



CASE COMMENTARY: VISHAKA & ORS. V. STATE OF RAJASTHAN

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INTRODUCTION

Particularly in areas where legislative action is deficient, the Indian court has always served as a watchdog for protecting fundamental rights and guaranteeing justice. In the landmark case of *Vishaka & Ors. v. State of Rajasthan*¹, the Supreme Court took proactive measures to address the widespread problem of sexual harassment in the workplace. The Court set a precedent for defending women's rights in the workplace by establishing the Vishaka Guidelines in accordance with its jurisdiction under Article 32 of the Constitution.

FACTUAL BACKGROUND

The horrific experience of Bhanwari Devi, a grassroots social worker in Rajasthan, served as the impetus for this historic case. One of her responsibilities was to prevent underage weddings, but she encountered strong resistance from the local population. Because of her unrelenting dedication, powerful individuals brutally gang-raped her in an attempt to stop her advocacy. The accused's subsequent acquittal in the trial court highlighted structural shortcomings in the administration of justice. A group of organizations advocating for women's rights, referred to as "Vishaka," responded by bringing a Public Interest Litigation (PIL) before the Supreme Court. With an emphasis on the urgent, they aimed to defend constitutional rights² under Articles 14 (equality before the law), 15 (prohibition of discrimination), 19 (freedom to practice any profession), and 21 (protection of life and personal liberty).³

LEGAL ISSUES PRESENTED

1. Constitutional Violation: Does workplace sexual harassment violate the fundamental rights protected by Articles 14, 15, 19, and 21 of the Indian Constitution?

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¹ *Vishaka and others v State of Rajasthan and others* [1997] 6 SCC 241.

² Basu DD, *Commentary on the Constitution of India* (8th edn, LexisNexis 2007) vol 2, 1234.

³ Constitution of India, arts 14, 15, 19, 21.

2. Judicial Mandate in Legislative Vacuum: Can the Supreme Court create rules to handle and stop sexual harassment in the workplace without specific legislation?

3. Judicial Activism's Scope: How far may the judiciary get involved in creating laws that support gender justice and safeguard women's dignity in the workplace?

SUPREME COURT'S ANALYSIS

The Supreme Court acknowledged that gender equality and the right to a dignified existence are directly impacted by the threat of sexual harassment in the workplace. The Court looked to international tools, particularly the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)⁴, to which India is a signatory, after recognizing the legal gap in this area. According to the Court, international treaties may be useful in interpreting and expanding the reach of constitutional protections when they do not clash with national laws. The Court emphasized that sexual harassment is a blatant violation of women's fundamental rights to equality, non-discrimination, and personal liberty by incorporating these international standards.

JUDGMENT AND GUIDELINES ISSUED

The Supreme Court established the Vishaka Guidelines in a landmark ruling, outlining the obligations of institutions and employers in preventing and addressing sexual harassment. Until suitable legislation was passed, these rules, which had legal power behind them, required:

Employer's Duty: By implementing preventative measures and establishing redressal channels, institutions must guarantee a workplace free from sexual harassment. **Clarified Definition:** Unwelcome physical contact, requests for sexual favors, sexually suggestive comments, exposure to pornography, and any other unwanted sexually suggestive physical, verbal, or nonverbal behavior were all specifically included in the definition of sexual harassment. **Redressal Mechanism:** Establishing a Complaints Committee to fairly handle complaints, including a majority of women on the committee and a female chairperson, as well as an outsider with experience in law or a respectable non-profit.

Sensitization and Awareness: Frequent seminars and workshops to educate staff members on the consequences of sexual harassment and the channels for seeking redress. **Assurance of**

⁴ Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted 18 December 1979, entered into force 3 September 1981, 1249 UNTS 13.

Confidentiality: Preserving the complainant's privacy to shield them from possible stigma or reprisals. These guidelines established a consistent standard for protecting women's safety and dignity at work by being implemented in all workplaces, including those in the public and private sectors.

CRITICAL ANALYSIS

In the lack of a specific law, the Vishaka ruling demonstrates the Indian judiciary's proactive approach to tackling societal challenges, especially those that impact women's rights. The Supreme Court broadened the meaning of constitutional provisions to include rights against sexual harassment by referencing international agreements such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). In addition to addressing a pressing social issue, this strategy established a standard for upcoming legislative initiatives. However, the Vishaka Guidelines' effectiveness depended on how well they were applied in various organizations. Although they offered a strong structure, issues including institutional inertia, poor training, and ignorance made it difficult to apply them consistently. Many organizations, particularly those in the unorganized sector, either didn't know or didn't care.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013⁵ was the result of their efforts. The concepts established in the Vishaka ruling were formalized in this Act, which established a legal foundation for the prevention and resolution of sexual harassment in the workplace. It required companies to set up Internal Complaints Committees, provided comprehensive guidelines for submitting and handling complaints, and specified sanctions for noncompliance. In order to create a more comprehensive protective framework, the Act also expanded its application to include all establishments, including those in the unorganized sector.

In essence, the journey from the Vishaka Guidelines⁶ to the 2013 Act demonstrates the dynamic interplay between judicial activism and legislative action in India. The intervention of the judiciary forced legislative authorities to recognize and address the pressing issue of sexual

⁵ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 (India).

⁶ 'Vishaka Guidelines against Sexual Harassment at Workplace' (1997)

<https://www.indiacode.nic.in/bitstream/123456789/1969/1/1997SC3011.pdf> accessed 19 February 2025.

harassment in the workplace. A broader national commitment to upholding women's rights and ensuring their safe and equitable working conditions is reflected in this progress.

CONCLUSION

In the history of Indian jurisprudence, the Vishaka case is a seminal document that emphasizes the judiciary's critical function in defending fundamental rights and resolving social concerns when lawmakers fail to act. The rules sparked a social and political movement to create safer workplaces for women in addition to offering immediate relief. This case emphasizes how court actions can spur constructive change and how crucial it is to keep working to convert legal requirements into concrete social realities.