

From

Director Higher Education, Haryana,
Shiksha Sadan, Sector-5, Panchkula.

To

Registrar,

1. Kurukshetra University, Kurukshetra
2. Maharishi Dayanand University, Rohtak
3. Chaudhary Devi Lal University, Sirsa
4. Bhagat Phool Singh Mahila Vishwavidyalaya, Khanpur Kalan (Sonapat)
5. Indira Gandhi University, Meerpur (Rewari)
6. Chaudhary Ranbir Singh University, Jind.
7. Chaudhary Bansi Lal University, Bhiwani
8. Gurugram University, Gurugram
9. B.R. Ambedkar National Law University, Rai (Sonapat)
10. Balmiki Sanskrit University, Mundri, kaithal

Memo No.12/01-2011 Admn(3)

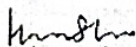
Dated, Panchkula, the 22.4.19

Sub:- Implementation of Sexual Harassment of Women at workplace (Prevention, prohibition and Redressal) Act, 2013- Constitution of Committee thereof.

Kindly refer to this letter No. Even dated 27.12.2017 on the subject cited above.

I have been directed to convey and remind you of this office letter dated 27.12.2017 that (according to Act, 2013 i.e. Prevention, Prohibition and Redressal with regard to Rules under Sexual Harassment of Women at workplace) Internal Complaints Committee may be formed at University as well as Affiliated Colleges (Govt., Govt. Aided, and Private) level. It was also requested that report in this regard may be sent to Haryana State Commission for Women on their E-mail ID i.e. Ayogmahila@gmail.com.

It is once again requested to constitute Internal Complaints Committee and further all the Principals of Affiliated Colleges (Govt., Govt. Aided, and Private) may be directed to form Internal Complaint Committee and the same may be uploaded on the website.


Superintendent Admn
For Director Higher Education,
Haryana, Panchkula

Relevant sections on constitution of **Internal Complaints Committee** and Rules under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Section-2 Workplace:- Under sub-section (o) of Section-2, workplace includes:-

- (i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;
- (ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, Industrial, health services or financial activities including production, supply, sale, distribution or service.
- (iii) hospitals or nursing homes;
- (iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not used for training, sports or other activities relating thereto;
- (v) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey;
- (vi) a dwelling place or a house;

Unorganised Sector- Sub-Section (p) of Section-2, in relation to a workplace means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is **less than ten**.

Section-4

(1) Every employer of a workplace shall, by an order in writing, constitute a Committee to be known as the "Internal Complaints Committee".

Provided that where the offices or administrative units of the workplace are located at different places or divisional or sub-divisional level, the Internal Committee shall be constituted at all administrative units or offices.

(2) The Internal Committee shall consist of the following members to be nominated by the employer, namely:-

(a) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees:

Provided that in case a senior level woman employee is not available, the presiding officer shall be nominated from other offices or administrative units of the workplace referred to in sub-section (1).

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the presiding officer shall be nominated from any other workplace of the same employer or other department or organisation;

(b) Not less than two members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;

(c) one member from amongst non-governmental organisations committed to the welfare of women or a person familiar with the issues relating to sexual harassment; Provided that atleast one-half of the total Members so nominated shall be women.

(3) The Presiding Officer and every Member of the Internal Committee shall hold office for such period not exceeding three years, from the date of their nomination as may be specified by the employer.

(4) Member appointed from amongst the non-governmental organisations or associations shall be paid such fees or allowances for holding the proceedings of the Internal Committee, by the employer as may be prescribed.

(5) Where the Presiding Officer or any Member of the Internal Committee, :-

(a) contravenes the provisions of section 16 or;

(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) he has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest,

such Presiding Officer or Member, as the case may be, shall be removed from the committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

Section-19 Duties of Employer-

Every employer shall-

(a) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;

(b) display at any conspicuous place in the workplace, the penal consequences of sexual harassments; and the order constituting, the Internal Committee under sub-section (1) of section 4;

(c) organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed;

(d) provide necessary facilities to the Internal Committee or the Local Committee, as the case may be for dealing with the complaint and conducting an inquiry;

(e) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;

(f) make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under sub-section (1) of section 9.

(g) provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force;

(h) cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place.

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- (i) treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
 - (j) monitor the timely submission of reports by the Internal Committee.

Section-21 Committee to submit annual report:

(1) The Internal Committee or the Local Committee as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.

(2) The District Officer shall forward a brief report on the annual reports received under sub-section (1) to the State Government.

Section-22 Employer to include information in annual report:

The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organization or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.

Section-26 Penalty for non-compliance with provisions of Act.

(1) where the employer fails to:-

- a. constitute an Internal Committee under sub-section (1) of section 4;
- b. take action under section 13,14, and 22; and
- c. contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder, he shall be punishable with fine which may extend to fifty thousand rupees (Rs. 50,000/-).

(2) If any employer, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to:-

- (i) twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence:

Provided that in case a higher punishment is prescribed under any other law for the time being in force; for the offence for which the accused is being prosecuted, the court shall take due cognizance of the same while awarding the punishment;

- (ii) cancellation, of his licence or withdrawal, or non-renewal, or approval, or cancellation of the registration, as the case may be, by the Government or local authority required for carrying on his business or activity.

Rule 3

Fees or allowances for Member of Internal Committee- (1) The Member appointed from amongst non-governmental organisation shall be entitled to an allowance of two hundred rupees (Rs. 200/-) per day for holding the proceedings of the Internal Committee and also the reimbursement of travel cost incurred in travelling by train in three tier air condition or air conditioned bus and auto rickshaw or taxi, or the actual amount spent by him on travel, whichever is less.

The employer shall be responsible for the payment of allowances referred to in sub-rule (1)

---harassment: - For the purpose of sub-section (2) of section 9;

- (i) where the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed by her relative or friend, co-worker, an officer of the National Commission for Women or State Women Commission or any person who has the knowledge of incident, with the written consent of the aggrieved woman,
- (ii) where the aggrieved woman is unable to make a complaint on account of her mental incapacity, a complaint may be filed by her relative, special educator, qualified psychiatrist or psychologist; guardian or any other person who has the knowledge of the incident.
- (iii) where the aggrieved woman for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident with her written consent;
- (iv) where the aggrieved woman is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of her legal heir.

Rule 7 Manner of Inquiry into complaint: -

- (1) Subject to the provision of section 11, at the time of filing the complaint, the complainant shall submit to the Complaints Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.
- (2) On receipt of the complaint, the Complaints Committee shall send one of the copies received from the aggrieved woman under sub-rule (1) to the respondent within a period of seven working days.
- (3) 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 10 working days from the date of receipt of the documents specified under sub rule (1).
- (4) The Complaint Committee shall make inquiry into the complaint in accordance to the principles of natural justice.
- (5) The Complaint Committee shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if the complainant or respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Chairperson or Presiding Officer, as the case may be.

Provided that such termination or ex-parte order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.

- (6) The party shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Complaint Committee.
- (7) In conducting the inquiry, a minimum of three Members of the Complaint Committee including the Presiding officer or the Chairperson, as the case may be, shall be present.

Rule 8 Other relief to complainant during pendency of inquiry: - The Complaints Committee at the written request of the aggrieved woman may recommend relief to the employer.

Rule 9

Manner of taking action for sexual harassment: - Except in cases where service Rules exist, Complaints Committee may take written apology, warning, reprimand / censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service or undergoing a counselling session or carrying out community service.

Rule 10

Action for false or malicious complaint or false evidence: -Except in cases where service Rules exist, where Complaints Committee arrives at conclusion that allegation against respondent is malicious Complaints Committee may recommend to the employer or district officer, as the case may be, to take action in accordance to the provisions of Rule 9.

Rule 11

Appeal: - Subject to the provisions of section 18, any person aggrieved from the recommendations made under sub-section (2) of section 13 or under clause (ii) of sub-section (3) of section 13 or sub-section (1) or sub-section (2) of section 14 or section 17 or non-implementation of such recommendations may prefer an appeal to the appellate authority notified under clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946).

In supersession of Punjab Govt. Notification No. CA-20/46/S.2(a)/62/1108, dated the 26th April, 1962 and in exercise of the powers conferred by clause (a) of Section 2 of the Industrial Employment (Standing Orders Act, 1946) (Act No. XX of 1946), the Governor of Haryana has appointed the Industrial Tribunal, Haryana, appointed under section 7-A of the Industrial Disputes Act, 1947 to exercise within the State of Haryana the functions of the Appellate authority under the Act, vide Haryana Government Notification No. 45/CA20/46/S.2/67, the 23rd May, 1967 (List of presiding officers and jurisdictional limits for hearing cases of appeal is enclosed).

Rule 12

Penalty for contravention of provisions of section 16: - Subject to the provisions of section 17, if any person contravenes the provisions of section 16, the employer shall recover a sum of five thousand rupees (Rs. 5,000/-) as penalty from such person.

Rule 13

Manner to organise workshops, etc.: - Subject to the provisions of section 19, every employer shall formulate and widely disseminate an internal policy, to promote gender sensitive safe spaces, carry out orientation and awareness programmes for employees etc.

Rule 14

Preparation of annual report: - The annual report which the Complaints Committee shall prepare under section 21, shall have the following details: -

- (a) number of complaints of sexual harassment received in the year;
- (b) number of complaints disposed off during the year;
- (c) number of cases pending for more than ninety days;
- (d) number of workshops or awareness programme against sexual harassment carried out;
- (e) nature of action taken by the employer or District Officer.

The Women and Child Development Department, Haryana is the Nodal for the implementation of Sexual Harassment of Women at Workplace