

Vishaka vs State of Rajasthan (1997): Sexual Harassment at Workplace & the Vishaka Guidelines

Court: Supreme Court of India **Citation:** AIR 1997 SC 3011 **Date:** 13 August, 1997 **Bench:** J.S. Verma, C.J., Sujata V. Manohar and B.N. Kirpal, JJ.

Facts of the Case

A social worker in a village in Rajasthan was subjected to a brutal gang rape while performing her professional duties. This incident exposed that India had no specific law protecting working women from sexual harassment at the workplace. A group of social activists and NGOs filed a writ petition (class action / PIL) in the Supreme Court, seeking enforcement of the fundamental rights of working women generally, not just in this one instance.

Issues Before the Court

When there is no specific legislation on sexual harassment at the workplace, can the Supreme Court still create enforceable protection for working women's fundamental rights under Articles 14, 19 and 21?

Arguments

The petitioners argued that the complete absence of a law left working women without any real protection or remedy, violating their rights to equality (Article 14), to practise any profession (Article 19), and to life and dignity (Article 21). They urged the Court to read the Constitution together with India's international commitments, including CEDAW, to fashion an enforceable remedy.

Decision of the Court

The Supreme Court laid down the Vishaka Guidelines — comprehensive, binding directions applicable to every employer — covering the definition of sexual harassment, an employer's duty to prevent it, mandatory Complaints Committees headed by a woman, disciplinary action, awareness measures, and support even in cases of third-party harassment. These guidelines were declared binding and enforceable as law under Article 141 until Parliament enacted suitable legislation.

Principle of Law

Where Parliament has not legislated on a subject, the Supreme Court can invoke Article 32 and Article 141, read with the Constitution's fundamental rights provisions and India's international treaty obligations (such as CEDAW), to lay down binding guidelines that protect those fundamental rights until proper legislation is enacted.

Important Legal Provisions

Article 14 (equality); Article 19(1)(g) (right to practise any profession); Article 21 (life and personal liberty, including dignity); Article 32 (right to constitutional remedies); Article 73 (extent of executive power of the Union); the Protection of Human Rights Act, 1993; CEDAW.

Important Observations

The Court observed that gender equality includes protection from sexual harassment and the right to work with dignity, and that these are basic human rights. It noted India's own commitments made at the Fourth World Conference on Women in Beijing, and held that the judiciary has a role in filling legislative vacuums that threaten fundamental rights, without displacing Parliament's eventual power to legislate fully on the subject.

Simple Explanation

Since there was no law protecting women from harassment at work, the Supreme Court itself created binding rules that every employer had to follow — acting as a temporary law until Parliament passed a real one.

Teaching Notes

Emphasise the sequence: 1997 Vishaka guidelines (judicial) → 2013 POSH Act (legislative). Students often forget the guidelines were binding law under Article 141 for 16 years, not just advisory. Also stress this case as a leading example of using international conventions (CEDAW) to interpret domestic fundamental rights.

Key Points for Students

- First binding legal protection against workplace sexual harassment in India.
- Filed as a Public Interest Litigation for all working women, not one individual.
- Grounded in Articles 14, 19 and 21, read with CEDAW.
- Mandated a Complaints Committee headed by a woman at every workplace.
- Replaced 16 years later by the POSH Act, 2013.

Case-Law Video

Watch the video explanation: <https://www.youtube.com/watch?v=Q8ABT0rhqGw>