

COMMITTEE FOR PREVENTION OF SEXUAL HARASSMENT OF WOMEN AT WORKPLACE

A. INTRODUCTION

Sexual harassment is a form of discrimination which we all have a responsibility to eliminate — it causes major problems in the working environment and can have an adverse effect on the competence, morale and performance of those affected by it.

The Central Government has passed an Act 'The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013' (SHOWAW Act, 2013), which provides protection against sexual harassment of women at workplace and for redressal of any complaints connected therewith and incidental thereto.

The SHOWAW Act, 2013 makes it obligatory for every educational institution to combat sexual harassment of women at workplace. Pursuant to the SHOWAW Act, 2013 and Rules made thereunder,

Based on the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the University Grants Commission (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015 have been notified and made applicable to all higher educational institutions in India.

V. M. Salgaocar Institute of International Hospitality Education (VMSIHE) has constituted a Committee to deal with cases of sexual harassment at work place which shall apply to all students, faculty staff teaching and non-teaching staff of VMSIHE.

The Definition of sexual harassment includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:

- a) Physical contact and advances; or
- b) A demand or request for sexual favours; or
- c) Making sexually coloured remarks; or
- d) Showing pornographic material; or
- e) Any other unwelcome physical, verbal or non - verbal conduct of sexual nature."

A1. The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment—

- i) implied or explicit promise of preferential treatment in her employment; or
- ii) implied or explicit threat of detrimental treatment in her employment; or
- iii) implied or explicit threat about her present or future employment status; or
- iv) interference with her work or creating an intimidating or offensive or hostile work environment for her ;or
- v) humiliating treatment likely to affect her health or safety.

B. INTERNAL COMPLAINTS COMMITTEE FOR PREVENTION OF SEXUAL HARASSMENT OF WOMEN

In terms of the provisions of SHOWAW Act, 2013 and the UGC (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015, the management of VMSIHE has constituted, an Internal Complaints committee with following aims and objectives:

- a) Sensitize the students, faculty staff, teachers and non- teaching staff about gender issues.
- b) Educate students, faculty, *teachers* and non-teaching *stall* about the meaning and forms of sexual harassment.
- c) Create an environment for the prevention of sexual harassment in the Institute.
- d) Receive and resolve, in a fair manner, any complaints regarding sexual harassment in the Institute.
- e) Ensure that the procedures for receiving and dealing with complaints are made known to all.
- f) Ensure that complaints are dealt with seriously, quickly and confidentially.
- g) Ensure that complainants are protected from victimization and retaliation.
- h) Ensure that there will be no intimidation, victimization, or discrimination against those assisting the investigation.
- i) Ensure that appropriate action is taken on the basis of the recommendations of the committee, if the complaint is proven.
- j) Ensure that the college is free from all forms of sexual harassment.
- k) Ensure that sexual harassment is prevented and addressed in the best interests of the victim.

C. COMPOSITION OF THE INTERNAL COMPLAINTS COMMITTEE

In terms of the Provisions of SHOWAWAct, 2013 and the UGC (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational

Institutions) Regulations, 2015, VMSIHE has constituted an Internal Complaints Committee to provide for all women who fall within its jurisdiction free from sexual harassment, intimidation and exploitation. The Members of the Internal Complaints Committee shall hold office for such a period not exceeding three years from the date of their nominations.

The Order constituting the Internal Complaints Committee

The members of the said Committee shall be made aware of their responsibilities and shall be sensitized about gender issues. In case a complaint is received against a member of the complaints committee, the Management of VMSIHE shall appoint another member by issuing a notification to that effect, till such time that the complaint is addressed.

D. COMPLAINTS OF SEXUAL HARASSMENT SHALL BE MADE BY A WOMEN

- a) about harassment by a student;
 - b) about harassment by a member of the teaching or non-teaching staff or faculty staff;
- about third party (by an outsider) harassment if such an incident has occurred within or outside the premises of the institute during the course of the employment or any activity of the institute.

E. PROCEDURE TO BE FOLLOWED BY THE INTERNAL COMPLAINTS COMMITTEE

- a) Complaints are to be received in writing from the aggrieved women; no oral complaints are to be considered. In the event the aggrieved women is unable to make a complaint on account of her physical or mental capacity or death or otherwise, her legal heir or such other person as prescribed in the UGC (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015 may make a complaint.
- b) The Internal Complaints Committee shall take cognizance of all complaints put before it.
- c) The wishes of the complainant must be respected at all times.
- d) Strict confidentiality is to be maintained.
- e) The Internal Complaints Committee before initiating an inquiry, at the request of the aggrieved women take steps to settle the matter between her and the respondent through conciliation as mentioned in the UGC (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015.
- f) The Complaints Committee shall make inquiry into the complaint in accordance with the provisions of the UGC (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations,

2015.

For the purpose of making an inquiry the Internal Complaints Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely —

- i) summoning and enforcing the attendance of any person and examining him on oath;
 - ii) requiring the discovery and production of documents; and
 - iii) any other matter which may be prescribed
- g) Conduct of hearing of both parties separately and record all proceedings.
- h) For all offences, ensure that the complainant does not face retaliation from the alleged accused.
- i) The respondent shall file his reply to the complaint along with his list of documents and names and addresses of witnesses, within a period not exceeding ten working days from the date of receipt of the complaint.
- j) On completion of an inquiry, the Internal Committee shall submit the report of its findings to the Management of VMSIHE and the concerned parties within a period of ten days from the date of completion of the inquiry.
- k) In the event the allegations against the respondent has been proved, the Internal Complaints Committee shall recommend to the Management for appropriate action, suggesting a time frame within which action has to be taken as per the provisions of the UGC (Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions) Regulations, 2015 , which are as follows:

F. PUNISHMENT AND COMPENSATION

(1) Anyone found guilty of sexual harassment shall be punished in accordance with the service rules of the HEI, if the offender is an employee.

(2) Where the respondent is a student, depending upon the severity of the offence, the HEI may,-

- a. withhold privileges of the student such as access to the library, auditoria, halls of residence, transportation, scholarships, allowances, and identity card;
- b. suspend or restrict entry into the campus for a specific period;
- c. expel and strike off name from the rolls of the institution, including denial of readmission, if the offence so warrants;
- d. award reformatory punishments like mandatory counselling and, or, performance of

community services.

(3) The aggrieved person is entitled to the payment of compensation. The HEI shall issue direction for payment of the compensation recommended by the ICC and accepted by the Executive Authority, which shall be recovered from the offender. The compensation payable shall be determined on the basis of-

- a. mental trauma, pain, suffering and distress caused to the aggrieved person;
- b. the loss of career opportunity due to the incident of sexual harassment;
- c. the medical expenses incurred by the victim for physical, psychiatric treatment;
- d. the income and status of the alleged perpetrator and victim; and
- e. the feasibility of such payment in lump sum or in installments.

(4) The contents of the complaint, the identity of the parties and witnesses, information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee and action taken by the Management of VMSIHE shall not be published, communicated or made known to the public and media in any manner. The Management of VMSIHE shall recover an amount of Rupees five thousand from the person who makes any information known to the others in any manner with regard to such a complaint filed by the party.

G ACTION AGAINST FRIVOLOUS COMPLAINT.-

To ensure that the provisions for the protection of employees and students from sexual harassment do not get misused, provisions against false or malicious complaints have to be made and publicised within all HEIs.

If the ICC concludes that the allegations made were false, malicious or the complaint was made knowing it to be untrue, or forged or misleading information has been provided during the inquiry, the complainant shall be liable to be punished as per the provisions of sub-regulations (1) of regulations 10, if the complainant happens to be an employee and as per sub-regulation (2) of that regulation, if the complainant happens to be a student.

However, the mere inability to substantiate a complaint or provide adequate proof will not attract attention against the complainant. Malicious intent on the part of the complainant shall not be established without an inquiry, in accordance with the procedure prescribed, conducted before any action is recommended.

H. CONSEQUENCES OF NON-COMPLIANCE

(1) The Commission shall, in respect of any institution that will fully contravenes or repeatedly fails to comply with the obligations and duties laid out for the prevention, prohibition and redressal of sexual harassment of employees and students, take one or more of the following actions after providing due notice:

- a. withdrawal of declaration of fitness to receive grants under section 12B of the University Grants Commission Act, 1956.
- b. removing the name of the university or college from the list maintained by the

Commission under clause (f) of section 2 of said Act, 1956;

- c. withholding any grant allocated to the institution;
- d. declaring the institution ineligible for consideration for any assistance under any of the general or special assistance programmes of the Commission;
- e. informing the general public, including potential candidates for employment or admission, through a notice displayed prominently in the newspapers or other suitable media and posted on the website of the Commission, declaring that the institution does not provide for a zero tolerance policy against sexual harassment;
- f. recommending the affiliating university for withdrawal of affiliation, in case of a college;
- g. recommending the Central Government for withdrawal of declaration as an institution deemed to be university, in case of an institution deemed to be university;
- h. recommending the appropriate State Government for withdrawal of status as university in case of a university established or incorporated under a State Act.
- i. taking such other action within its powers as it may deem fit and impose such other penalties as may be provided in the University Grants Commission Act, 1956 for such duration of time till the institution complies with the provisions of these regulations.

(2) No action shall be taken by the Commission under these regulations unless the Institution has been given an opportunity to explain its position and an opportunity of being heard has been

G. PREPARATION OF AN ANNUAL REPORT

The Internal Complaints Committee shall prepare an Annual Report mentioning number of complaints received, number of complaints disposed of, number of cases pending for more than ninety days, number of workshops and awareness programme against sexual harassment carried out, nature of action taken by the employer in a year.

As a part of its duties, the committee shall

- a) Keep a complaint's box in the girls common room to receive complaints; the box shall be opened once a week;
- b) Conduct awareness programmes in the Institute for the faculty and students.
- c) Ensure that the guidelines, procedures and preventive measures are made known to all by the conducting workshops, debates, skits etc

Sd/-

Prof. Irfan.S. Mirza

DIRECTOR/PRINCIPAL

