

"The Sexual Harassment of Women at Workplace"

Policy For Prevention and Redressal



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SAMAJ KALYAN SANSTHAN**

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## **BACKGROUND**

Having regard for the definition of "Human Rights" in Section 2 (d) of the protection of Human Rights Act, 1993, and taking note to the fact that present civil and penal laws in India do not adequately provide for specific protection of women from sexual harassment in work places. That enactment of such legislation will take considerable time; it is necessary and expedient for employers in workplaces as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women.

### ***1. Duty of Employer of other responsible persons in workplaces and other institutions***

It shall be duty of the employer or other responsible persons in workplaces or the other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolutions, 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 behaviours (whether directly or by implications) as

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

### ***3. Preventive Steps***

- a. Express prohibition of sexual harassment as defined above at the workplace should be notified, published and circulated in appropriate way,
- b. The rules/regulations of Government and Public Sector bodies relating to the conduct and discipline should include rules/regulations prohibiting sexual harassment and provide appropriate penalties in such rules against the offender
- c. As regards private employers step should be taken to include the aforesaid prohibition in the standing orders under the industrial Employment (Standing Orders)
- d. Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there no hostile environment towards women at workplaces and no employee women should have reasonable grounds to believe that she is disadvantaged in connection with her employment

### ***4. Criminal Proceedings***

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law the employer shall initiate appropriate action in accordance with the appropriate authority.

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In particular, it ensures that victims, or witnesses are not victimized or discriminated against while dealing with complaint of sexual harassment. The victim 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 mis-conduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer 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 complaint.

### **7. *Complaint Committee***

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

The Complaint 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 Complaint Committee should involve a third party, either an NGO or other party who is familiar with the issue of sexual harassment.

The Complaint Committee must submit an annual report to the government department concerned of the complaint and action taken by them. The employer and the person in charge will also report on the compliances with the aforesaid guidelines including on the reports of the Complaint Committee to the Government department.

### **8. *Worker's Initiative***

Employee should be allowed to raise issues of sexual harassment at workers meeting and in other appropriate forums and 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 suitable manner.

10. Where sexual harassment occurs as a result of an act or omission by any third party or outsiders, the employer and person-in-charge will take all steps

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necessary and reasonable to assist the affected person in terms of support and preventive action

11. The Central/State Government 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 Rights Act, 1993.

### **RIGHT TO BE FREE FROM SEXUAL HARASSMENT**

#### **Sexual Harassment is Unlawful:**

*Every woman shall have a right to be free from Sexual Harassment and the Right to work in an environment free from any form of Sexual Harassment.*

- (1) No person in PGS who is part of the management or ownership, a supervisor, co-employee shall sexually harass a female employee of the establishment where she is employed; whether the harassment occurs in/at the workplace, or at a place where the said person have gone in connection with the work or the workplace, or at any place whatsoever
- (2) No person in PGS who is part of the management or ownership, a supervisor or a co-employee shall sexually harass a women who, for whatsoever reason is present in /at the workplace of the said persons, or who comes into contact with the employer, supervisor or employee in connection with her work or the work of the said persons.
- (3) Sexual Harassment will amount to misconduct in employment and the service rules/regulations governing employment shall govern such misconduct, in addition o the provisions of this Policy
- (4) PGS shall take all necessary action and reasonable steps to prevent and ensure that no women employed in the establishment are subject to sexual harassment by any third party during the course of employment. Where any such Sexual Harassment occurs, PGS shall take all necessary action to assist the aggrieved women to redress the act of Sexual Harassment.
- (5) No person shall sexually harass another person in the course of providing or offering to provide goods or services to the other person.
- (6) No person shall sexually harass a women in the course of seeking to enter into the contract for service or during the period of service

## **Chapter I**

### **PRELIMINARY**

1.
  - 1) The policy guideline is called “Sexual Harassment of Women at Workplace” (Prevention and Redressal) Policy 2011.
  - 2) It extends to the whole PGS including its office premises, field locations, third party place or any other location where an employee travel for official purpose
  - 3) It shall come into force from immediate effect.
1. In this policy the context otherwise required
  - a) “aggrieved women” means any female person working in PGS and includes a women employed or working or studying, who has been subjected to sexual harassment
  - b) “appropriate organization” means
    - (i) in relation to any department of the PGS or any other establishment or undertaking wholly or substantially under PGS or such other bodies or office established under control of PGS.
  - c) “complainant” means
    - (i) an aggrieved women herself
    - (ii) and aggrieved women for herself and on behalf of others, in the case of more than one aggrieved women
    - (iii) the legal heir or representative, in the case of death of an aggrieved women; or
    - (iv) a registered trade union or a women organization or a non-governmental organization, on behalf of aggrieved women or women referred to in sub-clauses (i) or sub-clauses (ii) or sub-clauses (iii) who files a complaint of sexual harassment under this policy.
  - d) “Complaint Committee” includes the Internal Complaint Committee constitute under Section 5;
  - e) “defendant” means a person against whom a complaint is filed by a complainant;
  - f) “employee” means a person employed for any work directly or by or through PGS (including a contractor), with or without the knowledge of the principle employer, whether for remuneration or not or working on voluntary basis, whether the term of employment are express or implied, and includes any person employed as a temporary, casual, probationer, trainee, apprentice or whatever name called.
  - g) “employer” means-

- h) "Internal Complaint Committee" means
- (i) PGS Internal Complaint Committee consist of a women President and committee having one half of the members as women
  - (ii) The complaint committee has PGS who is representative of Non-Government Organization and having fare understanding of women protection issues and issue of sexual harassment
  - (iii) Internal Committee makes preliminary investigations into a complaint made it to it by a complainant, hold enquires into such complaint, to resolve the matter by amiable settlement, so if requested by the complainant, and to issue orders pursuant to the finding the enquiry
  - (iv) PGS has **Mrs. Jyoti Singh, (Executive Director)** as Special Officer and under his/her control to receive complaint under this policy
  - (v) **Mrs. Jyoti Singh's** name as Special Officer, designation and duties is published and displayed along with the name of Internal Complaint Committee
- i) "Sexual Harassment" means
- (i) Any unwelcome sexually determined conduct whether physical, verbal or non-verbal, including but not limited to, sexual advances, demands or requests for sexual favours, molestation, sexually nuanced gestures, comments, remarks or jokes either verbal, textual, graphic or electronic
- j) "Workplace" means
- (i) relation to PGS, means any place where an aggrieved women or defendant is employed or works, or visit in connection with work during the course of arising out of employment.

## **Chapter: II**

### **SEXUAL HARASSMENT OF WOMEN**

- 3.
- (1) No employer, supervisor or co-employee shall, in any manner whatsoever, sexually harass a female:
    - (a) employee at the workplace where she is working;
    - (b) who, for whatsoever reason, is present in or at the workplace; or
    - (c) who, comes into contact with the employer, supervisor or employee in connection with her work of these persons
  - (2) No PGS employee (supervisor or co-employee) shall any manner whatsoever, sexually harass a women
  - (3) Notwithstanding anything contained in any other law for the time being in force, sexual harassment shall

- (a) Amount of misconduct in any work profile and service rules and regulation relating to conduct and discipline at the workplace and such rules or regulations shall include provision for prohibiting sexual harassment and provide appropriate penalty against the offender, decided by the internal complaint committee
- (b) Amount to an unfair labour practices within the meaning of clause of section 2 of the Industrial Dispute Act, 1947

### **Chapter: III**

#### **PROCEDURE FOR LODGING A COMPLAINT**

#### **4.**

- (1) In PGS Internal Complaint Committee has been set up in a workplace, a complaint under this policy may be lodged with any member of the Internal Complaint Committee:

Provided that if a complaint is made to the PGS it shall be forwarded to the Internal Complaint Committee.

Provided further that in case where a complaint of sexual harassment is against the employer or owner, the aggrieved women shall make the complaint to the Special Officer or to the any member of Internal Complaint Committee.

- (2) If the aggrieved women complaint that she has been subject to an act of sexual harassment at other branch or office to which she has been deputed or to which she has been visited in connection with her work or studies, a complaint in this regard shall be made either to the Internal Complaint Committee relating to her regular branch or office or to the Internal Complaint Committee relating to the branch or office where the act of sexual harassment has allegedly taken place.

#### **5.**

- (1) When a complaint is made to the Special Officer, her or she shall constitute the Legal Complaint Committee from the panel of experts within fifteen days of the said complaint and designate a female member as Chairperson.
- (2) The Local Complaint Committee shall operate from the local proximity of the Complainant's workplace.

#### **6.**

Where an oral complaint is made to employer or PGS or Internal Complaint Committee an any of its members, or the Special Officer, it shall be duty of PGS or Internal Complaint Committee an any of its members, or the Special Officer, as the case may be, to reduce the said complaint in writing and read out the complaint to the complainant and obtain the signature thereon of the complainant.



**7.**

- (1) A complaint shall be only after obtaining a written consent of the aggrieved women or, in the case of her death, he heirs or legal representative, authorizing the organization or individual to file the complaint on her or their behalf.
- (2) The consent may be withdrawn at any stage of proceedings by the aggrieved women or her legal heir or representative, as the case may be.

**8.**

All the complaints made under this Chapter shall be confidential and it shall be the duty of members of the Internal Complaint Committee of the Special Officer to ensure that its confidentiality is maintained forever.

#### **Chapter: IV**

#### **PROCEDURES BEFORE THAT COMPLAINTS COMMITTEE**

**9.**

- (1) One receiving a complaint of sexual harassment, the Internal Complaint Committee shall conduct an enquiry into the complaint by interviewing the complaint and defendant and any witness, determining if there are individuals with direct or indirect information regarding the complaint, and, if so, by interviewing them or by obtaining information from such other persons and making such enquiries as it thinks fit.
- (2) The Internal Complaint Committee shall complete its enquiry within ninety days from the date of complaint, record in writing its finding and take appropriate action on the basis of the findings
- (3) During the course of enquiry , the complainant and the defendant shall be called separately to ensure freedom of expression and an atmosphere free of intimidation:

Provided that the complainant shall be entitled to accompany one representative during the enquiry.

- (4) An Internal Complaint Committee shall be free to adopt its own procedure for carrying out the inquiry having regard to the sensitive nature of the complaint and the power position of the parties.

**10.**

- (1) The Internal Complaint Committee shall, for the purposes of an enquiry under this chapter, have the power to summon witnesses or call for documents or any information

- (2) If it has reason to believe that a person is capable of furnishing such documents or information, it may direct that person to produce the documents or information by serving notice in writing on that person, summoning the person or calling for documents or information at such place and within such time as may be specified in the notice
- (3) Where information is recorded or stored by means of mechanical, electronic or other device, to produce a clear reproduction in writing of the information.
- (4) Where the documents or information are produced before the Internal Complaint Committee in accordance with this section, the Committee may-
  - (i) Take possession of the documents and make copies or take extracts there from;
  - (ii) Retain the possession of the documents for such period as may be deemed necessary for the enquiry.

**11.**

The Internal Complaint Committee shall have the power to issue the appropriate interim orders directing the employer or owner, on the demand of either the complainant or any witness giving evidence in her support, to implement such measures as transferring, changing shift of either the complainant, witness or defendant to protect the complainant or witnesses against the victimization or discrimination or may issues such other interim orders as may be deemed necessary to ensure the safety of the complainant or supporter or witness.

**Chapter: V**

**FINDINGS AND DIRECTIONS**

**12.**

- (1) On the completion of enquiry by an Internal Complaint Committee or a local Complaint Committee, it may be reasoned order:
  - (a) dismiss the complaint which was the subject-matter of the inquiry; or
  - (b) pass anyone or more of the following directions, namely
    - (i) that the defendant shall not repeat or continue such unlawful conduct;  
or
    - (ii) that the defendant shall perform any reasonable act or course of conduct to redress any loss or damage suffered by the complainant
    - (iii) that the defendant shall pay to the aggrieved women or her legal heirs damages by way of compensation for any loss or damaged suffered by her or her legal heirs by reasons of the conduct of the defendant ;or
    - (iv) that the defendant shall give a written apology to the aggrieved women clearly undertaking such behaviour will not be repeated and that no retaliatory steps will be taken by him or on his behalf
    - (v) that a punishment in addition to above be imposed upon the defendant, where the defendant is an employee, by the head of PGS, according to the gravity of the act of which her has been found guilty

and in accordance to the service rules or standing orders applicable to the workplace.

- (vi) provided that where there is no service rules or standing orders, the Committee may direct that, any of the following punishments, having regard to the gravity of the act of which he has been found guilty, be imposed on the defendant:

**Minor Penalties**

- (a) give him a warning or censure in writing;
- (b) fine him, subject to and in accordance with the provisions of the Payment of Wages Act,1936;
- (c) withhold an increment for a period not exceeding one year
- (d) suspend him for a period not exceeding four days

**Major Penalties**

- (e) withhold an increment for more than a year
- (f) reduce rank or grade
- (g) terminate his services, by discharging or dismissing him, after paying any dues to which he is entitled to in law;

Provided further that before any action is taken under this clause, the defendant shall be given an opportunity to show cause as to why the proposed action should not be taken against him.

- (2) Where the defendant is head of PGS or co-employee is involved in the sexual harassment, or a complaint, led to or resulted in any adverse change to the service condition of the aggrieved women or any witness or representative, or any prejudice being caused to the victim or any witness in terms of their service condition and employment, the concerned committee may, in addition to any of the above directions, direct that-

- (a) PGS shall restore the particular service condition of the aggrieved women or witness or representative, with retrospective effect and full benefit from the date it was adversely changed, including where the aggrieved women or witness of sexual harassment has been terminated from service, to reinstate her or him with full back wages and continuity of services;
- (b) PGS shall grant the aggrieved women or witness the particular service condition to which she or he would have been entitled but for the act of sexual harassment or consequences of the same, with retrospective effect and full benefits from the date the said service condition would have been granted to her or him but for the act of sexual harassment or consequences of the same

- (3) The findings and direction of the Internal Complaint Committee of the Local Complaint Committee shall be binding on the PGS

- (1) Where the order has been passed by an Internal Complaint Committee, the said Committee shall forward a copy of the order each of the complainant, defendant and the head of PGS.
- (2) Where the order has been passed by a Local Complaint Committee, it shall submit its order to the concerned Special Officer, who shall forward a copy of the same to the complainant, defendant and the head of PGS.

## **Chapter: VI**

### **DUTIES AND LIABILITIES OF PGS**

#### **14.**

- (1) PGS shall
  - (a) ensure that a safe work environment free from sexual harassment including prevention and deference;
  - (b) maintain a proactive program to educate all employee as to definition of sexual harassment and redressal;
  - (c) facilitate initiation of proceedings under this policy if an act of sexual harassment has been brought to PGS's notice
  - (d) ensure that the complainant or supporter or witness is not victimised, harassed or discriminated against for initiating or supporting or giving evidence in, proceedings under this policy
  - (e) not alter to the prejudice of the aggrieved women or witness or representative concerned, the condition of service prevailing immediately prior to the complaint being lodged as a consequences to the making and prosecuting of a complaint under this policy
  - (f) ensure that complainant or supporter or witness is not punished by discharging, transferring, dismissing or otherwise for any misconduct, as a consequences to the complaint save with express permission in writing of the Internal Complaint Committee
  - (g) if the situation so demands, immediately transfer the defendant.
- (2) PGS shall take necessary action and reasonable steps to prevent and ensure that there is women is subject to sexual harassment in its workplace by any third party and where any such sexual harassment occurs, PGS shall take all necessary and reasonable steps to assist the aggrieved women to redress the act of sexual harassment
- (3) The onus of shall be on the PGS to prove that head of the PGS had taken all reasonable measures to comply with the duties entrusted to him under this policy.

**Chapter: VII**

**MISCELLANEOUS**

**15.**

PGS is responsible for the implementation of this policy recognise that confidentiality is important and will respect the confidentiality and privacy of complainant or defendants, to the extent reasonably possible

**16.**

On the request of Complainant, a counsellor shall be made available to her, at the cost of (Organization name), at any time after the lodging the complaint whether before an Internal Complaint Committee, which shall be in addition to any proceedings/ enquires which have been instituted under this policy

**17.**

- (1) At any stage after the filing of a complaint and during any proceedings in respect of it under this policy by the Complaint Committee, the aggrieved women shall have the right to withdraw the complaint and the Committee/Person shall permit her to withdraw the complaint and if an enquiry has commenced, shall discontinue the inquiry.
- (2) If it is brought to the notice of the Complainant Committee or is of the opinion that, pressure is being brought on the complainant or the witnesses to withdraw their statements of not to go through the complaint then the committee will record this.

**18.**

If a complaint of sexual harassment is dismissed by a Complaint Committee under this policy, no action whatsoever (including the recovery of any cost involved in investigating/enquiring into a complaint) may be taken in regard to the same against the complaint/witness/supporters by the PGS

**19.**

Where an aggrieved women institutes any suit or legal proceedings in civil court in respect to an act of sexual harassment which is unlawful under this policy PGS is not liable to pay the court fee as it comes free for such cases

**20.**

PGS shall have the right to raise the issues of sexual harassment at the employee's meeting and in any other appropriate for

**21.**

The provisions of this policy shall be in addition to and not in derogation of the provision of, any other law for the time being in force

**DUTIES OF AUTHORITIES UNDER THIS POLICY**

- (1) The establishment (PGS) has
  - (a) a safe environment free from sexual harassment including prevention and deterrence of Sexual Harassment
  - (b) maintain a proactive program to educate all employee as to the definition of sexual harassment and procedures for redressal
  - (c) undertake workshops and training programs at regular intervals for sensitizing the members
  - (d) prominently display notices in various places in the establishment spreading awareness about the issue of “Sexual Harassment at the workplace” and giving information about the redressal mechanism that has been put in places and encouraging people to file their grievances
  - (e) facilitate initiation of proceedings under this policy if an act of sexual harassment has been brought into notice
  - (f) prepare and prominently display a policy for the prevention and prohibition of sexual harassment
- (2) The onus is on the head of PGS to prove that she/he had taken all reasonable measures to comply with the duties cast upon the establishment under this policy.

**Internal Complaint Committee**

- (1) It shall be the duty of Internal Complaint Committee constitute under this policy, to promote and facilitate measures taken in the establishment concerned for the prevention of sexual harassment in PGS and for conscientization and sensitization regarding the same; to carry out a Dispute Resolution, if so requested by the complainant, and to carry out an enquiry into in complaints of Sexual Harassment referred to it,

Notwithstanding anything to the contrary contained in any law or rules where such an Internal Complaint Committee is carrying out an enquiry into misconduct as defined under Central Civil Services (Conduct) Rules 1964 or the Industrial Employment (Standing Orders) Act 1946 then such committee shall be deemed to be the Disciplinary Committee formed under such Rules and shall carry out the inquiry under the provisions of the relevant authority

**Local Complaint Committee**

- (1) It is duty of Local Complaint Committee constitute under this policy, to promote and facilitate measures for the prevention of sexual harassment and for conscientization and sensitization regarding the same and if so requested by the complainant, to carry out a Dispute Resolution process and bring out a settlement in complaints of sexual harassment referred to it and conduct an enquiry into misconduct in PGS under this policy.

