

**THE GENDER SENSITISATION & SEXUAL HARASSMENT
OF WOMEN AT THE SUPREME COURT OF INDIA
(PREVENTION, PROHIBITION AND REDRESSAL)
REGULATIONS, 2013**

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DRAFT
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THE GENDER SENSITISATION & SEXUAL HARASSMENT OF WOMEN AT THE SUPREME COURT OF INDIA (PREVENTION, PROHIBITION AND REDRESSAL) REGULATIONS, 2013

WHEREAS gender discrimination and sexual harassment results in violation of the fundamental right of a woman to equality under Articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under Article 21 of the Constitution of India and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment under Article 19(1)(g) of the Constitution of India;

AND WHEREAS sensitization against discrimination on basis of gender and the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the Constitution of India and the said Convention for protection of women against sexual harassment at Supreme Court precincts:-

AND WHEREAS it is necessary to provide for gender sensitization in working environment and protection against sexual harassment of women at the Supreme Court precincts and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto;

AND WHEREAS according to the decision in *Vishaka v. State of Rajasthan* rendered by the Supreme Court in its judgment dated 13 August 1997, in Writ Petition (Crl) No. 666-70/92 it is necessary to provide for the protection of women.

AND WHEREAS in the judgment of the Supreme Court in *Medha Kotwal Lele v. Union of India & Others*, rendered by the Supreme Court on 19 October 2012 reported in (2013) 1 SCC 297, the necessity of protecting women from any form of indecency, indignity and disrespect in all places (in their homes as well as outside), is emphasized and it has been directed to provide new initiatives of education and advancement of women and girls in all spheres of life and the further directions given in the said judgment including the directions with regard to the need to give instructions/circulars by all statutory bodies such as the Bar Council of India, Bar Associations and State Bar Councils, and the liberty granted in the said judgment to approach the respective courts and the directions to the courts to effectively consider the grievances raised in this regard.

AND WHEREAS following upon and in conformity with the above, in Writ Petition (Civil) No. 162 of 2013, *Ms Binu Tamta & Ors. v. High Court of Delhi*, the Supreme Court of India appointed a committee for framing regulations to ensure a safe working environment for women in the precincts of the Supreme Court, and the said committee having framed regulations to combat the problem of sexual harassment within the precincts of the Supreme Court of India and for the redressal of any complaint that may be filed in that regard;

AND WHEREAS the draft regulations being placed before the Court on 03 July 2013 and the Supreme Court direct for further consideration of the regulations by the parties concerned and the Attorney General for India;

AND WHEREAS upon consideration of all the views placed before the Court, the Supreme Court by order dated 17 July 2013 was pleased to approve the said regulations and authorize the issuance of the same and order the enforcement of the Regulations inter alia having regard to the aforesaid judgments and in terms of Article 142 of the Constitution of India to render full and complete justice.

AND WHEREAS now these Regulations are being published as a comprehensive code for prevention of sexual harassment of women within the precincts of the Supreme Court of India and for redressal of any complaints that may be lodged in the Supreme Court.

The Supreme Court hereby makes the following Regulations:

CHAPTER I PRELIMINARY

1. Short title, extent and commencement - (1) These Regulations may be called the Gender Sensitization & Sexual Harassment of Women at the Supreme Court of India (Prevention, Prohibition and Redressal) Regulations, 2013.

(2) They shall come into force on such date as the Chief Justice of India may, by notification in the Official Gazette, appoint.

2. Definitions - In these Regulations, unless the context otherwise requires —

(a) "aggrieved woman" means, in relation to the Supreme Court, any female, of any age, whether employed or not, who claims to have been subjected to any act of sexual harassment by any person in the Supreme Court of India precincts, but does not include any female who is already governed by the

Supreme Court service regulations;

(b) "appropriate Authority" means in relation to the Supreme Court of India, the sitting Chief Justice of India;

(c) "Chairperson" means the Chairperson of the Supreme Court Gender Sensitization and Internal Complaints Committee (GSICC);

(d) "Chief Justice of India" in context of the present Regulations means the sitting Chief Justice of India;

(e) "habitual Respondent" is a person against whom a previous Complaint of sexual harassment has been received by the GSICC on earlier occasion, irrespective of whether the matter was resolved with or without an inquiry and except where the Respondent has been exonerated in the previous complaint;

(f) "GSICC" means the Supreme Court Gender Sensitisation and Internal Complaints Committee constituted under Regulation 4;

(g) "Internal sub-Committee" means the sub-committee set up under Regulation 9;

(h) "Member" means a Member of the GSICC;

(i) "Prescribed" means prescribed by the present Regulations;

(j) "Respondent" means a person against whom the aggrieved woman has made a Complaint under the present Regulations;

(k) "Sexual harassment" includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:—

(i) physical contact and advances;

(ii) a demand or request for sexual favours;

(iii) making sexually coloured remarks;

(iv) showing or exhibiting pornography and/or sexually explicit material by any means;

(v) sending undesirable sexually coloured oral or written messages, text messages, e-mail messages, or any such messages by electronic, manual or other means;

- (vi) stalking or consistently following aggrieved woman in the Supreme Court precincts and outside;
- (vii) voyeurism including overt or tacit observation by the Respondent by any means of the aggrieved woman in her private moments;
- (viii) any conduct whereby the Respondent takes advantage of his position and subjects the aggrieved woman to any form of sexual harassment and seeks sexual favours specially while holding out career advancements whether explicitly or implicitly, as an incentive or a natural result of submitting to the insinuations/demands of the Respondent;
- (ix) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;
- (x) implied or explicit promise of preferential treatment in her legal career;
- (xi) implied or explicit threat of detrimental treatment in her legal career;
- (xii) implied or explicit threat about her present or future legal career;
- (xiii) interferes with her work or creating an intimidating or offensive or hostile work environment for her; or
- (xiv) any treatment having a sexual colour or content likely to affect her emotional and/or physical health or safety.

(l) "Supreme Court of India precincts" means the whole premises of the Supreme Court including the Court Block, open grounds, parking, old and new Chamber Blocks, libraries, canteens, bar-rooms, health centers and/or any other part of the premises under the control of the Hon'ble Chief Justice of India;

(m) "Volunteer" means lawyers or other persons enlisted by the GSICC without any remuneration basis for carrying out the objects and purpose of these Regulations.

3. Prevention of sexual harassment - No woman shall be subjected to sexual harassment at the Supreme Court of India precincts.

CHAPTER II
COMPOSITION & CONSTITUTION OF GENDER SENSITISATION & INTERNAL COMPLAINTS COMMITTEE

4. Constitution of the Gender Sensitization & Internal Complaints Committee - (1) The Supreme Court GSICC is constituted herein to fulfill a very important public function of sensitizing the public to gender issues and to address any complaints made with regard to sexual harassment at the Supreme Court precincts.

(2) The Chief Justice of India shall, by an order in writing, constitute a Committee to be known as the "Supreme Court Gender Sensitisation and Internal Complaints Committee" (GSICC) which shall consist of not less than 7 members and not more than 13 members and shall include the following as far as practicable:

(a) one or two Judges of the Supreme Court in terms of the judgment in the case of Vishaka (supra), one of whom shall be the Chairperson of the Committee, to be nominated by the Chief Justice of India;

(b) one or two senior members of the Supreme Court Bar, with at least 20 years of membership of the Supreme Court Bar Association or the Supreme Court Advocates-on Record Association to be nominated by the Hon'ble Chief Justice of India, one of whom being a woman;

(c) one or two members to be elected by General Ballot of the Supreme Court Bar Association who shall be registered member of the Supreme Court Bar Association for at least 10 years out of whom at least one shall be a woman;

(d) one woman member being a member of the Advocates-on-Record Association elected by General Ballot of the Advocates-on Record Association;

(e) one woman member being a member of the Supreme Court Clerks Association elected by General Ballot of the Supreme Court Clerks Association;

(f) at least one and at the most outside members to be nominated by the Chief Justice of India

persons who are associated with the Social Welfare Department or non-government organization having experience in the field of social justice, women empowerment, and/or gender justice, out of whom at least one member shall be a woman;

(g) one woman officer in the service of the Supreme Court of India not below the rank of a Deputy Registrar to be nominated by the Hon'ble Chief Justice of India, who shall function as the Member Secretary of the GSICC; and

(h) any other member that the Chief Justice of India may deem fit to nominate.

Provided that it shall be ensured that the majority of the members of GSICC shall be woman members.

(4) The outside Member appointed under Clause 4(2)(f) shall be paid such fees or allowances from the allocated funds for holding the proceedings of the GSICC as may be prescribed.

(5) Where the Chairperson or any Member of the GSICC—

(a) 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/her;

(b) fails to constitute an Internal sub-Committee to inquire into a particular Complaint;

(c) fails to take action under Regulation 11;

(d) contravenes or attempts to contravene or abets contravention of other provisions of these Regulations or any notifications/orders issued thereunder; or

(e) in the opinion of the Chief Justice of India has so abused his/her position as to render his/her continuance in office prejudicial to the exercise of functions of the GSICC;

such Chairperson or Member, as the case may be, shall stand removed forthwith from the GSICC by a written order of the Chief Justice of India and the vacancy so created shall be filled by fresh

nomination/election in accordance with the provisions of these Regulations

5. 5. Term of Gender Sensitization & Internal Complaints Committee members –

The term of each member of the GSICC shall be for two years, subject to the member being elected/nominated for a maximum period of two terms, and a member who has been removed under Regulation 4(5) shall not be eligible for re-nomination or re-election.

6. Meetings Of The Gender Sensitization & Internal Complaints Committee - (1) The GSICC shall meet at least once in four months in a calendar year.

(2) Members shall be intimated of meetings and agenda in writing and/or by electronic communication by the Member Secretary.

(3) Minutes of all meetings shall be recorded, confirmed and adopted. The Member Secretary shall circulate the minutes of a meeting and the Resolutions so passed to all Members of the GSICC within 7 days of the holding of the meeting or the passing of the Resolution.

(4) The Ordinary Meeting shall be called by the Chairperson with minimum seven days notice to all members.

Any member of the GSICC may at any time request the Chairperson to call an Emergency Meeting with a notice of Forty-Eight hours. However, this will not prevent the Chairperson from convening an emergency meeting without 48 hours notice.

(6) The quorum for all Meetings shall be one-third of the members of the GSICC. In the event the quorum

is not completed for any meeting, an adjourned meeting shall be held within the next 10 days following, for which no quorum shall be required .

(7) All motions shall be carried by a simple majority of those present and voting at all meetings, except where it is specifically provided for.

Whenever a Complaint is received or a Report of the Internal sub-Committee is submitted, the Member-Secretary shall within a period of 7 days request the Chairperson to call either an Ordinary or Emergency Meeting to take action on the same, and the Chairperson shall call a meeting for this purpose not later than 15 days from the date of the Complaint or the Report.

If a Member does not attend 3 consecutive meetings he/she shall be liable to removal forthwith by the Chief Justice of India, and the vacancy so created shall be filled in accordance with Regulation 4.

7. Functions Of The Gender Sensitization & Internal Complaints Committee - (1) GSICC shall be responsible for framing a Policy from time to time and its implementation with regard to gender sensitization and prevention and redressal of Sexual Harassment in the Supreme Court.

(2) Gender Sensitization and Orientation: GSICC shall take the following steps with regard to gender sensitization and orientation:

(i) GSICC will ensure the prominent publicity of the Policy on gender sensitization and prevention and redressal of Sexual Harassment in the Supreme Court of India in all places in the Supreme Court precincts such as the Court Building, old and new Chamber Blocks, library, health

centre, canteens etc.

(ii) GSICC will organize programmes for the gender sensitization of the Supreme Court community through workshops, seminars, posters, film shows, debates, displays, etc.

(iii) GSICC shall submit an Annual Report by December 31 every year to the Chief Justice of India which shall be made public outlining the activities undertaken by it and charting out a blueprint for the activities/steps to be taken up in the following year along with necessary budget allowances required by it. The GSICC shall include in its Annual Report the number of cases filed, if any, and their disposal under these Regulations in the annual report.

(iv) GSICC may enlist the help of NGO's, associations, volunteers, lawyers, lawyer's bodies, or the concerned legal services authorities to carry out these programmes.

(v) GSICC will enlist and activate an adequately representative team of volunteers and shall ensure the widespread publicity of the contact details (both official and personal) of all its members and volunteers. The services of such volunteers shall be available at all times to any aggrieved woman or any person in need of consultation or guidance. Volunteers will also assist in the gender sensitization, crisis mediation and crises management duties of GSICC, but shall not participate in the task of formal redressal of complaints under these Regulations and Procedures.

(vi) GSICC will organize and train members and volunteers to equip them to handle sexual harassment cases including legal and medical aspects of aid).

(3) **Crisis Management and Mediation** - GSICC shall ensure that there is quick and responsive crises management, counselling and mediation available to all aggrieved women expeditiously which shall include the following activities:

- (i) GSICC will assist in the mediation of crises arising out of incidents of sexual harassment at the Supreme Court precincts.
- (ii) No mediation shall conclude without approval of the GSICC, and the mediated settlement shall be effected and be enforceable only upon it being duly approved by the GSICC which shall satisfy itself that the said mediation settlement is voluntary, fair, unbiased, and free from any extraneous consideration or influence.

GSICC will coordinate with the Supreme Court security services to devise ways and means by which a system of prevention of and crisis management that is both gender-sensitive as well as prompt and effective is put in place. It will maintain regular contact through the Member Secretary with the Supreme Court security services to ensure that in crises arising out of incidents of sexual harassment, GSICC members, and/or the volunteers identified by it, shall be intimated of such incidents without delay.

(4) **Complaint Redressal** - The GSICC shall ensure that every complaint of an aggrieved woman is adequately dealt with in accordance with the established procedure and with complete sensitivity. The GSICC shall have the power to inquire into and pass orders against the Respondent/deviant/delinquent in a complaint made in relation to any form of sexual harassment in the entire precincts of the Hon'ble Supreme Court.

CHAPTER III
COMPLAINT & INQUIRY INTO COMPLAINT

8. Complaint of Sexual Harassment - (1) Any aggrieved woman may make a complaint in writing of sexual harassment at the Supreme Court of India precincts to the GSICC through the Member Secretary in accordance with the form and procedure so notified by it.

Provided that where the aggrieved woman is unable to make such a complaint in writing due to any reason, the Member of the GSICC or volunteer, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing.

(2) Where the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death or for any other reason, her legal heir or such other person directly concerned with her interests may make a complaint under this Regulation.

9. Inquiry into complaint - (1) On receiving a complaint and upon being satisfied with regard to the genuineness of the Complaint, the GSICC shall constitute an Internal Sub-Committee to conduct a fact finding inquiry, which shall comprise of three members of the GSICC itself, or such other persons as to be so nominated by the GSICC in its meeting, with majority members being women, and at least one person being an outside member.

(2) The Internal sub-Committee shall conduct an inquiry and shall hear and duly record the statements of the aggrieved woman, the Respondent, and any other person the said parties wish to examine, subject to the provisions of Regulation 13(2), and thereafter it shall prepare a Report and enclose therein the complete proceedings of the Inquiry.

(3) The fact finding inquiry into a Complaint shall be conducted and completed within 90 days of the

Constitution of the Internal Sub-Committee.

Provided that the validity of any inquiry shall not be called into question upon the inquiry not being completed with the stipulated period due to reasons beyond the control of the Internal sub-Committee.

10. Inquiry Report - (1) On the completion of an inquiry under these Regulations, the Internal sub-Committee shall provide the Inquiry Report of its findings alongwith the complete record of the inquiry proceedings including the pleadings and all the material on record to the GSICC within a period of ten days from the date of completion of the inquiry and such Report shall also be made available to the concerned parties.

(2) Where the Internal sub-Committee arrives at the conclusion that the allegation against the Respondent has not been proved, it shall recommend to the GSICC that no action is required to be taken in the matter.

(3) Where the Internal sub-Committee arrives at the conclusion that the allegation against the Respondent has been proved, it shall recommend to the GSICC to take appropriate action for gender discrimination and/or sexual harassment.

(4) Upon consideration of the material on record and the Inquiry Report of the Internal Sub-Committee, if more than two-thirds of the members of the GSICC differ from the conclusion of the Internal sub-Committee, the GSICC shall after hearing the aggrieved woman and Respondent in person, record its reasons to so differ and take consequent action accordingly.

(5) The GSICC shall pass orders either accepting or rejecting the Inquiry Report of the Internal Sub-Committee and thereafter pass consequent orders that may be appropriate and necessary for putting an end to the sexual harassment and take all steps to secure justice to the victim of sexual harassment within

45 working days of submission of the Inquiry Report of the Internal sub-Committee, excluding the period of holidays, and/or vacation of the Supreme Court.

Provided that the validity of the orders of the GSICC shall not be called into question upon the same not being passed within the stipulated time.

11. Orders on Inquiry Report - (1) Subject to Regulation 9(1) above, the GSICC shall have the power to pass the following orders to secure justice to the victim of sexual harassment:

(a) admonition;

(b) admonition with publication of such admonition in the Court precincts including cause lists and Supreme Court Website;

(c) prohibition from harassing the victim in any manner including, but not limited to, prohibition from communicating with her in any manner such as phones, messages, electronic means physical or other means for a specified period; and

(d) subject to Regulation 11(2), pass all orders, directions, and/or direct taking steps necessary for putting an end to the sexual harassment of the aggrieved woman.

(2) GSICC will also have the power to recommend to the Chief Justice of India to pass orders against the Respondent including, but not limited, to the following:

(a) debarment of entry into the Supreme Court precincts for a specified period extending upto a maximum period of one year; and

(b) in appropriate cases, to recommend filing of a criminal complaint and/or a disciplinary complaint before the concerned disciplinary authority governing the Respondent (including the concerned Bar

Council) for taking appropriate action, and the Chief Justice of India may pass orders thereon subject to Regulation 12.

(3) The GSICC shall pass orders on the Inquiry Report and/or shall make recommendations to the Chief Justice of India within 45 working days of the submission of the Inquiry Report, excluding the period of vacation of the Supreme Court and communicate the same to the parties forthwith.

(4) The GSICC and the Internal sub-Committee shall have the jurisdiction to inquire into a complaint and take any action thereon notwithstanding that any criminal complaint or any other complaint under any other law (including a disciplinary proceeding under the Advocates Act, 1961) may have been filed with respect to the same complaint/actions.

(5) The orders of the CJI and the GSICC shall be final and binding on the parties.

12. Representation - (1) Any person aggrieved by the order passed (or not passed) by the GSICC under Regulation 11(1), or recommendation made by the GSICC to the Chief Justice of India under Regulation 11(2), or non-implementation of such orders or action may make a representation to the Chief Justice of India who shall have the power to set aside or modify the orders passed or the recommendation made as the Chief Justice may deem fit, and also have the power to issue such orders or directions that may be necessary to secure complete justice to the victim of sexual harassment.

The representation under Regulation 12(1) shall be preferred within a period of ninety days of communication of the order or recommendation.

13. Restraint Order - (1) On the receipt of a Complaint and during the pendency of an Inquiry, on a written request made by the aggrieved woman, the GSICC if it considers it fit and proper may recommend specific interim measures to be taken in a signed decision to the Chief Justice of India, who on receipt thereof shall pass such interim orders that may be required for the personal safety and for safeguarding the dignity of

the aggrieved woman, and both the aggrieved woman and the Respondent shall be bound by the same.

(2) Upon disobedience, defiance or violation of the order passed under clause (1) above by the Respondent, the GSICC shall close and/or strike off the defence of the Respondent and pass final orders under Regulation 10(5) and Regulation 11.

CHAPTER IV POWERS & DUTIES

14. Powers of GSICC & Internal sub-Committee - (1) The GSICC shall have the power to issue circulars/notifications prescribing its procedure and for the purpose of carrying out and implementing the provisions of the present Regulations in their spirit and intent.

(2) The GSICC shall have the power to pass any orders to be able to carry out the objectives and mandate of the present Regulations including directing any party or person to take any suitable action.

(3) For the purpose of making an inquiry, the GSICC and the Internal sub-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:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents; and
- (c) any other matter which may be prescribed.

(4) The GSICC by Resolution to be passed by two-thirds majority may remove any member of the Internal sub-Committee and appoint a new member in his/her place, only if it is of the view that such a member has acted prejudicially to the principles of natural-justice, fair play and has acted with bias in the conduct of the Inquiry.

(5) The GSICC shall at all times have supervisory powers over the Internal sub-Committee and it may issue directions to the Internal sub-Committee from time to time in accordance with the provisions of the present Regulations.

15. Duties - The GSICC in coordination with and with the assistance of the office of the Supreme Court shall—

- (a) take measures to provide a safe working environment at the Supreme Court of India precincts;
- (b) display at any conspicuous place in the Supreme Court of India and on its web-site, the penal consequences of sexual harassments and the order constituting the Internal Committee under the present Regulations;
- (c) display at any conspicuous place in the Supreme Court of India and on its web-site, the status and outcome of complaints of sexual harassment;
- (d) organize workshops and awareness programmes at regular intervals for sensitizing the persons carrying out work at the Supreme Court premises with the provisions of the present Regulations and orientation programmes for the members of the Internal Committee in the manner as may be prescribed;
- (e) provide necessary facilities to the Internal sub-Committee for dealing with the complaint and conducting an inquiry;
- (f) assist in securing the attendance of respondent and witnesses before the Internal sub-Committee;
- (g) obtain such information for the Internal sub-Committee as it may require having regard to the complaint;
- (h) cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the Respondent and/or the perpetrator;
- (i) monitor the timely submission of reports by the Internal Sub-Committee; and
- (j) take any other action and/or measures to ensure an effective and meaningful implementation of the present Regulations.

**CHAPTER V
MISCELLANEOUS**

16. Confidentiality – (1) The contents of the complaint made under the present Regulations, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to the inquiry proceedings, recommendations of the GSICC and the action taken by the GSICC shall be confidential and shall not be published, communicated or made known to the public, press and media in any manner except upon the aggrieved woman submitting a specific request to do so in writing and upon the GSICC acceding to the said request.

(2) Upon the Respondent being found guilty, information may be disseminated regarding the justice secured to any victim of sexual harassment under these Regulations without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses.

17. Protection of action taken in good faith- No suit, prosecution or other legal proceedings shall lie against the CJI, GSICC and the Internal sub-Committee or its members in respect of anything which is done or intended to be done in good faith in pursuance of these Regulations, and the circulars/orders/notifications issued thereunder.

18. Allocation of funds - The Chief Justice of India may, subject to the availability of financial and other resources allocate and provide suitable funds as may be prescribed

(a) for the effective implementation of the present Regulations;

(b) for development of relevant information, education, communication and training materials, the for

organization of awareness programmes, and for advancement of the understanding of the public of the provisions of these Regulations; or

(c) for organizing orientation and training programmes for the members of the GSICC, Internal sub-Committees, volunteers, counselors etc..

19. Regulations not in derogation of any other law - (1) The provisions of these Regulations shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

(2) The provisions of the present Regulations shall not bar any Court from taking cognizance of any offence punishable under any other enactment or law.

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