



## CASE COMMENTARY: VISHAKA & OTHERS V. STATE OF RAJASTHAN & OTHERS

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### ABSTRACT

*The case of Vishaka v. State of Rajasthan is a landmark judgment by the Supreme Court of India, laying down comprehensive guidelines to prevent sexual harassment of women at the Workplace. The case originated from a tragic incident involving Bhanwari Devi, a social worker, who was brutally gang raped while attempting to prevent a child marriage in a village. This horrifying event exposed the lack of legal safeguards for women facing harassment and violence in the course of their professional duties. The Supreme Court acknowledged the violation of women's fundamental rights and issued the 'Vishaka Guidelines' using the authority of Constitutional and International Law. The case gave quick relief to women who had faced such harassment and led to the creation of several legal provisions — the most important one being the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. This case also shows how domestic law and international standards like CEDAW are connected. It supports the idea that when domestic law is silent on an issue, the judiciary can rely on international agreements to protect fundamental rights. This Commentary explores the case's background, legal issues, judicial reasoning, and impact.<sup>1</sup>*

**Keywords:** Vishaka case, Workplace Harassment, Vishaka Guidelines, Bhanwari Devi.

### INTRODUCTION

In every woman, Safety and equality at the workplace are basic rights in any democratic country. But for a long time, Indian law did not have any specific rules to prevent or deal with sexual harassment at work. The case of Vishaka v. State of Rajasthan, decided in 1997,

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<sup>1</sup> Lawful legal, Case Analysis (14 jun 2025) <https://www.lawfullegal.in>

helped to fill this gap by giving important guidelines to protect women at the workplace. This Landmark case decision came in response to the brutal gang rape of Bhanwari Devi, a woman who was working with the Rajasthan government to prevent child marriages. Because of her efforts, she faced anger and opposition from powerful caste groups, which led to a terrible attack on her. The failure of the criminal justice system to protect her highlighted the urgent need for proper safety measures for women at work. A group of social activists and organizations, under the name Vishaka, filed a Public Interest Litigation (PIL) seeking preventive legal measures. The case turned into a constitutional moment when the Supreme Court upheld women's right to work with dignity and laid down enforceable guidelines for employers.<sup>2</sup>

### FACTS OF THE CASE

This tragic and powerful incident marked a turning point in the condition of working women in India and exposed many shortcomings, particularly legal failures, in the protection mechanisms that existed before 1997. Bhanwari Devi, a woman belonging to Bhateri village in Rajasthan, was a grassroots-level social worker employed under the Women's Development Programme initiated by the Government of Rajasthan. Her job involved spreading awareness about harmful social practices like child marriage and promoting gender equality in her rural community.<sup>3</sup> In 1992, while performing her official duty to prevent the marriage of a one-year-old girl from a dominant Gurjar family, Bhanwari Devi faced strong social resistance. As a result of her intervention, she was ostracized by the village, financially cut off, and publicly humiliated. On September 22, 1992, five men from the influential community brutally gang-raped her in front of her husband, as a form of retribution for standing up against child marriage. What made the situation even worse was the negligent and insensitive response of the authorities. The police delayed the investigation, and her medical examination was conducted after more than 50 hours, which violated standard procedures and weakened the evidence. Furthermore, important findings were omitted from the medical report, raising serious concerns about institutional bias and complicity. Despite the gravity of the crime, the trial court acquitted all the accused, citing a lack of evidence and procedural technicalities. This verdict was widely condemned and viewed as a gross miscarriage of justice, highlighting the inadequacy of the existing legal framework to deal with cases of sexual harassment and violence against women. The legal and systemic failure

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<sup>2</sup> Lawful legal, Case Analysis vishaka v. state of Rajasthan (14 June 2025) <https://www.lawfullegal.in>

<sup>3</sup> Ipleaders blog, vishaka & ors v. state of Rajasthan & ors (1997) (15 Jun 2025) <https://www.blog.ipleaders.in>

in Bhanwari Devi's case acted as a catalyst for nationwide outrage. Several women's rights organizations and activists came together and filed a Public Interest Litigation (PIL) in the Supreme Court of India under Article 32 of the Constitution, which allows citizens to seek protection of their fundamental rights. The case was filed under the banner of 'Vishaka and Others', which included multiple NGOs, legal professionals, and social activists. They argued that the right to a safe workplace, free from sexual harassment, is part of a woman's fundamental right to equality (Article 14), non-discrimination (Article 15), the right to practice any profession (Article 19(1) (g)), and the right to life and dignity (Article 21). In response, the Supreme Court of India delivered the historic Vishaka judgment in 1997, where it recognized the absence of specific legislation on the subject and issued the Vishaka Guidelines. The court also emphasized that in the absence of domestic law, international treaties such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) could be relied upon to interpret constitutional guarantees. This landmark judgment later led to the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, which gave statutory force to the principles laid down in Vishaka.<sup>4</sup>

### LEGAL ISSUES RAISED

- Is making rules and guidelines necessary to stop sexual harassment in the workplace?<sup>5</sup>
- Does sexual harassment at the workplace violate fundamental rights under Articles 14, 15, 19(1), and 21 of the Constitution?
- When there was no law about sexual harassment at work, was it right for the courts to step in and create the Vishaka Guidelines, which are mandatory and meant to protect women's rights?
- Does an employer have a basic duty to provide a safe workplace and prevent sexual harassment so that a woman's right to work is protected and respected?
- If there are no local laws, can international treaties like CEDAW help the courts interpret and apply the rights guaranteed in the Constitution?<sup>6</sup>

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<sup>4</sup> Lawful legal, Case Analysis vishaka v. state of Rajasthan (15 June 2025) <https://www.lawfullegal.in>

<sup>5</sup> Drishti judiciary, vishaka & ors v. state of Rajasthan (1997) (15 jun 2025) <https://www.drishtijudiciary.com>

<sup>6</sup> Lawful legal, Case Analysis vishaka v. state of Rajasthan (15 jun 2025) <https://www.lawfullegal.in>

## LAWS INVOLVED

- Articles 14, 15, 19 (1) (g) and 21 of the Indian Constitution, 1950<sup>7</sup>
- Convention on the Elimination of All Forms of Discrimination, 1979

## ARGUMENTS OF THE PARTIES

### Petitioners Arguments

The women's rights groups and NGOs, under the name "Vishaka," presented the following arguments in their public interest litigation-

**Violation of Fundamental Rights:** The petitioners argued that incidents of sexual harassment—such as the case of Bhanwari Devi—constitute a direct violation of a woman's fundamental rights. These include the right to equality (Article 14), the right to life with dignity and personal security (Article 21), and the right to practice any profession or carry on any occupation, trade, or business (Article 19(1) (g)). The lack of specific protective legislation left women exposed and without an effective remedy for such grievances.

**Need for Specific Guidelines:** The petition highlighted the inadequacy of existing legal provisions—such as those in the Criminal Procedure Code, Indian Penal Code, and the Indian Evidence Act—in addressing workplace sexual harassment. Therefore, the petitioners requested that the court lay down comprehensive guidelines to serve as an interim legal framework until specific legislation could be enacted.

**Reliance on International Norms:** The petitioners emphasized that since India is a signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), it has committed to safeguarding women's rights. Hence, constitutional protections must be interpreted in light of international standards to ensure effective protection and redress for victims of sexual harassment.<sup>8</sup>

### Respondent Arguments

In this exceptional situation, the respondents, represented by the Solicitor General, supported the petitioners' plea for judicial intervention and presented the following arguments-

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<sup>7</sup> Posh at work, revisiting Vishaka v. state of Rajasthan (15 jun 2025) <https://www.poshatwork.com>

<sup>8</sup> Lawful legal, Case Analysis vishaka v. state of Rajasthan (15 jun 2025) <https://www.lawfullegal.in>

**Judicial Duty in the Absence of Legislation:** The respondents agreed that in the absence of specific legislation, it is the judiciary's responsibility—under Article 32 of the Constitution—to step in and provide necessary protections. They supported the framing of guidelines to ensure a safe working environment for women until formal legal provisions are enacted.

**Employer Accountability:** It was argued that employers have both a legal and moral obligation to ensure a safe workplace. The respondents stated that the government must mandate the establishment of redressal mechanisms and committees to promote awareness, prevent harassment, and respond promptly to complaints.

**Alignment with International Best Practices:** The respondents further argued that aligning India's legal framework with international best practices would reinforce the protection of women's rights. Integrating international conventions into domestic law would strengthen the foundation for future legislation and enhance accountability.

## JUDGMENT OF THE CASE

In its landmark judgment, the Supreme Court of India ruled that sexual harassment at the workplace is a violation of women's Fundamental Rights under Articles 14, 15, and 21 of the Indian Constitution. As there was no specific law on the issue at the time, the Court introduced important guidelines to prevent and address sexual harassment at work. These guidelines, known as the "Vishaka Guidelines," were created to fill the legal gap and later became the basis for the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.<sup>9</sup>

### Vishaka Guidelines-

The judgment in *Vishaka & Others v. State of Rajasthan* led to the introduction of the Vishaka Guidelines, meant to provide immediate protection to women at the workplace until a formal law was enacted.

**Preventive Measures:** Employers were required to set clear policies against sexual harassment and conduct regular awareness sessions.

**Complaint Mechanism:** Internal complaints committees, preferably led by a woman, had to be set up to handle and investigate complaints.

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<sup>9</sup> Writinglaw, *vishaka vs. state of Rajasthan-case explained in simple words* (15 jun 2025) <https://www.writinglaw.com>

**Prompt Action:** Employers were expected to act immediately on complaints, involve law enforcement if needed, and ensure no retaliation against the complainant.

**Definition of Harassment:** The guidelines defined sexual harassment to include unwelcome advances, physical contact, sexual remarks, and behavior that creates a hostile work environment.

**Penalties:** Employers were advised to impose disciplinary actions on offenders.

These guidelines are aimed to ensure women's safety, dignity, and equal rights in the workplace.<sup>10</sup>

### SIGNIFICANCE OF THE JUDGMENT

- First legal recognition of workplace sexual harassment as a violation of fundamental rights.
- The judiciary filled a legislative vacuum through progressive interpretation.
- Empowered women with enforceable rights.
- Inspired the Sexual Harassment of Women at Workplace Act, 2013.
- Encouraged gender-sensitive workplace reforms.

### THE SEXUAL HARASSMENT AT WORKPLACE ACT (2013)

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, marked a major legal advancement, introduced seventeen years after the Vishaka Guidelines. While it builds upon the foundational framework laid down by the Vishaka case, the Act significantly broadens its scope and application. It provides a more inclusive definition of "aggrieved woman," covering women of all ages and employment statuses, and applies to both organized and unorganized sectors across various types of workplaces. The Act requires establishments with ten or more employees to set up an Internal Complaints Committee (ICC), which must include a presiding officer (a senior woman employee), an external member to ensure impartiality, and two other members. For workplaces with fewer than ten employees or in cases where the complaint is against the employer, a Local

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<sup>10</sup> Lawbhoomi, Vishaka & Ors v. state of Rajasthan (15 jun 2025 ) <https://www.lawbhoomi.com>

Complaints Committee (LCC) is to be constituted, ensuring protection and redressal for women in the unorganized sector as well.<sup>11</sup>

## CRITICAL ANALYSIS OF THE CASE

In 1997, Bhanwari Devi faced sexual harassment and discrimination while doing her job, largely due to the prevailing societal patriarchy. At the time, there were no specific laws in place to protect women from sexism and other forms of discrimination, which led many women to leave the workforce. The case *Vishaka v. State of Rajasthan & Others* became a landmark judgment that resulted in the introduction of the “Vishaka Guidelines”—a set of rules aimed at preventing workplace harassment of women. These guidelines encouraged employers to create a safe and welcoming work environment for women. They recommended forming an anti-harassment committee in every workplace, led by a woman and including a representative from an NGO, to address cases of sexual harassment. After investigating a complaint, the committee would advise the employer on appropriate action. Sexual harassment includes a wide range of unwelcome behavior such as physical contact, advances, demands for sexual favors, exposure to pornography, and sexually suggestive remarks or images. These guidelines were carefully drafted to align with Indian law, taking into account various international treaties and legal standards. The Vishaka Guidelines are consistent with the principles of the Protection of Human Rights Act, 1993, as the case highlighted serious violations of women’s fundamental rights. They aim to make the workplace safer and more equal by removing gender-based discrimination and harassment.<sup>12</sup>

## CONCLUSION

Sexual harassment of women at the workplace occurs frequently in India. If strict action is not taken against this crime, it will directly affect the participation of women in the workforce and, in turn, negatively impact the country’s economic growth. The government should implement strict laws to prevent sexual harassment in the workplace, recognizing that women are an important part of the nation’s working population. This issue must be addressed to protect the dignity and respect of women. Institutions and organizations should adopt new approaches and strategies to safeguard their women employees from this social evil. The

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<sup>11</sup> Lawctopus, *vishakha v. state of rajasthan: law on sexual harassment of women at workplace* (15 jun 2025) <https://www.lawctopus.com>

<sup>12</sup> Jus scriptum, *VISHAKA VS STATE OF RAJASTHAN: COMPARATIVE ANALYSIS OF INDIA* (15 jun 2025) <https://www.juscriptumlaw.com>

primary goal of enforcing this right is to promote gender equality in the workplace and ensure that there is no discrimination or unfair treatment among employees.<sup>13</sup>

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<sup>13</sup> Legal service India , case analysis- vishaka and other v/s state of rajasthan (15 jun 2025)  
<https://www.legalserviceindia.com>