

(3) Where the committee or the District Committee, as the case may be, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be, -

(a) to take action for misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed; or

(b) to deduct from the salary or wages of the respondent such sum of compensation to be paid to the aggrieved woman or to legal heirs, as it may determine, in accordance with the provisions of section 13:

12. (1) Where the Committee or the District Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is false or malicious or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer to take action against the woman or the person who has made the complaint in accordance with the provisions of the service rules applicable to her or him or where no such service rules have been made, in such manner as may be prescribed.

Punishment for false or malicious complaint and false evidence.

(2) Where the Committee or the District Committee, as the case may be, arrives at a conclusion that during the enquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules have been made, in such manner as may be prescribed.

13. (1) For the purpose of determining the compensation to be paid to the aggrieved woman under clause (b) of sub-section (3) of section 11, the

Determination of compensation.

Ministry of Law & Justice  
Department of Legal Affairs  
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Dy. No. 3696/08-Adv.B

The matter has been discussed with Smt. Remu Satija, Under Secretary, Ministry of Women & Child Development alongwith Shri Yogesh Mehta, Law Officer, National Commission for Women in the chamber of Additional Legal Adviser and Group Incharge Shri Satish Chandra today.

2. The referring Department is advised to suitably draft the Section 12 of the proposed Bill in respect of punishment of false or malicious complaints and false evidence. There should be separate chapter for unorganized sector regarding making inquiry and recommendation. The draft Note for the Cabinet should be suitably amended as suggested above and the views regarding making suitable amendments in Section 11 & 12 be incorporated in appropriate place in the Draft Note.

(O.P. Bagri)  
ASST. Legal Adviser  
Dated 23.09.2008

Ministry of Women & Child Development.  
Attention: Mrs. Remu Satija, Under Secretary.

32296/08  
23/9/08

317/35(10)/08  
25/9/08

Reference note above. A draft letter to Law Officer, New Delhi along with records in the matter is placed below for approval please.

108/10  
23/9/08

35 my penke before ibama & lctm.  
35(10)  
23/9

P. D. D.  
23/9/08

Issue to fl. follow up.

23/9/08

P. D. D.  
23/9/08

35(10)  
23/9

We have not received information from Sh. Yogesh Mehta regarding re-drafted Bill on Sexual Harassment at work place. We may write to them for re-drafted Bill.

DPA floor.

S.K. Vohra  
29.10.2018

S.K. Vohra

R. K. Sharma  
29/10/2018

6/11/18

R. K. Sharma  
29/10/18  
R. K. Sharma  
4/11/18  
S.K. Vohra

6/11/18  
30/10/18

Secretary wanted to discuss to draft Bill/circulars on protection of women against Sexual Harassment at work place, with Secretary, Deptt & Legal Advisor. An consultation with the Ombuds & Society (WCO) and Society (LAW. SOCIETY), the time for discussion has been fixed as 4pm on 7.11.18 (Friday)

for information please

3/11/18  
5/11/18

J.D. Srivastava  
3/11/18

R. K. Sharma  
4/11/18

Handwritten notes on the left margin, including "S.K. Vohra" and "R.K. Sharma".

5/11/18

3/11/18

Meeting of 22. I will be going with JS for this discussion. In meeting of 22. I will also participate in discussion. JS may also be invited. Anil Kumar 5.11.18

Handwritten notes on the right margin, including "Meeting of 22" and "JS may also be invited".

A meeting was held in the Chamber of the Secretary, Ministry of Law and Justice on 7.11.2008 at 4.00 P.M. The meeting was attended by Shri Anil Kumar, Secretary, Ministry of Women and Child Development, Smt. Kiran Chadha, Joint Secretary, Ms. S. Vasudevan, Joint Director, Ministry of Women and Child Development, Shri S. Chatterjee, Member Secretary and Law Officer of NCW.

The Secretary, Ministry of WCD brought to notice of the Secretary, Ministry of Law regarding the suggestions given by the Additional Legal Advisor, Department of Legal Affairs suggesting suitable changes in the proposed bill with respect to punishment for false or malicious complaints and inclusion of the separate chapter for unorganized sector in the draft bill.

The Secretary, Ministry WCD stressed upon the need to do away with the proposed Section 12 in the Draft Bill which provides for punishment for false or malicious complaints. It was pointed out to the Secretary, Ministry of Law that such a provision would only deter women from filing complaints relating to Sexual Harassment at Work place. Further, as the evidence itself in Sexual harassment cases is not forthcoming and mainly dependent upon corroborative evidence, in such cases there is a possibility that cases not proved may be interpreted by the employer as being false and malicious.

It was agreed to do away with the proposed Section 12 in the draft bill and the Secretary, Ministry of Law while agreeing with the suggestion of the Secretary of Women and Child stressed upon the need to have a separate and a detailed chapter relating to the unorganized sector. This was agreed upon and it was requested that the Ministry of Law and Justice may suitably amend the draft bill at the earliest.

*S. Vasudevan*  
(Sulachana Vasudevan)  
Joint Director  
10.11.2008

JS (KC)

*Sulachana Vasudevan*  
10/11/08

*Seffy*

*Anil Kumar*  
10.11.08

JS (KC)

*[Signature]*

*[Signature]*  
10/11/08  
P. send in the to law secretary to [Signature]  
10/11/08  
as per [Signature] - may from office.

*[Signature]* for Law Secretary, Ministry of Law and Justice

*[Signature]*

3741



1423/20  
10/11/08

5304/JS/KC/100  
10/11/08

Md. Masud Raza  
10/11/08

Law Department  
Dy. Secy  
10/11/08

Recd. Secy  
10/11/08

Ministry of Law and Justice  
Legislative Department

The proposal of the Ministry of Women and Child Development to enact a legislation for Prevention and Redressal of Sexual Harassment against Women at Workplace was concurred in by this Ministry on 21<sup>st</sup> March, 2006 vide our Notes at page 20/ante.

2. However, the Ministry of Women and Child Development, after making consultation with various Non-Governmental Organisations, the National Commission for Women and other concerned/interested persons about the contents of the draft Bill, has forwarded a proposal for making certain modifications in the draft Bill, viz., omission of clause 12 of the Bill and for extension of the provisions of the Bill to unorganised sector.

3. The said proposal for modification was discussed with the Joint Secretary (Smt. Kiran Chaudha) from the Ministry of Women and Child Development and the Member-Secretary (Sri S. Chatterji) and Law Officer (Sri Yogesh Mehta) from the National Commission for Women, in the Chamber of JS&LC (Shri S.R. Dhuleta) where the undersigned was also present.

4. As regards the proposal to omit clause 12 is concerned, the Ministry of Women and Child Development is of the view that the provisions of clause 12 which provides punishment for false or malicious complaint and false evidence may deter women from filing complaints relating to sexual harassment at workplace and mere failure to prove such complaints may be interpreted adversely against women thereby attracting provisions of said clause 12. In this regard, it may be stated that such view is totally unfounded. Retention of clause 12 is essential to check false and malicious complaints being filed and giving false evidence. If clause 12 is omitted, it may lead to situations similar to those being faced in respect of Domestic Violence cases, Dewry Harassment cases, etc. In order to have a law which is balanced, neutral and gender-equal, it is important to retain the said clause 12. Further, our view is in consonance with the view of the Department of Legal Affairs in this regard. So, we may retain clause 12.

5. As regards the proposal to extend the provisions of the Bill to unorganised sector is concerned, it may be stated that the ~~provisions of the draft Bill covers~~ unorganised sector has already been covered within the ambit of the proposed legislation and definitions of employee, employer and the workplace include the unorganised sector also. As there is no ambiguity about the unorganised sector falling within the ambit of the legislation which is agreed to by the above referred officers in the meeting, there is no need to make any changes in the draft Bill in this regard.

6. In the above said meeting, the Ministry of Women and Child Development requested that the definition of "aggrieved woman" be widened to include the university students, research scholars, etc. since a large number of sexual harassment cases are being reported by them. If agreed to by the said Ministry, the definition of "aggrieved woman" may be amended as under-

'(a) "aggrieved woman", in relation to a workplace, means a woman against whom the act of sexual harassment has been committed.'

OR

'(a) "aggrieved woman", in relation to a workplace, means a woman against whom the act of sexual harassment has been committed and includes an employee, student, research scholar, patient, etc.;

7. We may, in the first place, seek confirmation from the Ministry of Women and Child Development for amendment of definition as above. JS&LC may please see for approval.

(Veera Kothavale)  
Deputy Legislative Counsel  
1<sup>st</sup> March, 2009

JS&LC (Shri S.R. Dhuleta)

S.R. Dhuleta  
4/3/09

(92)

Legislative Department  
Legl Section

Ref. on pre page

80/218 (WOM)  
13/3/09

Ministry of Women & Child Development (Kand. Smt. Selachana  
Vasudevan, J.D.)

M/o Law & Justice, LD, L.A. No. 1 (259)/06 LD dated 5.3.09

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215 (WOM) may  
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Dudhina  
12/01/09

25/1/09

Reg. Secy to M  
P  
11/2

Director

on 11/1/09  
13/1/09

R  
16/3

in (WOM)  
Smt. V  
Dudhina  
16.05.2009

Re: Note copied.

2. The file relates to enactment of a legislation for prevention and redressal of sexual harassment against women at work place. The proposal was decided concurred by Leg Dept. on 21.03.06 (22/05)

3. MOWCD proposed for following modifications in the Draft Bill:-

- 1) Omission of Clause 12 of an Bill which provides punishment for false or malicious complaints and false evidence.
- 2) Extension of the provisions of the Bill to unorganised sector.

4. Leg Dept. has opined that retention of Clause 12 is essential to check false and malicious complaints to have a balanced Law neutral and gender-equal.

5. With regard to extension of provisions of the Bill to unorganised sector, Leg Dept. has opined that unorganised sectors have already been covered within the ambit of the proposed legislation and definition of Employee, Employer and Workplace includes the Unorganised Sector also.

6. Leg Dept. while referring to the request of MOWCD for widening the definition of "Aggrieved Women" has proposed the definition of "Aggrieved Women" as

Ampl:-  
(a) "aggrieved Women" in relation to a workplace means a woman against whom the act of sexual harassment has been committed: OR

(a) "aggrieved Women" in relation to a workplace, means a woman against whom the act of sexual harassment has been committed, includes any employee, student, research scholar, trainee, etc."

(cont'd p. 9)

7. Leg. department has requested M/Minister for confirmation to the proposed definition of 'aggrieved woman'.
8. Submitted pl.

De Ligne  
18/03/2009

215 (1/N)

The following definition is suggested for Consideration Please:

"aggrieved woman" in relation to a woman here means a woman (including a minor girl) against whom the act of sexual harassment is alleged to have been committed"

De Ligne  
10/2/09  
USCWS)

Discussion)

The notes of the Legislative Dept., M/Law & Justice no P 71/N may pl. be seen.

We need to take a view on two issues.

- (1) The issue of retention or otherwise of the provision relating to false & malicious complaints (Clause 12).

On this issue the HC, WCN was of the strong view that such a provision will discourage victims to come forward with their complaints.

The views of the Legislative Dept., M/Law & Justice (Ann 4) may pl. be seen at P 71/N



On my part, I fail to appreciate the apprehensions of IZW. I think there should be no two opinions on the fact that a special piece of legislation in this regard, at the very least, aim to be a complete code in itself.

For example, the Indian Penal Code, which is the primary & supreme criminal law, contains provisions relating to forged documents, false evidence etc. and prescribes punishment for such offences. I am aware of several special legislations which contains provisions to take care of false & malicious complaints.

It must be kept in mind that all unproved allegations are not false / malicious. In the instant case, a respondent would be required to produce evidence to the effect that the complaint made against him is false or filed with mala fide intention. If such evidence is produced, it would be unreasonable to hold that remedy against such false / malicious action has to be sought elsewhere.

In view of the above I am of the opinion that we may not insist on removal of clause 12.

(2) So far as the scope of the coverage of the act to women who may not be employed in a workplace is concerned, the suggestions of the Legislative Department, Ministry of Justice and the US(W) may be perused.

I suggest the following definition in respect of sub-clause (a) of clause 2.

"Aggrieved woman, with respect to the provisions of this Act means a female, of any age, against whom any act of sexual harassment is alleged to have been committed, whether or not such a female is employed in the workplace where such act of sexual harassment is alleged to have been committed."

I feel, certain other amendments may be required in the proposed legislation. They are as follows:

Clause 3: "No female" instead of "No woman employee". And in the end, "which may include, but not limited to."

Clause 14(1): "Any person - - - or where no such service rules have been made or applicable to the person or aggrieved - - -"

instead of the present provision.  
Sub-clause (a) after the last clause of the enquiry, "or if there nothing for the enquiry where the perpetrator is not an employee in this workplace."  
The above suggestions are put up

for the approval of the Secy / MOS (IC) before the

file is sent back to Legislative Department,  
H/Law & Justice.

9/2  
4/2

JS (K)

x 24 on prepare for approval pl.  
2. for other issues of proposed amendment  
we may have a meeting with NCL,  
Min of law under to chair personally &  
Secy (NCD) if approved to sort out the  
issue at the earliest. If approved,  
may kindly indicate date ~~from~~  
kindly.

22/1/09 (HAM)  
19/3/09

1055/SS/KC/07  
19/3/09

19/3/09

Secy

Kindly discuss on 25.3.09  
Anil Kumar  
19.3.09

JS (K)

359  
19/3/09

Pl discuss

6  
22/3

151/000

Presented in  
22.3.09  
in a letter,  
screening up  
of the  
2/2

Disposal

Presented to  
Secy as per  
file is not of  
part of order  
- 2/2

The matter was discussed with the Secretary(WCD) on 14.2.2009.

Accordingly, in view of the recommendation of the Legislative Department, Ministry of Law & Justice at para 4 (p.91/N) we may not press for deletion of cl. 12 in the draft Bill.

2. The recommendation of the Legislative Department, Ministry of Law & Justice regarding change in definition of "aggrieved woman" may be agreed to with a minor correction as follows :-

' "Aggrieved woman" in relation to a work place means a woman, of any age, against whom an act of sexual harassment has been or alleged to have been committed and includes an employee, student, research scholar, patient, etc. '

3. In view of the proposed change in the definition of 'Aggrieved Woman' in sub-clause(a) of clause(2) the following consequential amendment would be required :-

(i) The clause 3 of the proposed legislation may be replaced with the following as under :-

"At any workplace, no woman, of any age shall be... or by other actions, which may include, but not limited to,..."

(ii) In sub-clause (1) of clause 16 after the words "or where no such service rules have been made", the following words "or applicable to the person who is so aggrieved" may be added.

This is needed to take care of the situation described in para 10 of the judgement of the Apex Court w.r.t. third party harassment.

(iii) In sub-clause(h) of clause 17 after the words "the conclusion of the enquiry" the following words "or without waiting for the enquiry where the perpetrator is not an employee in the workplace where the incident of sexual harassment has taken place" may be added.

This is also for taking care of third party harassment.

*Kiran Chadha*  
[Dr. (Mrs.) Kiran Chadha]  
Joint Secretary

2.4.2009

6/4/09

*Secy*

M325RKC09  
5/4/09

