

The Vishaka Guidelines and the POSH Act: The Genesis

In this lesson, we will look at the incident that led to the Vishaka Guidelines' draft and the Sexual Harassment of Women at Workplace Act (Prevention, Prohibition and Redressal) that was passed in the year 2013.

It all started with an incident in the year...

1992

Bhanwari Devi - a rural change agent – engaged by the Rajasthan state government as a *saathin* or *friend* for their Women's Development Programme, tried to stop the marriage of a nine-month-old girl belonging to an upper-caste community. She reported this to the local authority, but no action was taken.

Enraged by Bhanwari's actions, five men from that community turned up at the field where Bhanwari was working alongside her husband. Two of them beat up Bhanwari Devi's husband, while the other three took turns sexually assaulting her.

Following this incident, Bhanwari Devi filed a police complaint and went public. Once again, the police treated her case with negligence and botched up the investigation.

1995

Around *three years after* the brutal incident, after a local newspaper reported Bhanwari's ordeal and the botched investigation the Central Bureau of Investigation or CBI took over the case and finally arrested the accused.

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The trail, however, was a road downhill. Judges were changed five times, and in November 1995, the accused were *acquitted* of the more serious rape allegation, convicted of lesser offences like assault and conspiracy and were all given *just nine months* in jail.

The Journey to Justice

The acquittal, however, precipitated massive public protests all over Jaipur, demanding justice for Bhanwari. Enraged by the travesty of justice in this case, a Public Interest Litigation (PIL) was filed before the Supreme Court of India against the State of Rajasthan and the Union of India by a collective of activists and NGOs, under a platform they called, Vishaka. The group demanded that ***"workplaces must be made safe for women and that it should be the responsibility of the employer to protect women employee at every step"***.

The Vishaka Guidelines, 1997

In a landmark judgment, the Supreme Court of India created legally binding guidelines – called the Vishaka Guidelines - based on the right to equality and dignity as per the Indian Constitution and the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1997.

Specifically, the Vishaka guidelines:

1. Listed down the duty of the employer in the workplace
2. Defined what sexual harassment means and the steps to be taken to prevent sexual harassment
3. Specified disciplinary actions, criminal proceedings, and the complaint mechanism to be followed in case of a complaint or an incident
4. Identified the need for a complaints committee in the workplace

The guidelines, which extended to all kinds of employment, from paid to voluntary, across public and private sectors was formalised as a legislative act, when on 26th **February 2013**, the Rajya Sabha passed a bill approving the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act.

We will explore the POSH Act at length in the next lesson. Before proceeding to the next lesson, though, please do take the accompanying quiz.

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Happy Quizzing!