

POSH

Prevention Of Sexual Harrasment

Live

A quarterly insight to the POSH Law!

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POSH LIVE brings to you updates and information relating to matters of sexual harassment irrespective of the gender and age. This is an effort to create awareness about laws relating to sexual harassment and any form of discrimination.

Combating Gender Stereotype – Handbook by Supreme Court of India

On 16th August, 2023; the Supreme Court of India released a “Handbook on Combating Gender Stereotypes” which aims at assisting judges and legal community for identifying, understanding and combating stereotypes about women.

This handbook helps with the following –

- To identify the language that promotes gender stereotype and offer alternative words and phrases
- To identify common reasoning patterns based on gender stereotypes and discussing why they are incorrect
- Highlights binding on Supreme Court of India that have rejected these stereotypes and can be utilised by judges to dispel gender stereotypes

What is the meaning of Gender Stereotype?

Stereotype is defined as - “It is a set idea that people have about what someone or something is like, especially an idea that is wrong”. Stereotypes influence our decisions, thoughts and actions towards other people. Stereotypes can prevent us from understanding the reality of a situation and can cloud our judgment.

Gender stereotypes are assumptions about the characteristics that individuals of particular a gender have, or the roles that they should perform.¹ This is often seen in assumptions about the different characteristics men and women are believed to possess, and the roles they are expected to perform. For example, one of the most common stereotypes about girls or women is that they like the colour pink

Gender stereotypes are widely held and culturally ingrained beliefs, expectations, and assumptions about the behaviours, roles, and attributes that are considered appropriate or typical for individuals based on their gender. These stereotypes often perpetuate traditional and limiting views of masculinity and femininity, dictating how people of different genders should behave, dress, work, and interact with others.

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GOOD TO KNOW!

“SHe-Box”

It is an online platform initiated by the Ministry of Women and Child Development, Government of India, to facilitate the filing of complaints related to sexual harassment at the workplace. SHe-Box is designed to provide a safe and secure mechanism for women to report incidents of sexual harassment and seek redressal.

Key points are –

1. Online Complaint Filing: SHe-Box allows women who have faced sexual harassment at their workplace to file their complaints online. This platform aims to make the complaint process more accessible and user-friendly.

2. Confidentiality: SHe-Box ensures the confidentiality of the complainant's identity and the information provided during the complaint filing process. This is crucial to protect the privacy and safety of the victim.

3. Speedy Redressal: Once a complaint is filed through the SHe-Box, it is forwarded to the concerned Internal Committee or to Local Committee as the case may be, for conducting a fair and prompt inquiry into the complaint.

4. Tracking and Monitoring: The platform allows complainants to track the status of their complaints and receive updates on the progress of the inquiry.

5. Awareness and Information: She-box also provides information and resources related to the law.

The handbook primarily discussed the gender stereotypes of three types viz.,

- 1. Stereotypes based on so called “inherent characteristics” of women** – Assumptions held on characteristics of women which extend to emotional, physical and cognitive capabilities.

For example, as given in the handbook

Stereotype: Women are overly emotional, illogical and cannot take decisions

Reality: A person's gender does not determine or influence their capacity for rational thought

- 2. Stereotypes based on gender roles** – There are specific roles assigned to specific genders in the society. These are the products of social construction and social understandings.

For example, as given in the handbook

Stereotype: Women should do all the household chores.

Reality: People of all genders are equally capable of doing house chores. Men are often conditioned to believe that only women do household chores.

Stereotype: Women who work outside of the home do not care about their children.

Reality: Working outside of the home has no correlation with a woman's love or concern for her children. Parents of all genders may work outside of the home while also caring for their children.

- 3. Stereotypes concerning sex and sexual violence** – These include assumptions that are often made about woman's character based on her expressive choices and sexual history.

For example, as given in the handbook

Stereotype: Women who dress in clothes that are not considered to be traditional want to engage in sexual relations with men. If a man touches such a woman without her consent, it is her fault.

Reality: The clothing or attire of a woman neither indicates that she wishes to engage in sexual relations nor is it an invitation to touch her. Women are capable of verbally communicating with others and their choice of clothing represents a form of self-expression that is independent of questions of sexual relations. A man who touches a woman without her consent must not be permitted to take the defence that the woman invited his touch by dressing in a particular way.

Stereotype: Women who consume alcohol or smoke cigarettes want to engage in sexual relations with men. If a man touches such a woman without her consent, it is her fault.

Reality: Women, like all other people, may consume alcohol or smoke cigarettes for a variety of reasons including for recreation. The consumption of alcohol or use of tobacco is not an indication of their desire for sexual relations with a man. A man who touches a woman without her consent must not be permitted to take the defence that the woman invited his touch by drinking or smoking

Stereotype: Women who are sexually assaulted or raped by men complain about the injustice immediately. If they complain after a time, they are lying.

Reality: It takes courage and strength to report a sexual offence because of the stigma attached to them. The stigma attached to sexual violence makes it difficult for women to disclose the incident to others. Women may therefore register a complaint after a lapse of some time, when she thinks she is able to. Further, as noted above, several other factors such as lack of familial support or fear of repercussions may cause a survivor / victim to delay their reporting.

Stereotype: Men who sexually assault or rape women are typically strangers and are not known to the woman

Reality: Very often men sexually assault or rape a woman known to them in some capacity. The woman may be a colleague, employer, employee, neighbour, family member, friend, former or present partner, teacher, or acquaintance.

Stereotype: Women who are sexually assaulted or raped by men cry incessantly and are depressed or suicidal. If a woman's behaviour does not conform to this mould, she is lying about having been raped.

Reality: Different people react differently to traumatic events. For example, the death of a parent may cause one person to cry publicly whereas another person in a similar situation may not exhibit any emotion in public. Similarly, a woman's reaction to being sexually assaulted or raped by a man may vary based on her individual characteristics. There is no "correct" or "appropriate" way in which a survivor or victim behaves.

How is the handbook relevant for Internal Committee constituted under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013?

The Internal Committee is constituted with the primary objective to redress the sexual harassment complaints of women at workplace.

The members of the Internal Committee are bestowed with Powers of Civil Court and have to conduct the inquiry in the accordance with principles of natural justice. Since this Handbook aims to serve as guide for judges, raising awareness on the need to avoid stereotypes against women in all facets of their decision making and writing, and Internal Committee being the quasi – judicial body; it is imperative that IC is aware about the gender stereotypes and its influence on the decision making.

For instance, if the complaint consists elements where aggrieved woman have had alcohol with the respondent due to which if IC members also believe it's because of this behaviour the sexual harassment has occurred; then as an IC, we have not compelled to the duty of unbiased decision.

"Such assumptions based on a woman's character or clothes she wears diminish the importance of consent in sexual relationship as well as the agency and personhood of women", as stated in the handbook.

Further to this, it is also stated in the handbook as, "By consciously avoiding the use of stereotypes in decision-making and stereotype promoting language, the judiciary can foster an environment where gender equality is upheld and respected. Words matter, as they shape narratives and influence societal attitudes. The use of more inclusive language can help break harmful patterns of thinking."

This handbook is a progressive step and will definitely act as a guide to bring in equality at workplaces.

NEWS CORNER

Consider marginalised women's woes, amend POSH Act: HC Judge

Justice B Vijaysen Reddy of Telangana High Court expressed the need to incorporate IT Act with POSH Act. He was speaking at an event to deliberate 10 years to POSH Act, 'A decade of prevention of sexual harassment of women at workplace (Prevention, Prohibition and Redressal) Act, 2013 – what has been achieved and what remains'. The event was hosted by IAMC – Hyderabad, CII – Indian Women Network and Sahas (an initiative of women safety wing of Telangana Police) While discussing shortcomings, he mentioned that for marginalised women, they are reluctant to complain fearing loss of job or hostile environment. The act needs to substantially consider problems faced by the marginalised sector.

Andhra Pradesh HC stresses on safe working place for women

In case C. Govinda Rajulu Vs. The State of Andhra Pradesh and others, the High Court of Andhra Pradesh, referred the decision in case of Vishakha and others Vs. State of Rajasthan and others (1997(6 SCC 241)) highlighting that right to life means life with dignity which is a fundamental right under article 21 of the constitution. The Bench went on to explain that as per Vishaka Guidelines, "for the conduct of causing sexual harassment of women in workplace, which amounts to misconduct in employment, appropriate disciplinary action should be initiated in accordance with the relevant service rules".

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Advocate Vaishali Bhagwat, is amongst the first technology lawyers in the country with prior qualification and working experience in the field of Computer Science, Cyber Defense and Information Assurance.

Her work also focuses on women and children's rights and has worked extensively on cases relating to violence against women and children including sexual violence. Vaishali is an external member on various ICC committees and has conducted several complex inquiries relating to sexual harassment at workplace. POSH awareness and capacity building workshops conducted by her are rich in content as she discusses various cases and draws on her experience dealing with inquiries and POSH related court litigation including criminal cases.

Vaishali has advised several organizations across varied sectors on POSH compliance, safety in virtual workplaces, cyber safety and is also regularly invited as an expert speaker/ panelist on this subject by various organizations providing POSH services

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