

Bill No. CXI of 2022

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE
(PREVENTION, PROHIBITION AND REDRESSAL)
AMENDMENT BILL, 2022

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BILL

further to amend the Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

1.(1) This Act may be called the Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Amendment Act, 2022.

Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

14 of 2013. **2.** In the Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as the principal Act),—

General.

10 (a) for the words "District Officer", wherever they occur in the principal Act, the words "District Judge", shall be substituted;

(b) for the words "Local Complaints Committee" or "Local Committee", wherever they occur in the principal Act, the words "Employment Tribunal", shall be substituted.

Substitution of Section 6.

3. For section 6 of the principal Act, the following new section shall be substituted, namely;—

Constitution and jurisdiction of the Employment Tribunal.

"6. (1) Every District Judge shall constitute in the district concerned, a tribunal to be known as the "Employment Tribunal" to receive complaints of sexual harassment from establishments where Internal Committee has not been constituted or the Internal Committee or aggrieved person directly and such complaints would be considered as legal trials.

(2) Every District Judge shall designate one nodal officer in every block, taluka and tehsil in rural or tribal area to receive complaints and forward the same to the concerned Employment Tribunal within a period of seven days.

(3) The jurisdiction of the Employment Tribunal shall extend to the areas of the district where it is constituted."

Substitution of Section 7.

4. For section 7 of the principal Act, the following new section shall be substituted, namely;—

Composition, tenure and other terms and conditions of the Employment Tribunal.

"7. (1) The Employment Tribunal shall consist of the following members to be nominated by the collegium of the concerned District Court in a manner as may be prescribed, namely;—

(a) a Chairperson to be nominated from amongst the retired female judges of the District Court;

(b) One retired judge to be nominated from amongst the retired judges of District Court;

(c) one member to be nominated from amongst the eminent social activists in the field of gender-based discrimination;

(d) one member to be nominated from amongst the women working in block, taluka or tehsil in the district;

(e) two members of whom at least one shall be a woman to be nominated from amongst eminent sociologists:

Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge:

Provided further that at least one of the nominees shall belong to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or any minority community notified by the Central Government, from time to time;

(f) one member to be nominated from amongst the female advocates of the District Court.

(2) The Chairperson and every Member of the Employment Tribunal shall hold office for such period, not exceeding three years, from the date of their appointment as may be specified by the District Judge.

(3) Where the Chairperson or any Member of the Employment Tribunal,—

(a) contravenes the provisions of section 16; or

(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest;

5 **such Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.**

(4) The Chairperson or Members of the Employment Tribunal other than the Members nominated under; clauses (c) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Employment Tribunal as may be prescribed."

10 **5.** In section 9 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of Section 9.

15 **"(1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Employment Tribunal, within a reasonable period of time with regard to the facts and circumstances surrounding the making of such a complaint and the personal circumstances of the complainant, to be determined by the Tribunal:**

Provided further that the Internal Committee or the Employment Tribunal as the case may be, may, for the reasons to be recorded in writing, extend the time limit based on the discretion of the Employment Tribunal, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period."

20 **6.** In section 13 of the principal Act,—

Amendment
of Section 13.

(i) in sub-section (3), for the words "recommend to", the word "direct" shall be substituted;

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

25 **"(4) The employer or the District Judge shall act upon the directions of the Employment Tribunal within sixty days of its receipt."**

7. In section 14 of the principal Act, in sub-sections (1) and (2), for the words "recommend to", the word "direct" shall be substituted.

Amendment
of Section 14.

8. In section 20 of the principal Act, for the words "Local Committee", the words "Employment Tribunal and Internal Committee" shall be substituted.

Amendment
of Section 20.

STATEMENT OF OBJECTS AND REASONS

Every incident of Sexual Harassment against women at workplace is an infringement of the fundamental rights ensured by the Constitution of India. It is an extension of violence experienced by women in everyday life that not only violates their right to equality and freedom but also contravenes their right to live with dignity and equal opportunity for livelihood as guaranteed by article 21 of the Constitution. According to the "Crime in India report 2021" of the National Crime Records Bureau, 7797 working women in India experienced some form of harassment at their places of work and such reports have intensified after the reopening of workplaces in the post pandemic period. With the evolving times, as the role of women is extending to the professional world they are becoming more vulnerable to the offence of sexual harassment at workplace. Further, the ground reality highlighted by various subject matter experts suggest that these numbers are highly underreported as many women fear the loss of their personal and professional dignity and source of income, owing to the social stigma.

Presently, the Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013 mandates the creation of Internal Committee (ICC) in every workplace, with ten or more employees, and Local Complaint Committee (LCC) at district level to receive and adjudicate the complaints of the aggrieved woman against sexual harassment. While the existing law has provided a platform for women to voice this crime against them and punish the offenders, the high rate of pending cases, under Section 509 of the Indian Penal Code, 1860, highlighted by the "Crime in India report of 2021", questions the efficacy of the current ecosystem in place. Additionally, the J.S. Verma Committee constituted to recommend amendments to the Criminal Laws in 2012, addressed that the constitution of ICC and LCC is counter-productive to the ends of the act as the inhouse redressal of grievances would discourage women from filing complaints and "may promote a culture of suppression of legitimate complaints." Another limitation highlighted by the Committee is the fixed time period of three months to make a complaint contained in Section 9 (I) of the Act. This may prevent women from filing complaints about the repeated instances of harassment or filing complaints after three months of incident.

The instant Bill accordingly, proposes amendments to the Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013, to nullify the roles and powers of the Local Complaint Committee by mandating constitution of the Employment Tribunal. The Employment Tribunal shall hold the power to treat the cases of sexual harassment as thorough legal cases which would give more cognizance to the cases of sexual harassment and improve the efficiency in resolving the cases and increase the rate of conviction.

The Bill further seeks to extend the time period where aggrieved women can file or report the complaint of sexual harassment. Thus, the proposed amendments address the need for many organizations or workplaces to make grievance redressal systems more effective in order to create a safer workplace environment for women.

Hence, this Bill.

FAUZIA KHAN.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of a tribunal to be known as the "Employment Tribunal" by the District Judge in the district concerned, and clause 4 of the Bill provides for composition, tenure and other terms and conditions of the Employment Tribunal, which shall nullify the duties and powers of the existing Local Complaint Committee (LCC) established by the principal Act. This will involve diversion of funds and grants utilised by erstwhile LCC to the Employment Tribunal. Additionally, it will require consultation with subject matter experts and various agencies who will be compensated for their involvement and will involve recurring expenditure from the Consolidated Fund of India. However, it is difficult to estimate the actual financial expenditure likely to be incurred at this stage.

ANNEXURE

EXTRACT FROM THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

(ACT NO. 14 OF 2013)

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Definitions.	2. In this Act, unless the context otherwise requires,—				
	*	*	*	*	*
	(c) "Chairperson" means the Chairperson of the Local Complaints Committee nominated under sub-section (1) of section 7;				
	(d) "District Officer " means an officer notified under section 5;				
	*	*	*	*	*
	(i) "Local Committee " means the Local Complaints Committee constituted under section 6;				
	(j) "Member" means a Member of the Internal Committee or the Local Committee, as the case may be;				
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CHAPTER III

CONSTITUTION OF LOCAL COMPLAINTS COMMITTEE

Notification of District Officer.	5. The appropriate Government may notify a District Magistrate or Additional or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act.
Constitution and jurisdiction of Local Committee.	6. (1) Every District Officer shall constitute in the district concerned, a committee to be known as the "Local Committee" to receive complaints of sexual harassment from establishments where the Internal Committee has not been constituted due to having less than ten workers or if the complaint is against the employer himself. (2) The District Officer shall designate one nodal officer in every block, taluka and tehsil in rural or tribal area and ward or municipality in the urban area, to receive complaints and forward the same to the concerned Local Committee within a period of seven days. (3) The jurisdiction of the Local Committee shall extend to the areas of the district where it is constituted.
Composition, tenure and other terms and conditions of Local Committee.	7. (1) The Local Committee shall consist of the following members to be nominated by the District Officer, namely:— (a) a Chairperson to be nominated from amongst the eminent women in the field of social work and committed to the cause of women; (b) one Member to be nominated from amongst the women working in block, taluka or tehsil or ward or municipality in the district; (c) two Members, of whom at least one shall be a woman, to be nominated from amongst such non-governmental organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed. Provided that at least one of the nominees should, preferably, have a background in law or legal knowledge:

Provided further that at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time;

(d) the concerned officer dealing with the social welfare or women and child development in the district, shall be a member *ex officio*.

(2) The Chairperson and every Member of the Local Committee shall hold of office for such period, not exceeding three years, from the date of their appointment as may be specified by the District Officer.

(3) Where the Chairperson or any Member of the Local Committee—

(a) contravenes the provisions of section 16; or

(b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or

(c) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him; or

(d) has so abused his position as to render his continuance in office prejudicial to the public interest, such Chairperson or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of this section.

(4) The Chairperson or Members of the Local Committee other than the Members nominated under clauses (b) and (d) of sub-section (1) shall be entitled to such fees or allowances for holding the proceedings of the Local Committee as may be prescribed.

8.* * * * * * Grants and audit.

(3) The agency shall pay to the District Officer, such sums as may be required for the payment of fees or allowances referred to in sub-section (4) of section 7.

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9. (1) Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee if so constituted, or the Local Committee, in case it is not so constituted, 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: Complaints of sexual harassment.

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the Internal Committee or the Chairperson or any Member of the Local Committee, as the case may be, shall render all reasonable assistance to the woman for making the complaint in writing:

Provided further that the Internal Committee or, as the case may be, the Local Committee may, for the reasons to be recorded in writing, 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 said period.

* * * * * Conciliation.

10. (1) The Internal Committee or, as the case may be, the Local Committee, may, before initiating an inquiry under section 11 and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through conciliation:

Provided that no monetary settlement shall be made as a basis of conciliation.

(2) Where settlement has been arrived at under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall record the settlement so arrived and forward the same to the employer or the District Officer to take action as specified in the recommendation.

(3) The Internal Committee or the Local Committee, as the case may be, shall provide the copies of the settlement as recorded under sub-section (2) to the aggrieved woman and the respondent.

(4) Where a settlement is arrived at under sub-section (1), no further inquiry shall be conducted by the Internal Committee or the Local Committee, as the case may be.

Inquiry into complaint.

11. (1) Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed or in case of a domestic worker, the Local Committee shall, if prima facie case exist, forward the complaint to the police, within a period of seven days for registering the case under section 509 of the Indian Penal Code (45 of 1860), and any other relevant provisions of the said Code where applicable:

Provided that where the aggrieved woman informs the Internal Committee or the Local Committee, as the case may be, that any term or condition of the settlement arrived at under sub-section (2) of section 10 has not been complied with by the respondent, the Internal Committee or the Local Committee shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police:

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(3) For the purpose of making an inquiry under sub-section (1), the Internal Committee or the Local Committee, as the case may be, shall have the same powers as are vested in a civil court the Code of Civil Procedure, 1908 (5 of 1908) when trying a suit in respect of the following matters, namely:—

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Action during pendency of inquiry.

12. (1) During the pendency of an inquiry on a written request made by the aggrieved woman, the Internal Committee or the local Committee, as the case may be, may recommend to the employer to—

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(3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.

Inquiry report.

13. (1) On the completion of an inquiry under this Act, the Internal Committee or the Local Committee, as the case may be, shall provide a report of its findings to the employer, or as the case may be, the District Officer within a period of ten days from the date of completion of the inquiry and such report be made available to the concerned parties.

(2) Where the Internal Committee or the Local Committee, as the case may be arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer and the District Officer that no action is required to be taken in the matter.

(3) Where the Internal Committee or the Local Committee, as the case may be arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be—

(i) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent or where no such service rules have been made, in such manner as may be prescribed;

(ii) to deduct, notwithstanding anything in the service 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 to her legal heirs, as it may determine, in accordance with the provisions of section 15:

Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the respondent to pay such sum to the aggrieved woman:

Provided further that in case the respondent fails to pay the sum referred to in clause (ii), the Internal Committee or as, the case may be, the Local Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

(4) The employer or the District Officer shall act upon the recommendation within sixty days of its receipt by him.

14. (1) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman 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 employer or the District Officer, as the case may be, to take action against the woman or the person who has made the complaint under sub-section (1) or sub-section (2) of section 9, as the case may be, in accordance with the provisions of the service rules applicable to her or him or where no such service rules exist, in such manner as may be prescribed:

Punishment for false or malicious complaint and false evidence.

* * * * *

(2) Where the Internal Committee or the Local Committee, as the case may be, arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness or the District Officer, as the case may be, to take action in accordance with the provisions of the service rules applicable to the said witness or where no such service rules exist, in such manner as may be prescribed.

15. (1) For the purpose of determining the sums to be paid to the aggrieved woman under clause (ii) of sub-section (3) of section 13, the Internal Committee or the Local Committee, as the case may be, shall have regard to—

Determination of compensation.

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16. Notwithstanding anything contained in the Right to Information Act, 2005 (22 of 2005), the contents of the complaint made under section 9, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee or the Local Committee, as the case may be, and the action taken by the employer or the District Officer under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner:

Prohibition of publication or making known contents of complaint and inquiry proceedings.

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19. Every employer shall—

Duties of employers.

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(d) provide necessary facilities to the Internal Committee or the Local Committee, as the case may be, for dealing with the complaint and conducting an inquiry;

(e) assist in securing the attendance of respondent and witnesses before the Internal Committee or the Local Committee, as the case may be;

(f) make available such information to the Internal Committee or the Local Committee, as the case be, as it may require having regard to the complaint made under sub-section (1) of section 9.

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CHAPTER VII

DUTIES AND POWERS OF DISTRICT OFFICER

Duties and powers of District Officer.

20. The District Officer shall, —

(a) monitor the timely submission of report furnished by the Local Committee;

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CHAPTER VIII

MISCELLANEOUS

Committee to submit annual report.

21. (1) The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.

(2) The District Officer shall forward a brief report on the annual reports received under sub-section (1) to the State Government.

Employer to include information in annual report.

22. The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organisation or where no such report is required to be prepared, intimate such number of cases, if any, to the District Officer.

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Appropriate Government to take measures to publicise the Act.

24. The appropriate Government may, subject to the availability of financial and other resources, —

(a) develop relevant information, education, communication and training materials, and organise awareness programmes, to advance the understanding of the public of the provisions of this Act providing for protection against sexual harassment of woman at workplace;

(b) formulate orientation and training programmes for the members of the Local Committee.

Power to call for information and inspection of records.

25. (1) The appropriate Government, on being satisfied that it is necessary in the public interest or in the interest of women employees at a workplace to do so, by order in writing, —

(a) call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require;

* * * * *

(2) Every employer and District Officer shall produce on demand before the officer making the inspection all information, records and other documents in his custody having a bearing on the subject matter of such inspection.

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Cognizance of offence by courts.

27. (1) No court shall take cognizance of any offence punishable under this Act or any rules made thereunder, save on a complaint made by the aggrieved woman or any person authorised by the Internal Committee or Local Committee in this behalf.

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Power of appropriate Government to make rules.

29.(1)* * * * *

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

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(m) the form and time for preparation of annual report by Internal Committee and the Local Committee under sub-section (1) of section 21.

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RAJYA SABHA

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BILL

further to amend the Sexual Harassment of Women at workplace (Prevention,
Prohibition and Redressal) Act, 2013.

(Dr. Fauzia Khan, M.P.)