



IFCI INFRASTRUCTURE DEVELOPMENT LIMITED

POLICY ON POLICY ON PREVENTION, PROHIBITION AND REDRESSAL OF SEXUAL HARASSMENT OF WOMEN AT WORKPLACE

(As amended upto June 18, 2020)

**Policy on Prevention, Prohibition and Redressal of Sexual
Harassment of Women at Workplace**

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Policy on Prevention, Prohibition and Redressal of Sexual Harassment of Women at Workplace

1. Background

1.1. A comprehensive legislation focusing on prevention, prohibition of sexual harassment as well as providing a redressal mechanism has been enacted by the Government of India in the name and style of "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as the "Act"). Government of India has also made rules called "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (hereinafter referred to as "Rules"). The Ministry of Women and Child Development, Government of India vide Gazette Notification dated December 9, 2013 has notified that the provisions of the said Act shall come into force with effect from December 9, 2013. The Act and Rules have been enacted framed on the basis of guidelines Issued by the Hon'ble Supreme Court of India in the case of Vishaka vs. State of Rajasthan on the subject.

1.2. In terms of Rule 13 of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013, an employer is under obligation to formulate and widely disseminate an internal policy for prohibition, prevention and redressal of sexual harassment at the workplace. In compliance of the said provisions, the policy in the name of "Policy on Prevention, Prohibition and Redressal of Sexual Harassment of Women at Workplace" (hereinafter referred to as "Policy") has been framed for IFCI Infrastructure Development Ltd (hereinafter referred to as "IIDL") a company established under the Companies Act, 1956, to deal with prevention, prohibition and redressal of sexual harassment at work place. As prescribed in the Rules, the Policy shall be part and parcel of the Service Rules of IIDL and treated as an addendum thereto.

2. Definition

2.1. All the terms and definitions used In the Policy including those like aggrieved women, chairperson, employee, employer, internal committee, member, presiding officer, respondent, sexual harassment and workplace, shall have the same definition and meaning as defined in "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013." and "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013. However, some of the definitions are given as under:

(a) "**Aggrieved Woman**" means - (i) in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent; (ii) in relation to a dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

(b) "**Appropriate Government**" means - (i) in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided

directly or indirectly (A) by the Central Government or the Union Territory administration, the Central Government; (B) by the State Government; (ii) in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;

(c) "**Chairperson**" means the Chairperson of the Local Complaint Committee nominated under sub section (1) of Section 7 of the Act;

(d) "**Complainant**" means the aggrieved woman who complains for incident of sexual harassment;

(e) "**Employee**" means any person employed at a workplace for any work on regular, temporary, ad hoc or daily wages basis, either directly or through an agent, including a contractor, with or without knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or call by any other such name;

(f) "**Employer**" means - (i) in relation to any department, organization, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organization, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority as the case may be, may by an order specify in this behalf; (ii) in any workplace not cover under sub- clause (i) any person responsible for management, supervision and control of the workplace; (iii) In relation to workplace covered under sub-clause (i) and (ii), the person discharging contractual obligations with respect to his or her employees; (iv) in relation to a dwelling place or house, a person or household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker;

(9) "**Internal Committee**" means an Internal Complaints Committee (ICC) constituted under Section 4 of the Act;

(h) "**President Officer**" means the Presiding Officer of the Internal Complaint Committee nominated under sub-section (2) of the Section (4) of the Act;

(i) "**Respondent**" means a person against whom the aggrieved woman has made a complaint under Section 9 of the Act;

(j) "**Sexual Harassment**" includes anyone or more of the following unwelcome acts or behaviour (whether directly or by implication) namely - (i) physical contact and advances; or (ii) a demand or request for sexual favours; or (iii) making sexually coloured remarks; or (iv) showing pornography; or (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

Further, the following circumstances, among other circumstances, if it occurs or is present In relation to or concerned with any act or behavior of sexual harassment may amount to sexual harassment:

- Implicit or explicit promise of preferential treatment in her employment; or

- Implied or explicit threat of detrimental treatment in her employment; or
- Implied or explicit threat about her present or future employment status; or
- Interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- Humiliating treatment likely to affect her health or safety.

(k) "**Workplace**" includes (I) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society; (ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service; (iii) hospitals or nursing homes; (iv) any sports institute, stadium, sports complex or competition or games venue. whether residential or not used for training, sports or other activities relating thereto; (v) any place visited by the employee arising out of or during the course of employment including transportation provided by the employer for undertaking such journey; (vi) a dwelling place or a house;

(I) "**Unorganized Sector**" in relation to a workplace means an enterprise owned by Individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than 10 (ten).

3. Prevention and Prohibition of Sexual Harassment at Workplace

3.1 It shall be endeavour of IIDL to ensure that no female employee is subjected to sexual harassment at any workplace. IIDL shall provide equal employment opportunities, disregarding age, disability, gender, race, color, religion, sexual orientation, and is committed to the creation of a healthy working environment at work place enabling employees to work without fear of prejudice, gender bias and sexual harassment and with the right to be treated with dignity. It shall be endeavour of IIDL to:

- i. Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
- ii. Treat sexual harassment as misconduct under the staff rules and initiate action for such misconduct;
- iii. Provide assistance to the female employees if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in-force;
- iv. Sexual harassment at the work place shall be treated as a grave offence as defined in under the Act and Rules.

4. Constitution of Internal Complain Committee

4.1 In terms of Section 4(2) of the Act, to deal with cases of sexual harassment at workplace in accordance with the Acts and Rules, the Internal Complaints Committee (ICC) shall be constituted.

4.2 The ICC shall consist of the following members to be nominated by IIDL:

- i. a Presiding Officer who shall be a woman employed at a senior level at IIDL from amongst the employees of IIDL;
- ii. Not less than 2 (two) members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;
- iii. 1 (one) member from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.

5. Tenure of the Internal Complain Committee

5.1 In term of Section 4(3) of the Act, the Presiding Officer and every member of the ICC shall hold office for a period not exceeding 3 (three) years from the date of nomination as member.

6. Complaint Mechanism

6.1 Any aggrieved woman employee may make, in writing, a complaint of sexual harassment to the Internal Complaint Committee (ICC) within a period of 3 (three) months from the date of incident and in case of series of incidents, within a period of 3 (three) months from the date of the last incident. Provided further that the ICC, for the reasons to be recorded in writing, extend the time limit not exceeding 3 (three) months, if it is satisfied that the circumstances were such which prevented the woman employee from filing a complaint within the said periods;

6.2 The Presiding Officer or any Member of the ICC may render reasonable assistance to the person for making complaint in writing, in case they are unable to do so.

6.3 For the purpose of the above, where the aggrieved woman employee is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person may make a complaint to the ICC;

6.4 All the cases of sexual harassment received by ICC shall be dealt in accordance with procedures as prescribed in this policy and also in accordance with the provisions of the Act and Rules referred to above,

7. Manner of inquiry into complaint

7.1 Subject to the provisions of Section 11, at the time of the complaint, the complainant shall submit to ICC, 6 (six) copies of the complaint alongwith supporting documents and name and addresses of the witnesses.

7.2 On receipt of the complaint, the ICC shall send 1 (one) of the copies received from the aggrieved woman employee to the respondent within 7 (seven) working days.

7.3 The respondent shall file his reply to the complaint alongwith his list of documents and name and addresses of the witnesses within a period of not exceeding 10 (ten) working days from the date of receipt of the document(s) in regard to the complaint.

7.4 ICC shall make inquiry into the complaint in accordance with the principles of natural justice,

7.5 ICC shall have right to determine the inquiry proceedings or to given an ex- party decision on the complaint, if the complainant or respondent falls, without sufficient cause, to present herself or himself for 3 (three) consecutive hearings convened by the Chairperson or Presiding Officer as the case may be. Provided that such ex-party order may not be passed without giving a notice in writing 15 (fifteen) days in advance, to the party concerned,

7.6 The parties shall not be allowed to bring in any legal practitioner to present them in their case at any stage of the proceedings before the ICC.

7.7 In conducting the inquiry, a minimum of 3 (three) members of the ICC including the Presiding Officer or the Chairperson, as the case may be shall be present.

8. Conciliation

8.1 The ICC may before initiating an enquiry, and at the request of the aggrieved woman employee, take steps to settle the matter through conciliation. However, ICC shall ensure that:

- i. Monetary settlement will not be made as a basis of conciliation; and
- ii. Whether a settlement has been arrived, the settlement terms shall be signed by both the parties and they shall be provided with a copy of the settlement

8.2 Where, a settlement is arrived as mentioned above, no further inquiry shall be conducted by the ICC. However, the Aggrieved Woman can further refer the same to the ICC for redressal if the terms of the settlement have not been complied with.

9. Action during pendency of inquiry

9.1 During the pendency of an inquiry, on a written request made by the aggrieved woman, the ICC may recommend to the management of IIDL to:

- a. Transfer the aggrieved woman or the respondent to any other workplace; or
- b. Grant leave to the aggrieved woman upto a period of 3 (three) months. The leave granted under this section shall be in addition to the leave she would be otherwise entitled;
- c. Grant such other relief to the aggrieved woman as may be prescribed by the ICC.

10. Inquiry Report

10.1 On completion of an Inquiry, the ICC shall provide a report of its findings to the management of IIDL within a period of 10 (ten) days from the date of completion of the inquiry and such report be made available to the concerned parties.

11. Action for sexual harassment on the recommendation of ICC

11.1 If the ICC arrives at a conclusion that the allegations against the respondent have not been proved, it shall recommend to the management of IIDL that no action is required to be taken in the matter.

11.2 Contrary to the above, In case the ICC arrives at the conclusion that the allegations against the respondent have been proved, it shall recommend to the management of IIDL to (i) take any action including a written apology/ warning, reprimand or censure, withholding of promotion/ withholding of pay rise or increments, terminating the respondent from service or undergoing a counselling session or carrying out community service for sexual harassment as a misconduct In accordance with the provisions of the staff rules applicable to the respondent (ii) deduct, notwithstanding anything in the staff rules applicable to the respondent, from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the aggrieved woman or her legal heir(s)/ as it may determine in accordance with the provisions of the Act and Rules referred herein above.

12. Action for false complaints

12.1 In the event, the Committee, after a detailed fact-finding exercise, finds that the complaint does not fall under the purview of Sexual Harassment as defined under the Act/ Rules or that the complaint does not constitute an offence of sexual harassment, the complaint shall be dropped recording the reasons of the drop page thereof and a copy thereof shall be delivered to the complainant/ defendant and Head of Personnel/ HR Department of IIDL. However/ in case the complaint is found to be false, malicious and otherwise dropped or the complainant has produced forged evidences, the complainant shall, if deemed fit, be liable for appropriate disciplinary action by the management In accordance with the staff rules applicable to her.

13. Appeal

13.1 Any person aggrieved from the recommendations made by ICC or non-implementation of such recommendations may prefer an Appeal to the Managing Director.

13.2 In case the Managing Director is one of the party then aggrieved person may prefer an Appeal to the Board of Directors.

13.3 The Appeal will be decided/ disposed in accordance with the staff rules/ staff regulations of IIDL.

14. Awareness

14.1 Organize workshops and awareness programmes at regular intervals for sensitizing the employees with provisions of the Acts/ Rules, and orientation programmes, seminars, capacity building and skill building programmes for the members of ICC;

14.2 Circulate the names and contact details of the Presiding Officer and members of the ICC;

14.3 Create awareness of the right of women employees in this regard by prominently notifying and displaying the guidelines at prominent places;

14.4 Allow women employees to raise the issue of sexual harassment at work place through personal interview, orderly rooms, welfare meetings etc.

15. Effective date

15.1 The Policy for Prevention, Prohibition and Redressal of Sexual Harassment of Women at Workplace is effective from February 01, 2016 i.e. the date adoption of the same by the Board of IIDL.

16. Miscellaneous

16.1 The Policy is Indicative in nature. The detailed description has been given in the Act and Rules. If there is any ambiguity or interpretation of any clause of the Policy, "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013" and "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013", will have overriding effect.
