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Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and a

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Dr. Navtika Singh

Nautiyal



Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.

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M.A, LL.M, Ph.D,

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E.MBA, LL.M, Ph.D, PGDSAPM

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BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

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WOMEN AT THE WORKPLACE; HARASSMENT OF WOMEN AND POSH ACT, 2013.

AUTHORED BY: ADITYA PANDEY

INSTITUTION: NATIONAL LAW UNIVERSITY ODISHA (2022-27)

INTRODUCTION

Our society is changing with a ticking clock, from finding women in households to holding a dominating position in the workforce, from restricting the liberty of women to giving them free hand to enjoy their living space, from making the decision for women to let them make the decision for the whole society, a lot has changed. As the great saying, “Freedom and Liberty come with Casualties” which means, providing freedom and liberty, unrestricted in nature, can be threatening to the whole society but here, in this case, it is not the society under the threat, it is the women whose dignity is under the threat. The threat has been more aggravated by the revolution that takes place to provide a base for women in the workspace. To protect working women in the workspace, the government of sovereign states has brought some legislation but the legislation doesn't seem to fulfill its very aim as the workspace is still not very safe for women, even in the 21st century.

WOMAN: THE PREY

Indian constitution grants its citizen the right to equality, providing men and women equal footing in the workspace. Workspace is not only a source of income for women, but it is also much more than that, as it provides an opportunity for women to stand on their own feet and open a gate that takes them out of the dependency circle. However, it is not a cakewalk. Women have to take on their dignity. Like society, sex discrimination has its root in the workplace and sometimes this discrimination operates by shaping itself in form of sexual harassment. This not only adversely affects the woman mentally and physically, but also violates her fundamental rights guaranteed under ARTICLE 19(1)(g), subject to some restrictions. It further adds to woman's livelihood and productivity, by affecting it negatively and also compounding the situation that has already been deep-rooted in socio-cultural patterns.

People have debated over the liberty and freedom that has been provided to women with time as a major cause of their exploitation and harassment, and often indulge in discussion to limit their rights but limiting a particular group of a society, or taking away their rights is never a solution to any problem. Before the revolution, including women in the workspace, there were cases of sexual harassment, and woman's dignity was prone to threats. Moreover, the workspace is not the only place where a woman is under threat. Major chunks of sexual harassment cases take place outside of the workplace, sometime in their own home. Therefore, restricting women from the workplace will never be a reasonable way to deal with the problem.

INDIAN GOVERNMENT STEPS TO CURB HARASSMENT AT WORKPLACE

In India, the total count of woman workforce in rural and urban areas is around 25.5% and 14.9% respectively with the majority of the workforce working in the informal sector. To provide a safe environment for women, the Indian government came up with legislation in the year 2013 under the title “THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION, AND REDRESSAL) ACT, 2013” which is popularly known as POSH act. The Act aims to uproot sexual discrimination against women in the workspace by taking appropriate measures. According to the POSH Act, "sexual harassment" refers to any inappropriate sexual behavior, whether explicitly stated or implied. This includes unwanted physical contact and advances, requests for or demands of sexual favors, remarks with overtly sexual undertones, the display of pornographic or other objectionable material, and inappropriate sexual behavior that is manifested through physical, verbal, or nonverbal actions. An internal committee, known as the Internal complaint committee (ICC), should be set up at each branch of an organization having a count of ten employees or more to address the cases related to sexual harassment in the workplace. The internal complaint committee comprise of a presiding officer and members. In order to make the committee female-friendly, the presiding officer and half of the committee strength should be female, thus, leaving no space for hesitation before reporting the complaints. Any inquiry, regarding the complaint, must be conducted by the Presiding officer and other two or more ICC members.¹

¹ Aakarsh Saluja, Mudit Gosain & Pranav Mahajan, Prevention of Sexual Harassment of Women at Workplace (POSH Act 2013), 21 *Supremo Amicus* [769] (2020).

The POSH act also made some provisions to be compulsorily followed by the employer such as

- Providing a safe and secure environment to women free from any kind of discrimination based on sex, color, race, caste, etc.
- Establishing a workplace that is gender-sensitive and addressing the root causes of the hostile environment that women experience at work.
- Create and widely distribute charters, resolutions, and statements that forbid, prevent, and address workplace sexual harassment; conduct routine training and education campaigns to educate staff and ICC members on the causes of and consequences of workplace sexual harassment.
- Each year, provide a report to the district officer outlining the number of cases filed, how they were resolved, and the timeliness of ICC reports.

HOW THE POSH ACT HAS CHANGED THE SCENARIO AND ITS DRAW BACK

From the day of enactment, the POSH act has played a major role not only in containing sexual harassment in the workplace but also in decreasing the cases of harassment. The act has provided a platform for women to voice up against their mistreatment at the workplace and at the same addressing their grievances. Settlement of ICC at each and every organization, with a capacity of ten or more employees, has sent a message to the masses about the secureness of the workplace, thus, encouraging women to participate by showing their potential. However, the act is still not enough to eliminate the evil of sexual harassment from the workplace. There are some drawbacks that need to be rectified as soon as possible to make the workplace safer and more secure for women. Some drawbacks are as follows

- Women are often reluctant to report workplace harassment because they are concerned about the harasser or their employer taking action against them. For fear of social shame, embarrassment, or even worse harassment, the majority of victims are reluctant to speak out against the offender.
- Monitoring compliance is essential for spotting murky areas and highlighting those that require more research. Without such examination, the parties accountable for breaching their

responsibilities might not be subject to penalties. When a law's flaws cannot be identified, it is also less effective.

- The victim has to file the complaints of sexual harassment within three months of its occurrence. If the victim fails to do so, the committee will decide whether an extension in complaint filling should be granted to the victim or not on the basis of circumstances that prevented the victim from filling the complaints within the deadline.
- There is no anonymity. A complaint of sexual harassment cannot be filed by a victim anonymously.

CONCLUSION

Women make up the majority of the world's population, but because of biases and gender disparities, they are often put in a range of unfavorable situations. They have been subjected to abuse and exploitation by civilizations that are controlled by men. Sexual harassment of women at work breaches their human and constitutional rights as well as their sense of dignity and self-worth. The POSH act has played its part flawlessly in containing the sexual harassment cases, now it is high time to revalorize the situation of women in the workplace, providing them safe and secure atmosphere, equal pay, respect, etc. by rectifying the loopholes of the act and spreading awareness among masses.

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