



## **Adoption of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressed) Act, 2013**

The Parliament of India has passed the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013* (hereinafter referred to as the Act) with the object of providing protection against sexual harassment of women at the workplace. The Act provides for the redressal of complaints of sexual harassment. This will also make India compliant to the Convention on the Elimination of all Forms of Discrimination against Women (UN Entity for Gender Equality and the Empowerment of Women).

One of the requirements of the Act is the constitution of an Internal Complaints Committee (ICC). The role of the ICC *inter alia* includes the following:

- Receive and consider complaints of sexual harassment at workplace from employees.
- Attempt conciliation to settle the matter between the complainant and the respondent.
- Facilitate settlement of any matters arising out of the complaints.
- Inquire into complaints made by the aggrieved women.
- Furnishing a report upon completion of enquiry.
- Such other matters prescribed and arising under the Act.

The Act stipulates as follows regarding the constitution of the ICC:

- Presiding officer who shall be a woman employed at a senior level at the workplace from amongst the employees. The presiding officer shall have a maximum term not exceeding 3 years.
- Two members from amongst the employees preferably committed to the cause of women or who have experience in social work or have legal knowledge.
- One member from amongst non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.
- At least half of the committee must comprise women members.

### **1. Policy**

1.1 Indian Grameen Services (IGS), '*hereinafter referred to as the Company*', is an equal employment opportunity employer and is committed to creating a healthy working environment that enables employees to work without fear of prejudice, gender bias and



sexual harassment. IGS believes that all people working in the Company have the right to be heard and treated with dignity.

1.2 In pursuance of the Act and the rules framed there under, the Company hereby adopts the following procedure for determining complaints filed to the Indian Grameen Services' Internal Complaints Committee (*IGS-ICC, hereinafter referred to as the Committee*) constituted under the Act. The procedure complies with the basic principles of natural justice and fair play and shall be adhered to in all complaints, though, in individual complaints, for reasons to be stated in writing, the Committee reserves the right to make exceptions to the procedure stated hereunder.

## **2. Definition and Scope**

**'Associate'** means any person on the rolls of the Company including those on deputation, contract, temporary, part time or working as consultants.

**'Female member'** includes female associates, members of communities with whom IGS works and guests/visitors at IGS.

**'Extended Workplace'** includes office premises and rural/urban areas where IGS works.

2.1 Sexual harassment would mean and include any of the following (in addition to the meaning provided in section 2 (n) of the Act).

- I. Unwelcome, undesirable sexual advances, requests or demand for sexual favours, either explicitly or implicitly by a male associate to a female member, in return for employment, promotion, inclusion, examination or evaluation of a female member working with the Company.
- II. Unwelcome sexual advances involving verbal, non-verbal, or physical conduct such as sexually coloured remarks, jokes, letters, phone calls, e-mail, gestures, showing of pornography, lurid stares, physical contact or molestation, stalking, sounds, display of pictures, signs, verbal or non-verbal communication by a male associate which offends a female member's sensibilities and affects her performance.
- III. Eve teasing, innuendos and taunts, physical confinement by a male associate of a female member, against her will and likely to intrude upon her privacy.
- IV. Any act or conduct by a male associate in authority which creates an environment at the workplace that is hostile or intimidating to female members.



- V. Conduct of such an act by a male associate at workplace or extended workplace or outside in relation to a female member working in the Company, during the course of employment.
- VI. Any unwelcome gesture having sexual overtones, by a male associate towards a female member.

### **3. Working Rules of Indian Grameen Services' Internal Complaints Committee (IGS-ICC)**

#### **3.1 Responsibilities of IGS-ICC shall include the below:**

- I. Conducting regular meetings and maintaining minutes.
- II. Constituting the Fact-Finding Team (FFT).
- III. Ensuring rigorous documentation.
- IV. Maintaining a tracker that will reflect status of all case investigations at one glance.
- V. Organising and coordinating training programmes for FFT, the Committee on gender sensitivity, sexual harassment and violence, and legal issues of Sexual Harassment.
- VI. Coordinating with complainants, respondents, witnesses and members of FFT to fix meetings.
- VII. Actuating abstention/ temporary suspension from office for an employee to facilitate fact finding.
- VIII. Following-up to ensure decision closures.
- IX. Submitting annual reports regarding the Committee's proceedings to the Company's Board.
- X. Submitting annual reports regarding actual cases of sexual harassment at the workplace to the relevant government department, in accordance with government regulation
- XI. Dealing with Human Resource Department of another company in an inter-company grievance case
- XII. Seeking advice from internal legal department or professional law firms, if need be.

#### **3.2 Fact Finding Team (FFT)**

- I. The FFT will be a three member team formed by the Committee's Chairperson on a need basis as and when a complaint is filed, of whom at least one will be a Committee member. Majority of persons on the team will be female.
- II. The FFT will file a report based on the inquiry with the Committee within the prescribed timeline. In case, extra time is needed, express permission must be sought from the Committee Chairperson.
- III. The FFT must ensure that the report filed is comprehensive and accurate.



### **3.3 Procedures and Processes for complaints redressal**

3.3.1 Any aggrieved woman may make in writing, a complaint of sexual harassment at work place to the Committee, within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident. The written complaint should be submitted to the Committee or any of its members along with list of witnesses and supporting documents. Supporting documents and list of witnesses may be submitted to the Committee at a later stage during the proceeding. Provided that where such complaint cannot be made in writing, the Presiding Officer or any other member of the Committee shall render all reasonable assistance to the woman for making the complaint in writing. Provided further that the Committee for the reasons to be recorded in writing, can extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the aforesaid period.

3.3.2 Any complaint received by the members should be immediately forwarded to the Presiding Officer, and this must be notified to other committee members at the earliest and not later than 3 days and a meeting should be called for discussing the matter.

3.3.3 The Committee shall discuss and decide on its jurisdiction to deal with the case or reject the complaint prima facie and recommend to the Company that no action is required to be taken in the matter.

3.3.4 Notice shall be issued to the respondent within 7 working days of receipt of the complaint and 15 working days shall be given for submission of reply (along with the list of witnesses and documents).

3.3.5 The Committee will provide assistance to the aggrieved woman, if she so chooses, to file a police complaint in relation to an offence under Indian Penal Code.

3.3.6 The Committee may, before initiating an inquiry, at the request of the aggrieved woman, take steps to settle the matter between her and the respondent through conciliation.

3.3.7 No monetary settlement shall be made as the basis of conciliation. Where a settlement has been arrived at, the Committee shall record the settlement so arrived and forward the same to the Company for necessary compliance.

3.3.8 The Committee shall provide the copies of the settlement as recorded under (7) to the aggrieved woman and the respondent. Where a settlement is arrived at, no further inquiry shall be conducted by the Committee.



3.3.9 If conciliation is found to be not feasible, notice will be issued to both parties for hearing.

3.3.10 The Committee may direct the Human Resource (HR) Head and respective Reporting Officer to ensure the safety and protection of the aggrieved woman if and when required.

3.3.11 As an interim measure, the Committee may recommend

- a) the transfer of the aggrieved woman or the respondent to another division or location as deemed fit by the Committee.
- b) grant leave to the aggrieved woman upto a period of three months
- c) restrain the respondent from exercising any administrative authority or supervision or appraisal of the aggrieved woman.
- d) grant such other relief to the aggrieved woman as the case may require.

3.3.12 The Committee shall proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent considering sexual harassment as gross misconduct.

3.3.13 The Presiding Officer shall convene the first hearing of the enquiry. The respondent, the aggrieved woman, and the witnesses shall be intimated at least 15 working days in advance in writing of the date, time and venue of the enquiry proceedings. The subsequent proceedings may be on a day to day basis, to be decided by the Committee.

3.3.14 The Committee shall provide reasonable opportunity to the aggrieved woman and the respondent for presenting and defending her/his case.

3.3.15 The Committee may at any time during the enquiry proceedings, preclude the face-to face examination of the respondent and the aggrieved woman and/or their witnesses keeping in view the need to protect the aggrieved woman or the witnesses from facing any serious health and/or safety problems.

3.3.16 The Committee may call any person to appear as a witness if it is of the opinion that it shall be in the interest of justice. The aggrieved woman/respondent has to submit the written reply before the committee within the specified time given.

3.3.17 The Committee shall have the right to summon, as many times as required, the respondent, aggrieved woman and/or any witnesses for the purpose of supplementary testimony and/or clarifications.



3.3.18 The Committee shall have the power to summon any official papers or documents pertaining to the aggrieved woman as well as the respondent.

3.3.19 The past sexual history of the aggrieved woman shall not be probed into as such information shall be deemed irrelevant to a complaint of sexual harassment.

3.3.20 The Committee shall have the right to terminate the enquiry proceedings and to give an ex-parte decision on the complaint, should the respondent fail, without valid ground, to be present for three consecutive hearings convened by the Presiding Officer.

3.3.21 The aggrieved woman and the respondent, or any one person on her/his behalf, shall have the right to examine written transcripts of the recordings with the exclusion of witnesses' names and identities. Any person nominated by the aggrieved woman and/or the respondent on her/his behalf shall be (only) a Company associate. No person who has been found guilty of sexual harassment shall be accepted as a nominee. The aggrieved woman/respondent should inform the Presiding Officer specifically if they wish to exercise this right. The Presiding Officer shall allow access to such documents on a specific date to be intimated at least two days in advance to each of the parties concerned. At no point in time, however, can the concerned parties take these documents outside IGS' office(s).

3.3.22 The aggrieved woman and the respondent shall be responsible for presenting their witnesses before the Committee. However, if the Committee is convinced that the absence of either of the parties to the disputes is on valid grounds, the Committee shall adjourn that particular meeting of the Committee for a period not exceeding five days. The meeting so adjourned shall be conducted thereafter, even if the person concerned fails to appear for the said adjourned meeting without prior intimation/valid ground.

3.3.23 All proceedings of the Committee shall be recorded in writing. The record of the proceedings and the statement of witnesses shall be endorsed by the persons concerned as well as the committee members present in token of authenticity thereof. In case the minutes cannot be reduced in writing the same day, an audio recording of the proceedings may be made, and the written proceedings will be authenticated on a next available opportunity.

3.3.24 If the aggrieved woman desires to tender any documents by way of evidence, the Committee can supply true copies of such documents to the respondent. Similarly, if the respondent desires to tender any documents in evidence, the Committee shall supply true copies of such documents to the aggrieved woman.

3.3.25 In the event the Committee thinks that supplementary testimony is required, the Presiding Officer shall forward to the persons concerned a summary of the proceedings and



allow for a time period of seven days to submit such testimony, in person or in writing, to the Committee.

3.3.26 The aggrieved woman and the respondent shall have the right of cross-examination of all witnesses. However such cross-examination shall be conducted in the form of written questions and responses via the Committee only. The respondent shall have no right to directly cross-examine the aggrieved woman or her witnesses.

3.3.27 The respondent/aggrieved woman may submit to the Committee, a written list of questions that he/she desires to pose to the aggrieved woman/witness. The Committee shall retain the right to disallow any questions that it has reason to believe to be irrelevant, mischievous, slanderous, derogatory or gender-insensitive.

3.3.28 Amicus Curiae ('friend of the court') can be called in for helping the committee if and when required.

3.3.29 After concluding its investigation, the Committee shall submit a detailed reasoned report to IGS.

3.3.30 If the Committee finds no merit in the allegations, it shall report the same IGS.

3.3.31 In the event the Committee finds that the allegation(s) against the respondent have been proved, it shall recommend the nature of action to be taken by IGS. The following actions may be recommended:

- a. A written apology
- b. Warning
- c. Reprimand or censure
- d. Withholding of promotion
- e. Withholding of pay rise or increments
- f. Undergoing a counselling session
- g. Carrying out of community service
- h. Terminating the respondent from service
- i. Any other punishment according to the service rules applicable to the respondent

3.3.32 When the Committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved women or any other person making the complaint



has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the Company to take action against such falsification.

3.3.33 Nothing precludes the Company from taking cognizance of any new fact or evidence which may arise or be brought before it during the pendency of the inquiry proceedings or even after the communication of the findings to appropriate IGS management.

3.3.34 If the allegation(s) is/are proved against the respondent, the Committee may direct IGS to ensure the payment of compensation to the aggrieved woman by the respondent. The determination of compensation to the aggrieved woman shall be decided based on the following facts:

- i. The mental trauma, pain, suffering and emotional distress caused to the aggrieved woman.
- ii. The loss of career opportunity due to the incident of sexual harassment.
- iii. Medical expenses incurred by the victim for physical or psychiatric treatment
- v. Feasibility of such payment in lumpsum or in instalments

3.3.35 IGS will file a compliance report to the Committee within 30 days of issuance of such recommendation. The report of the Committee on the complainant is not to be filed in the HR docket of the employee but to be kept under lock and key with the Committee's Chairperson ensuring restricted access. However a record may be made in the HR docket under a specific code (X).

3.3.36 The Committee shall have the necessary powers to take suo motu notice of incidents of sexual harassment and/or gender injustice in the Company and act against the same in such manner as it deems appropriate.

3.3.37 The identity of the aggrieved woman, respondent, witnesses and proceedings of the Committee and its recommendations and the action taken by the Company shall not be published, communicated or made known to the public, press or media in any manner and it will be outside the purview of the Right to Information Act, 2005.

3.3.38 No legal practitioner will be allowed to represent either the aggrieved woman or the respondent in proceedings before the Committee.

3.3.39 The Committee has the powers of a civil court in the following cases

- i. Summoning and enforcing the attendance of any person related to the incident.





ii. Requiring the discovery and production of any documents

iii. Any other matter relating to the incident as decided by the Committee from time to time.

1.3.40 The aggrieved woman or respondent may prefer an appeal to the competent authority.

#### **4. Third Party Complaints**

All complaints in which the accused is a non-employee/third party associate of the Company or member of a community served by the Company will be pursued for redressal on behalf of the employee by the Company. All complaints received by the Company from a non-employee/third party against an employee of the Company will also be dealt with on the same basis as in-house complaints. For all complaints with non-employee/third party associates involved the HR Head of IGS shall work in close conjunction with the Committee Chairperson.