

Compliance with Vishaka norms low even in law firms

Swati Deshpande, TNN Nov 24, 2013, 02.41AM IST

MUMBAI: As complaints of sexual harassment appear to be tumbling out with a rising frequency, private sector employers across all fields can no longer choose to ignore the new law against such harassment at the workplace.

The Sexual Harassment of **Women** at Workplace (Prevention, Prohibition and Redressal) Act, 2013-enacted in April-16 years after the landmark Supreme Court judgment in the Vishaka case, is yet to be enforced by many private firms. Many law firms also do not have a mechanism in place. Some propelled into action in the wake of the allegations against Tehelka editor Tarun Tejpal.

Though no figures are available on private sector compliance of the law, several law firms said they did not have a panel in place as stipulated.

The Act requires every "employer to constitute an Internal Complaints Committee at each office or branch that has an employee strength of 10 or more". The law gives women in India a statutory right to file complaints for sexual harassment in the workplace.

Advocate Nishit Dhruv, managing partner of MDP & Partners, which has not yet constituted the minimum three-member committee, said he plans to "have a mechanism in place soon, although the credo at the firm is not to tolerate any harassment of women colleagues". A senior partner of another law firm, among the oldest in the city and highly respected, too plans to now set things in motion at the firm as required under the law.

Several law firms said they have their internal mechanism which involves putting together a team of senior partners whenever there is a complaint by a women to inquire into.

Some law firms like Nishith Desai Associates do have a policy. "We stipulated a policy many years ago, even before the law was enacted, for prohibition of sexual harassment at the work place," said NDA's head of HR Law, Vikram Shroff. "We have benchmarked ourselves against global organizations and incorporated some of the best practices into our policy manual."

He also added that "All employers, including law firms, are required to comply with the new law. There are no exceptions."

Hitesh Jain, senior partner of ALMT Legal, a mid-sized law firm which has its office at Nariman Point and boasts of a 75% women strong workforce, said, "Since the allegations against Tejpal, a complaints committee has been put in place at the firm."

"Earlier after the Delhi gangrape case, we began enforcing adequate safeguards for our women employees, including setting up of CCTV cameras in office."

Advocate Flavia Agnes said, "When in 1997, Justice J S Verma, issued the now famous Vishaka guidelines, no one thought that one day it will get legal force and come to bite our public intellectuals and custodians of law and justice. The private sector chose to ignore it and pretended they are not bound by it." She said the spotlight was so far only on the public sector and educational institutions. "Wo-men's groups concerns about not setting up such panels at all workplaces, including media houses and legal chambers fell on deaf years for years."

Ignorance of law is no excuse in law. "Resorting to such excuses amounts to irresponsible corporate governance. The price would be heavy to pay."

According to a release issued by the Press Information Bureau earlier, the law would "ensure that women are protected against sexual harassment at all workplaces, be it in public or private. This will contribute to realisation of their right to gender equality, life and liberty and equality in working conditions everywhere. The sense of security at the workplace will improve women's participation in work, resulting in their economic empowerment and inclusive growth."

A Bandra resident said the "government must have a mechanism to check if the law is

enforced through a six monthly audit."

The Law

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

* Under the Act, which also covers students in schools and colleges as well as patients in hospitals, employers and local authorities will have to set up grievance committees to investigate all complaints

* Employers who fail to comply will be punished with a fine of up to Rs 50,000

Sexual harassment includes:

* Any one or more of unwelcome acts or behaviour like physical contact and advances, a demand or request for sexual favours or making sexually coloured remarks or showing pornography

* It can be implied or explicit threat about a women's present or future employment status

* Any action that interferes with her work or creates an intimidating or offensive or hostile work environment for her

The internal complaints committee:

* The three-member internal complaints committee must be headed by a woman and must have an independent women member, such as one from a NGO

* The committee is required to complete the inquiry within 90 days

* If a complaint is "proved," the committee can then recommend action which may include suspension, termination, mediation, or other appropriate actions