, the ICC shall have the right to take a decision on the complaint based upon available evidence.

- e. Records of all evidence gathered in the course of the enquiry shall be maintained.
- f. All Enquiry proceedings shall be confidential.
- g. All persons heard by the ICC shall take and observe an oath of secrecy about the proceedings. Any violations of the oath of secrecy would invite action by the appropriate authority as per the recommendation of ICC.
 - i. Within a week, both parties shall submit to the ICC their replies to the documents that have been served on them. The replies may also include a list of questions that the party wishes the ICC to ask the other party or its witnesses.
 - ii. Within three days of the receipt of the replies and list of questions above, the ICC shall start the process of hearing.
 - iii. In the course of the hearing, the complainant, the accused, and their witnesses will separately be given a chance to give an account of the instances alluded to in the complaint.
 - iv. All parties can also submit any documentary evidence at the time of the oral hearing.
 - v. The ICC shall have the power to ask questions that it deems fit to all parties during the oral hearing.
 - vi. The ICC would also ask questions which have been submitted by the complainant and defendant for the other parties. However, the ICC has the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, or gender-insensitive.
 - vii. The ICC may also call upon additional witnesses and ask them any questions that it may deem fit.
 - viii. The ICC shall have the power to ask the relevant authorities for any official papers or documents pertaining to the complainant as well as the accused.

- ix. After completing the investigation, the ICC shall submit a detailed report of its findings to the Managing Director of the Corporation, and the opinion whether it finds the accused guilty or not guilty along with reasons for its decision.
- x. The ICC shall have to complete the enquiry within a reasonable time ordinarily not exceeding three months from the date the complaint is referred to it.
- xi. Any extension of the Inquiry process beyond this period would have to be notified to the Managing Director of the Corporation.

Note: Most cases of sexual harassment occur in private, so there may not be any eye-witness. The ICC will have to come to a conclusion about the complaint without proof or evidence of this kind. It will rely on circumstantial evidence and the written submissions and oral testimonies of the complainant, the accused, and witnesses if any as well as any documentary evidence. This enquiry is not a criminal investigation or a proceeding in a court of law and a strong probability, rather than ‘proof beyond reasonable doubt’, is enough to take a decision on the complaint.

2. Complaints withdrawal by complainee

- a. The complainant may withdraw his/her complaint in writing at any time during the enquiry procedure. However, ICC must ascertain the reasons for withdrawal of the complaint, record the same in writing and get it counter-signed by the complainant.
- b. The complaints enquiry procedure shall, on such withdrawal, be terminated, save in instances in which the Enquiry Committee is informed, knows, or has reason to believe, that the reasons for such withdrawal are the consequences or effect of coercion and intimidation exerted by the accused(s), or any person on his/her behalf on the complainant. In such an instance, the complaints

enquiry proceedings shall continue in accordance with the procedure outlined in the policy.

3. Complaints made by malicious intent

- a. If, on inquiry, it is found that a complaint was made with a malicious intent or the complainant has produced any forged or misleading document, evidence, etc., strict action will be taken against the complainant.
- b. In the event that the formal request for inquiry is proved to be malafide, the ICC shall recommend to the Managing Director that the person found guilty of such a fraudulent act be required to issue a written public apology to the person who has been so falsely accused, which is to be displayed prominently on all notice boards in the Company.
- c. Insufficient evidence to support a complaint does not necessarily mean that the charge was intentionally false. Material, circumstantial and factual evidence needs to be produced which could prove the complaint made was with malicious intent.

4. Possible disciplinary actions for filing complaint with malicious intent

- a. A letter of warning may be issued.
- b. Immediate transfer or suspension.
- c. Stoppage of increment with or without cumulative effect.
- d. Reduction in pay level.
- e. Mandatory attendance in a sexual harassment workshop or counselling program
- f. Any other action which ICC may deem fit.

The intent of this policy is to create a harmonious and safe working environment. To ensure that this is upheld in both letter and spirit, we urge the employees to desist from lodging wrongful allegations. This would apply to third parties also.

5. Compliance of order/ direction of ICC

ICC may issue an order of restraint to the accused in accordance with the procedure outlined below:

- a.** A restraint order shall provide a summary of the complaint, the date(s), time(s), and location(s), of the alleged incident(s). It shall warn the accused(s) that any attempt on his/her part or by person(s) acting on his/her behalf, to contact, or influence, or intimidate, or exert pressure on the complainant or any person in the complainant's confidence may prove prejudicial to his/her case.
- b.** The complainant or any other person should intimate in writing the Chairperson of ICC, of any violation of the order of restraint by the accused, or any persons acting on his/her behalf.
 - i.** Should the Chairperson of ICC, be convinced of the truth of such allegations, the Chairperson of ICC may summon the accused in person and issue a verbal and written warning that such behaviour may lead to an adverse inference being drawn against her/him.
 - ii.** The ICC shall retain the right to close the enquiry proceedings, and to give an ex-parte decision on the complaint.
 - iii.** The ICC shall consider all violations of the restraint order when determining the nature of offence of an accused.
 - iv.** ICC should make efforts to ensure that the complainant(s), accused(s) and the witnesses are not victimized or discriminated against at any time during or after the enquiry process as a result of their respective roles in a particular case of complaint. For instance, if the complainant and the accused are both employees working together on one or more tasks, alternative arrangements shall be made to carry out the task such that interaction

between the two are not allowed. If the accused is an outsider, she/ he shall not be allowed to enter the premises of the Corporation during the period of enquiry. These changes may be continued as long as necessary.

- v. ICC shall recommend action against anyone who intimidates the complainant(s), accused(s), witnesses or members of the committee, during or after the enquiry process.

c. Format and procedures for the Inquiry Report:

- i. On the completion of the inquiry under this Act, the ICC will provide a report of its findings within a period of 15 days from the date of completion of the inquiry and a copy of the report made available to the concerned parties.
- ii. Where the ICC arrives at the conclusion that the allegation against the accused has not been proved, it shall recommend to the employer that no action is required to be taken in- the matter.
- iii. Where the ICC arrives at the conclusion that the allegation against the accused has been proved, it shall recommend to the employer to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules;
- iv. To deduct from the salary or wages of the accused/or pay such sum as it may consider appropriate to be paid to the complainant.
- v. The Managing Director of the Corporation(employer) shall act on the recommendation within 60 days of its receipt by her/him.
- vi. Where the ICC arrives at the conclusion that the allegation against the respondent is malicious or the complainant has made the complaint knowing it is false/ used forged or misleading documents, ICC shall recommend to the

employer penalties against the person who has made the complaint.

vii. Notwithstanding the Right to Information Act, 2005, the contents of the complaint, the identity and address of the aggrieved woman, respondent and witnesses, any information relating to the conciliation, inquiry proceedings and recommendation of the ICC and the action taken by the employer shall not be published, communicated or made known to the public, press and media in any manner.

viii. Any person entrusted to deal with the complaint reveals the details shall be liable for penalty in accordance to the service rules.

d. Communication of findings of the ICC and follow-up procedures

i. Within five working days of the receipt of the report of the ICC copies of the report shall be made available to all members of ICC

ii. Anonymity shall be maintained by the ICC in the interest of complainant or witnesses.

iii. Within five working days of the decision of ICC, the chairperson of ICC, shall communicate the decision of the ICC, to the Managing Director of the Corporation.

iv. The appropriate follow-up action and the report of the ICC shall be communicated to the complainant and the defendant. Copies of depositions of witnesses shall be made available for perusal to the complainant or accused on request.

6. Appeal

a. An appeal against an order of the Managing Director imposing any penalty shall lie to the Chairman within six months of the

date of servicing of the order and the Chairman's decision on such appeal shall be final.

- b. Provided that a joint appeal shall not be entertained.
- c. Provided further that where a penalty has been imposed by the Appointing Authority with the approval of the Board, the person on whom the penalty has been imposed may apply to the Board for revision of its decision within one month of the date of service of the order imposing the penalty.
- d. Any of the parties to the dispute may appeal to the Principal Secretary, Department of Information Technology, Electronics and Communications against the process followed by the ICC or decision thereof within 30 days of the order of the Managing Director as referred in Point (a) above.

V. Redressal

1. Guiding Principles

There will be provisions for punishment for the accused once there is a strong probability of the offence. There will also be attempts at every step of the enquiry and the punishment to treat the alleged accused as a human being susceptible to changing one's behaviour on positive suggestions and social pressures. Redressal shall involve supportive measures for the complainant and protection against victimization. Filing of a grievance or complaint will not reflect upon/ adversely affect the complainant's or accused or witnesses' status, future evaluation of grades, assignments, employment, promotion etc. As a general principle, everyone who is associated with redressal of sexual harassment needs to be sensitive towards both the accused and the complainant. To this end, it is advisable that they undergo periodic orientation and training.

2. Punishments and Penalties

The committee shall produce its complete findings to the employer. The employer shall be authorised to order punishment and/or penalty accordingly.

VI. Settlement of Disputes

1. The ICC may, before initiating the inquiry and at the request of the complainant take steps to settle the matter between her/him and the accused through conciliation;
2. Grant such other relief to the complainant as may be prescribed;
3. The ICC shall submit the recommendation to the Managing Director. The Managing Director shall order action to be taken.
4. A report on implementation of action directed shall be submitted to the Managing Director by the concerned officer.

MISCELLANEOUS

AMENDMENT TO THE POLICY AND RULES AND PROCEDURES OF ICC

- I. Amendments to the policy and rules and procedures of ICC shall have effect only if these are compatible with the letter and spirit of the Supreme Court judgment.
- II. Amendments shall be effected by decision taken in a special meeting of ICC called for this purpose.
- III. Proposed amendments shall be circulated at least 15 working days prior to the special meeting called for this purpose.
- IV. An amendment shall be passed by two-thirds of the total members of ICC.

CONFIDENTIALITY

The Company understands that it is difficult for the victim to come forward with a complaint of sexual harassment and recognises the victim's interest in keeping the matter confidential. To protect the interest of the victim, the accused person and others who may report incidents of sexual harassment, confidentiality will be maintained throughout the investigatory process to the extent practicable and appropriate under the circumstances.

ACCESS TO REPORTS AND DOCUMENTS

All records of complaints, including contents of meeting, results of investigations and other relevant material will be kept confidential by the Company except where disclosure is required under disciplinary or other remedial processes.