

Annexure-11

SEXUAL HARASSMENT AND GENDER INSENSITIVITY POLICY

As per the Sexual Harassment Of Women At Work Place (Prevention, Prohibition And Redressal) Bill, 2006 (under consideration by the Parliament of India) based on the Vishakha vs. State of Rajasthan verdict {1997 (7) SCC.23} the Supreme Court of India had formulated guidelines to protect women from harassment of any kind at work place. As per the bill, it is mandatory for all organizations, whether government or non-government, to take every possible step for the safety of women working in those organizations so that they feel secure and can fulfill their responsibilities without any feeling of coercion or exploitation. It is also mandatory for every workplace and every employer (in-charge of a work place) to constitute an 'Internal Complaints Committee' for the redressal of sexual harassment cases.

The primary objective of this policy is to protect the employees from Sexual Harassment either by the **colleagues or third parties in the workplace**. This policy will help in ensuring fast and fair investigation to provide justice and redressal to the complainant as well as appropriate disciplinary action against the perpetrator if harassment is proved.

Objectives of policy:

- To comply with the Sexual Harassment of Women in Workplace Bill.
- To institute a system/ mechanism in presenting such actions and dealing with the case of sexual harassment.
- To create a secure and stress free environment for all workers.
- To promote a healthy work environment.
- To hinder the gender discrimination at the workplace and provide both men and women equal opportunities.

Definition of Sexual Harassment:

- Unwanted physical touch or conduct
- Demand or expression for sexual favour
- Sexually oriented comments and use of abusive language in the workplace or any other foul language which shows gender insensitivity.
- Obscene behaviour in front of colleagues, seeing or compelling them to see photographs which make them feels harassed.

- Any other conduct physical, verbal or otherwise which may be considered as sexual harassment.

Scope and coverage:

- All employees of Mobile Creches, regardless of their contract, duration of employment or position in the organization.
- Volunteers, consultants, trainees and interns, regardless of the duration of their association with the organization.
- Partner organizations which come in contact with Mobile Creches.

Action under this policy will be initiated in cases where any of the above mentioned individuals is subjected to sexual harassment by a Mobile Creches employee, inside or outside the office.

In cases where Mobile Creches employee is subjected to sexual harassment by a third party who is not a Mobile Creches employee, but is associated with the organization, this policy mandates immediate action to protect the complainant and to initiate action against harasser, either through the appropriate policy of the concerned employer or in cases where this is not possible, through the criminal justice system.

Complaints Committee:

A Complaints Committee expressly set up for this purpose, shall have the statutory status and be empowered to carry out the mandate of the policy. Complaints of sexual harassment will be received, reviewed and investigated by a complaints committee with 4 members (of which at least 3 are women) constituted as follows:

- Representative of HR Department (co-ordinator of the committee)
- Staff member
- Member of Governing Council
- External Expert (a person with expertise on the issue of gender and sexual harassment, to be nominated by the Governing Council)

The Complaints Committee will have a term of 3 years and will be constituted by a resolution of the Governing Council (GC). The committee will be empowered to receive complaints, attempt informal resolution through mediation, conduct formal enquiries and recommend appropriate action for redressal and punishment.

In cases where a complaint is received against a member of the Complaints Committee, the concerned individual will be required to step down, and will be replaced by another person of the same category.

In cases where a complaint is received against the Coordinator, the Complaints Committee will be headed by the Executive Director.

Authorities and Duties of Complaints Committee:

- To build a secure working environment all employees, regardless of their gender
- To promote gender equity and justice within the organization.
- To disseminate the policy and the procedures to all colleagues working in the organization.
- To take steps for training and sensitization of the staff members.
- To ensure that procedures for registering complaints are simple, accessible and effective.
- To take immediate cognizance of the complaints, conduct timely enquiries, provide redressal to the victim and take action against the harasser.
- To recommend appropriate follow-up action and monitor compliance.
- To seek legal, medical or police assistance, where required, with the consent of the victim.
- To offer/ ensure required psychological, emotional and physical support to the victim.

Procedure:

- Filing of complaints
 - Any individual who is a Mobile Creches employee or has professional association with Mobile Creches can approach any member of the Complaints Committee with a verbal or written complaint of sexual harassment against a staff member or a third party.
 - A meeting of the Complaints Committee will be convened within 3 days of receipt of a complaint, to discuss the substance of the complaint and draw up a time-bound schedule for the subsequent process.
- Informal process (mediation)
 - If judged appropriately, an informal process (discussion with both parties and mediation to resolve the issues) will be attempted within one week of receipt of the complaint.

- In cases where the alleged offender accepts a part or all of the substance of the complaint in the course of the informal process, the Complaints Committee may recommend appropriate disciplinary action.
 - In cases where the informal process has been successful in resolving the grievance, the Complaints Committee will close the case and submit a report to the GC office bearers recommending measures to prevent the recurrence of the situation that generated the complaint.
 - In cases where the informal process reveals prima facie evidence of gross sexual misconduct, the Complaints Committee may decide to institute a formal enquiry even if the complainant is satisfied with the informal process.
- Formal process (investigation)
 - In cases where an informal approach is deemed inappropriate, or is tried and fails to resolve the issue, a formal investigation will be instituted within 15 days of the receipt of the original complaint. The complainant and alleged offender will be informed of the initiation of the formal process and asked to co-operate. If the initial complaint was made verbally, at this stage it will be taken in writing.
 - The complainant will be asked to submit statement with details of the alleged incident(s) of harassment, with supporting evidence and names of persons who can provide corroboration.
 - The alleged offender will be informed in writing of the substance of the complaint and the particular circumstances of the case. The alleged offender will be requested to respond either in writing or orally, to the Complaints Committee, which will record the response.
 - The alleged offender will also be asked to submit documentary or other evidence in refutation of the complaint.
 - In the course of investigating the complaint, the Complaints Committee will conduct interviews with and cross-question the complainant, the alleged offender and any other individuals who can provide information in support of, or in refutation of the complaint. The Committee may also examine documents, including confidential files and records pertinent to the case.
 - The proceedings of the investigation and the deliberations of the Committee will be recorded both in writing and on tape.

- The complainant (or a person nominated by the complainant as an observer) will have the right to remain present during the depositions by the alleged offender and witnesses. Transcripts of the depositions may be made available in cases where the complainant chooses not to exercise the right to be present.
- Report and recommendations
 - At the close of the investigation, the Committee will submit a report in writing to the GC Office Bearers/ Executive Director, stating their findings and recommending the appropriate course of action.
 - Barring extraordinary circumstances, the process of enquiry will be completed within 30 days of the receipt of the complaint. Any delays will have to be explained in writing to the complainant, the alleged offender and to the GC Office bearers.
 - In cases where the alleged offence is not proved, or where the offence does not merit disciplinary action, the investigation report should include recommendations for steps to be taken to prevent the recurrence of similar incidents in the future.
- Disciplinary action
 - In all cases where the offence is proved to have been committed and disciplinary action is recommended by the Complaints Committee, an extraordinary meeting of the GC office bearers/ Executive Director will be convened. This will be done within a week of submission of the report and appropriate disciplinary action as per the service rules against the offender will be taken immediately thereafter.
 - In cases where the complaint is found to be false and motivated, the GC office bearers/ Executive Director may initiate disciplinary action against the complainant and others who are proved to have provided false information or concocted evidence.
 - In cases where disciplinary action has been taken, a brief report with details of the offence, the investigation findings and the action taken will be shared with all staff members.

Confidentiality and protection:

The Complaints Committee will address complaints and carry out the investigation process in a manner that respects the confidentiality and privacy of complainants, alleged offenders and others who provide information or evidence in cases of sexual harassment.

In exceptional situations, the Complaints Committee may decide to set aside the commitment to confidentiality, such as in cases where legal proceedings are initiated and the organization is required to disclose information, or in cases where disclosure is deemed necessary to protect the interests of others.

Under the terms of this policy, the organization is committed to provide support and protection to complainants. Measures will also be taken to prevent further harassment or discriminatory treatment of complainants by supervisors or colleagues on account of having filed a complaint.

Duties and responsibilities for implementation:

- All persons working in Mobile Creches, regardless of their role or seniority, are required to ensure that respectful and harmonious work environment is created in which all colleagues feel secure against sexual harassment. It would be the responsibility of the HR-Personnel Department to make sure that all persons working in Mobile Creches are well informed about it. All employees are therefore expected to react quickly and effectively to stop or report harassment, whether directed at themselves or at other colleagues.
- Publicize the Supreme Court version of sexual harassment through all possible means so that it is known to everybody within the organization. The HR – Personnel Department is also responsible for internal capacity building so as to equip all staff with the conceptual understanding and personal confidence necessary to recognize, resist and report sexual harassment.
- The managers/ coordinators are responsible for ensuring that the contents and implications of this policy are understood by staff and for monitoring workplace practices and the work environment. Individuals in supervisory roles may be held personally liable in cases where they knew or can reasonably be expected to have known about an incident of sexual harassment but did not take reasonable steps to deal with it.
- All workers should never feel that if they raise their voice against their harassment or co-workers for their misconduct or behaviour which they consider improper, it would adversely impact their promotion, increments or working condition.

- Despite observance of above, if any woman worker suffers incidence of sexual harassment, steps should be taken against the culprit as per the relevant law. Colleagues must help the victim in filing the complaint and the senior should make sure that case is registered.

Dissemination of guidelines:

All centres and Head Office are required to have a copy of the policy. Also, a special meeting should be organized to discuss these guidelines adequately with all staff members.

Ultimate responsibility to ensure effective policy implementation:

The ultimate responsibility and authority for implementing this policy lies with the Executive Director in his/ her capacity as the authorized representative of the Board.

Amendments to the policy:

Based on the experiences of working on the policy the complaint committee will have the power to make recommendations to the GC about changes in the policy.