

PRESS RELEASE

14-10-2013

The Hon'ble Chairperson of National Commission for Women, Smt. Mamta Sharma has recently (on 09-10-2013) handed over to Sh. Manish Tiwari, the Hon'ble Union Minister of Information and Broadcasting the recommendations of the inquiry committee in a case of sexual harassment of a junior employee of Prasar Bharati. The NCW inquiry committee was formed immediately after taking the suo-motu cognizance of the media reports wherein the top official of Prasar Bharti has been accused of sexually harassing a junior employee. The inquiry committee observed that there is no complaint mechanism or Internal Complain Cell as per Supreme Court Guidelines. The committee also suggested remedies and recommendations to avoid such incidents.

While submitting the recommendations, the NCW Chairperson also asked the Hon'ble Minister of I&B to take strict action to curb the obscene portrayal of women in media. The Hon'ble Minister assured the NCW Chairperson that Ministry has taken serious note of this and formed a High Level Committee under the chairmanship of Retd. Chief Justice High Court, to review Cinematography Act,1952.

Note: Copy of the NCW Inquiry Committee recommendations is also attached



सत्यमेव जयते



अस्य हिन्द



No.8/4(113)PM/2013-NCW

भारत सरकार
GOVERNMENT OF INDIA

राष्ट्रीय महिला आयोग
NATIONAL COMMISSION FOR WOMEN

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9th October, 2013

To,

The Secretary,
Ministry of Information and Broadcasting,
Shastri Bhavan,
New Delhi- 110001

Sub- Observations and recommendations of the Inquiry Committee

Sir,

I am directed to state that the National Commission for Women (NCW) has taken suo- motu cognizance and constituted an Inquiry Committee under Section 8(1), read with Section 10(1) and (4) of the NCW Act, 1990 to inquire into media report wherein reportedly a top official of Doordarshan sexually harassed a junior employee, Delhi.

After looking into the facts and circumstances of the present case, the Inquiry Team of NCW has made observations in the matter as follows-

OBSERVATIONS

a. Internal Complaints Committee

It is the mandatory responsibility of every employer to follow the Supreme Court Guidelines as given in Vishakha case. It has been observed by the Inquiry Committee that in the present case the Supreme Court Guidelines have not been followed, despite insistence by officials on the contrary. The Hon'ble Supreme Court in the case of Medha Kotwal also commented on the lack of effective implementation of Vishaka guidelines. It is stated that the attitude of neglect in establishing effective and comprehensive mechanism in letter and spirit of the Vishaka guidelines by the States as well as the employers in private and public sector has defeated the very objective and purpose of the guidelines.

1. **Firstly, the nomenclature Women's Cell is not as per Supreme Court Guidelines,** though the constitution of the same is proper and includes external member. It should be called the Internal Complaints Committee, since the purpose of the committee is to work as a Complaint mechanism. It is clearly stated by the Supreme Court that 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.

II. It is mandatory that the Complaint mechanism, should be adequate to provide, where necessary, a special counsellor or other support service, which in the present case does not exist. The girl is in an highly traumatised state and her problems have increased after the incident has been highlighted in the media. She is terrified of the impact this will have on her family. Lack of support service have resulted in "Victim blaming" attitudes by fellow employees who make it difficult for her to walk in the premises of Doordarshan, without being the butt of comments. It is important to understand that Victim-blaming attitudes marginalize the victim/survivor, thus discouraging other victims from coming forward and reporting. Further, Victim-blaming attitudes also reinforce gender stereotypes that the woman is at fault. By engaging in victim-blaming attitudes, society allows the abuser to perpetrate the harassment. It is important to provide support to the victim / survivor and quash such comments on priority; at the same time making employees understand that this is not a helpful reaction.

III. It is mandatory that 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. In the present case, neither the girl nor other women with whom the Inquiry Committee interacted with had any awareness of the so called Women's Cell or its activities.

IV. It is a mandatory duty of the employer or other responsible persons in the workplaces to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required. But such was not observed to not be the case since during interaction with women employees. There were complaints of respondent's behaviour being extremely objectionable, three women specifically alleged to be victims of sexual harassment by the respondent. On being asked as to why they never complained they said that there were not aware of any mechanism being in place and were scared to complain due to his seniority. Most of them expressed the fear of losing job as they are working on contractual basis.

V. There have been serious lapses on part of the administration in handling the matter. Pertinent is noting dated 31.7.2013 by DDG(A) wherein he has written that this appears to be a case of sexual harassment and may be immediately referred to Women's Cell to probe the matter further. Question arises that when the girl approached him with her problem, then why did he not refer her to the appropriate authority / Complaint mechanism in place of putting her in a spin through the channel. Further, when the respondent vide note dated 26.7.2013 has requested to reattach the lady staff withdrawn from his office the administration should have recognized the warning signals.

b. Prevention of Sexual Harassment

I. There appears to be no measures in place for prevention of sexual harassment at workplace. Whereas it is mandatory for all employers or persons in charge of workplace whether in the public or private sector to take appropriate steps to prevent sexual harassment, express prohibition of sexual harassment as defined above at the workplace should be notified, published and circulated in appropriate ways.

II. In the present case the findings of the Women Cell have been treated as preliminary inquiry (for whatever reasons), when the report clearly states that a **prime facie case of sexual harassment is made out against the respondent**. Whereas in the case of Medha Kotwal it is clearly held that the report of the Complaints Committee shall be deemed to be an inquiry report in a disciplinary action under such Civil Services Conduct Rules. In other words, the disciplinary authority shall treat the report/findings etc. of the Complaints Committee as the findings in a disciplinary inquiry against the delinquent employee and shall act on such report accordingly. **The findings and the report of the Complaints Committee shall not be treated as a mere preliminary investigation or inquiry leading to a disciplinary action but shall be treated as a finding/report in an inquiry into the misconduct of the delinquent.**

III. With the considered view that guidelines in Vishaka should not remain symbolic until legislative enactment on the subject is in place; the Supreme Court has clearly held that it is the responsibility of the State to give comprehensive publicity to the notifications and orders issued by it in compliance of the guidelines framed by this Court in Vishaka's case and the directions given in Medha Kotwal's case by getting the same published in the newspapers having maximum circulation in the State after every two months. It has also held that wide publicity be given every month on Doordarshan Station, Sikkim about various steps taken by the State Government for implementation of the guidelines framed in Vishaka's case and the directions given in Medha Kotwal's case. **In view of the fact that Doordarshan has a mandate to conduct public broadcasting services to inform and educate the public; yet itself has not succeeded in effectively implementing the same in its own premises.**

c. Suspension of the respondent

I. When the Inquiry Committee visited the offices of Doordarshan and Prasar Bharati the respondent had not been suspended. Reasons is being given as-

"As Prasar Bharati stands today, the Programme Service has only 7 officers in the rank and scale of Addl. Director Generals, as against 30 posts of Addl. Director Generals (Programme) that were created some 3 or 4 decades ago when the responsibilities of Akashvani and Doordarshan were far less than today. We are in such a tight position, with successive retirements / and vacancies, we have had to fill up 3 of the 23 vacant posts with 'outsiders' so as to permit the ship to sail."

The aforesaid reasons are not acceptable and it would amount to grave injustice to female employees wherein a case where the management charges the respondent employee with gross misconduct, and he is not suspended on ground of infrastructure and manpower. In addition, if the disciplinary authority has not placed the Respondent under suspension and initiated inquiry against the Respondent, there is a likelihood of him influencing witnesses and adversely affecting the inquiry (which in the present case is being done by him).

Therefore, the Commission strongly recommends the following:-

I) RECOMMENDATIONS

a. Victim oriented

- I. To provide the victim/ survivor utmost protection and to ensure that she does not face any stigma or victim blaming attitude within the organization. To counsel and reassure her that the harassment/ violence is not due to her fault. In order to reinforce the message of zero tolerance to sexual harassment at workplace Prasar Bharati should encourage individual employees to challenge victim-blaming statements when they hear them.
- II. To support the victim / survivor by acknowledging that she is her own best expert and provide her with resources and support if she wants to go ahead with police complaint. In the present case the police be informed that Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 is also applicable.

b. Government

- I. To immediately ensure constitution of Internal Complaints Committees (ICCs) in accordance with Supreme Court Guidelines in Government departments/ institutions/ constituents/ autonomous bodies etc. In addition, sensitization workshops for senior / director level be conducted, for only when top level management is sensitized will an enabling environment exist.
- II. To publicize the ICC at prominent places and ensure its visibility. And to ensure that Posters/banners of ICC giving details Members including contact phone numbers should be displayed at prominent places for spreading awareness on this sensitive issue of sexual harassment.
- III. To assure women they will not suffer any negative consequences if they register a complaint of sexual harassment.
- IV. To conduct awareness workshops on prevention of sexual harassment at workplace and to ensure proper orientation of employees on prohibition and prevention of sexual harassment. Training of employees be done at the induction level so that they are aware of what is appropriate behavior which in turn will act as a deterrence. Establishing an ICC is the first step towards recognizing and addressing the issue of sexual harassment in the workplace but it needs to be supported by other initiatives of environment building as well as developing capacities and sensitivity of employees towards gender issues. All these together help in creating a conducive workplace i.e. free from sexual harassment and discrimination.
- V. To reassure staff that all complaints of sexual harassment will be addressed, irrespective of the stature or seniority of the aggressor in order to .
- VI. To reinforce the fact that all complaints will be dealt with following principles of natural justice and each party will get a chance to speak and put forth their point of view.
- VII. To ensure the administration does not treat sensitive issues of sexual harassment at workplace in a casual manner, and when repeated requests from female employees for transfer are made, it should be addressed seriously. Especially complaints from female

contractual employees and temporary / daily workers who are vulnerable to being abused due to their temporary status.

VIII. To use Prasar Bharati media and communication strategies to combat violence against women, since the media and communication campaigns are powerful tools in combating all forms of violence against women, including sexual harassment. The media should also be used to encourage women to report the behavior and not fear reprisal, nor the perpetrator, even though he may be a senior.

IX. To make rules immediately for carrying out the provisions of the Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act 2013 which received assent by the President on 22 April 2013 but is yet to come into force.

I am directed to communicate that the State Government is requested to kindly take appropriate action in the matter and kindly intimate the Commission about action taken expeditiously.

Yours sincerely,



(Sudha Chaudhary)
Law Officer