

बृहन्मुंबई महानगरपालिका

दुकाने व आस्थापना

क्र. सीआय/५ /एसईई दि.१२.०८.२०११

प्रति,
M/s. Quondam Advisors Pvt. Ltd.,
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विषय:- स्त्रियांवर होणा-या लैंगिक अत्याचारास प्रतिबंध करण्यासाठी महिला तक्रार समिती गठीत करणेबाबत.

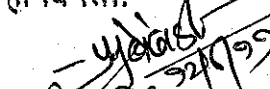
- संदर्भ:- 1) रिट पिटीशन क्र. 173-177/1999 दि. 17.01.2006 मा. सर्वोच्च न्यायालयाने दिलेल्या आदेशाची अंमलबजावणी.
2) कामगार उप आयुक्त (दुकाने) यांचे पत्र क्र. मुंदुवआ/संकीर्ण/मलैच्छ/08/कार्या-13 दि. 06.12.2008
3) सीआय/4783/एसईईसी दि. 10.12.2008

महोदय,

उपरोक्त विषयासंदर्भातच ये मा. सर्वोच्च न्यायालयाने दिलेल्या आदेशाची अंमलबजावणी करण्याच्या दृष्टीकोनातून स्त्रियांवर होणा-या लैंगिक अत्याचारास प्रतिबंध करण्याकरिता महिला तक्रार समिती गठीत केली आहे किवा कसे याचा तपशील कामगार आयुक्त, महाराष्ट्र शासन यांच्यामार्फत सर्वोच्च न्यायालयास सादर करावयाचा आहे.

आपणांस विनंती करण्यात येते की, सर्वोच्च न्यायालयाने दिलेल्या सोबत जोडलेल्या मार्गदर्शक तत्वानुसार आपल्या आस्थापनेस लैंगिक अत्याचारास प्रतिबंध करण्याकरिता महिला तक्रार समिती गठीत करण्यात यावी. तशी समिती गठीत केल्यानंतर सदर निम्नस्वाक्षरीकरिता त्वरीत कळवावे.

अतएव, आपल्या आस्थापनेत महिला तक्रार समिती गठीत करून सर्वोच्च न्यायालयाने दिलेल्या मार्गदर्शक तत्वांची अंमलबजावणी करावी आणि शासनास सहकार्य करावे ही विनंती.


वारिष्ठ निरीक्षक
दुकाने व आस्थापना

सोबत:-

सर्वोच्च न्यायालयाने दिलेल्या मार्गदर्शक तत्वे याची प्रत

①

Guidelines and Norms for the Preservation and enforcement of the right to gender equality of working women which are laid down by supreme court in the W.P.(CRL) No.666-70 of 1992.

The GUIDELINES and NORMS prescribed herein are under :

HAVING REGARD in the definition of human rights in Section 2 (d) of the Protection of Human Rights Act, 1993.

TAKING NOTE of the fact that the present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in work places and that enactment of such legislation will take considerable time.

It is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women.

1. Duty of the Employer or other responsible persons in work places and institutions :

It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of act of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps requires.

2. Definition :

For this purpose, sexual harassment includes such unwelcome sexually determined behavior (whether directly or by implication) as :

- a. Physical contact and advances,
- b. A demand or request for sexual favours,
- c. Sexually coloured remarks,
- d. Showing pornography,
- e. Any other unwelcome physical verbal or non-verbal conduct of sexual nature,

Where, any of these acts is committed in circumstances where under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprises such conduct can be humiliating and may constitute health and safety problem. It is discriminatory for instance when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

3. Preventive Steps :

All employers or persons in charge of work place whether in the public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps :

- a. Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.
- b. The Rules/Regulations of government and Public Sector bodies relating to conduct and discipline should include rules/regulation prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
- c. As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Order) Act, 1946.
- d. Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

4. Criminal Proceedings :

Where such conduct amount to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate

action in accordance with law by making a complaint with the appropriate authority. In particular, it should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. **Disciplinary Action :**

Where such conduct amounts to misconduct in employment as defined by the relevant services, rules, appropriate disciplinary action should be initiated by the employee in accordance with those rules.

6. **Complaint Mechanism :**

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

7. **Complaints Committee :**

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counselor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its members should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government department concerned of the Complaints and action taken by

them. The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government Department.

8. Workers Initiative :

Employees should be allowed to raise issues of sexual harassment in workers' meeting and in other appropriate forum and it should be affirmatively discussed in Employer Employee Meetings.

9. Awareness :

Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

10. Third Party Harassment :

Where sexual harassment occurs as a result of an act or omission by third party or outsider the employer and person in charge will take all steps necessary and reasonable to assist the effected person in terms of support and preventive action.

11. The Central/State Governments are requested to consider adopting Suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.

12. These guidelines will not prejudice any rights available under the Protection of Human Right Act, 1993.

Accordingly, we direct that the above guidelines and norms would be strictly observed in all work places for the preservation and enforcement of the right to gender equality of the working women. These directions would be binding and enforceable in law until suitable legislation is enacted to occupy the fields.
