

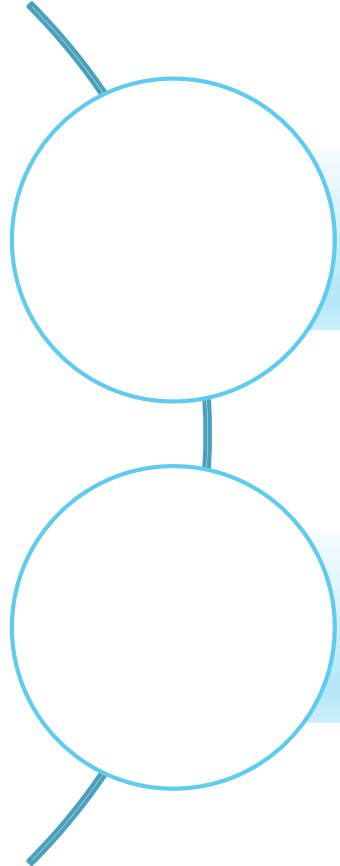


# **The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("Act")**

# Introduction

- An act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith
- Sexual harassment results in violation of the fundamental rights of women to equality under
  - Articles 14 & 15 of the Constitution of India
  - Articles 21 - Right to life and live with dignity
  - Right to practice any profession or to carry on any occupation, trade or business ensuing right to a safe environment free from sexual harassment

# History



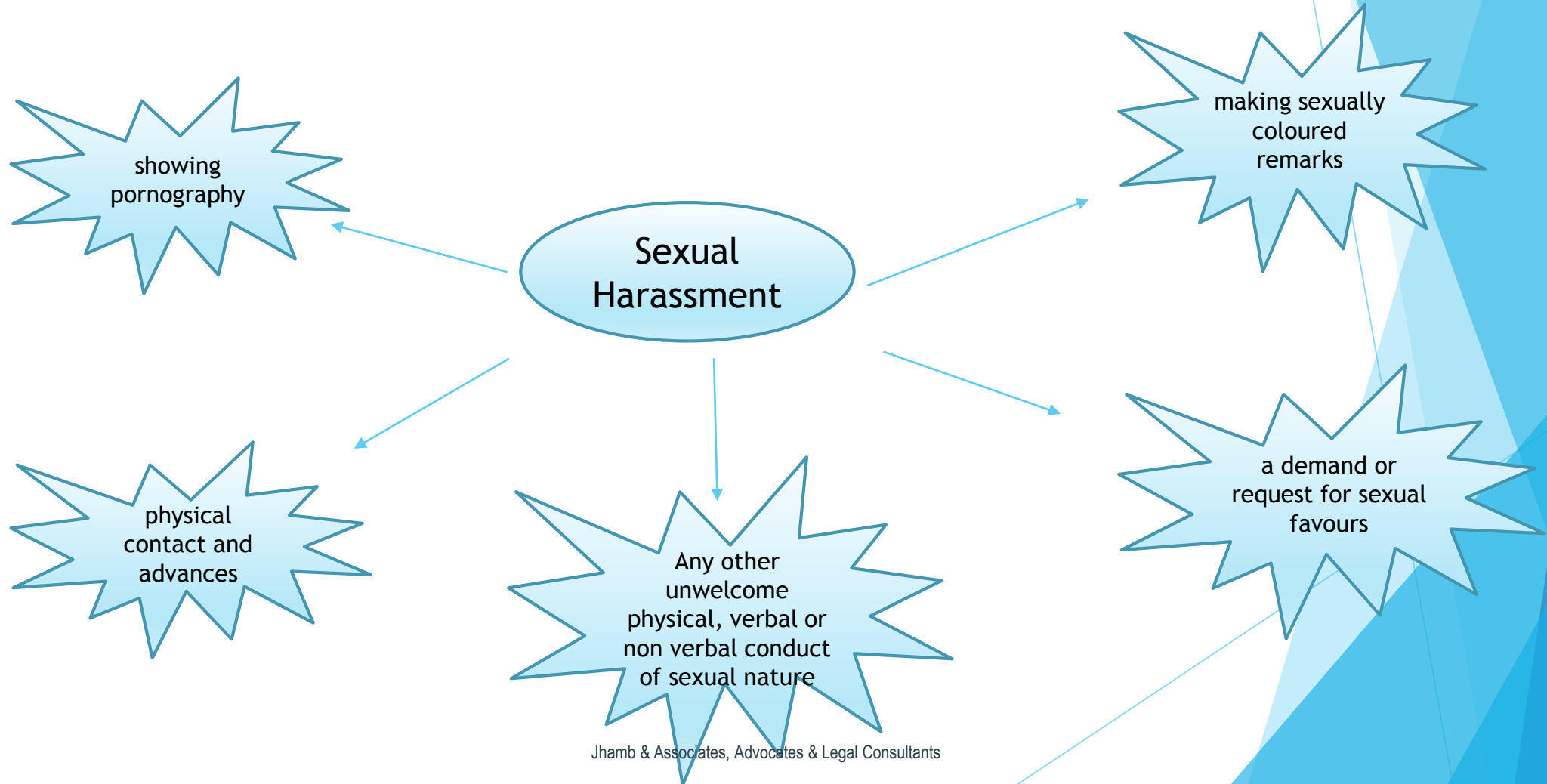
In 1997, the Hon'ble Supreme Court passed a landmark judgment in Vishakha and others v State of Rajasthan case in 1997, regarding sexual harassment at workplace.

The Act came into effect in April 2013 to deal with the issue of sexual harassment of women at workplace.



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# Definition of Sexual Harassment





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# Who is an Employer ?

Head of the department of an organisation, an undertaking, establishment, an enterprise, an institution, an office, branch or unit as the case may be

Any person responsible for the management, supervision and control of the workplace

Management Includes :



the person or board or committee responsible for formulation and administration of policies of such organisation



the person discharging contractual obligations with respect to his or her employees.



# Who is an Employee ?

Person employed at workplace for any regular, temporary, adhoc or daily wages

Person employed directly or through an agent including a contractor

Person employed with or without remuneration

Person employed on voluntary basis or otherwise

Including probationer, trainees, apprentice or called by any other such name



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# What is Workplace ?

Establishments & organisations owned by Government bodies

Establishments & organisations owned by Private bodies

Hospitals & nursing home

Sports institutes, stadiums, sports complex or sports trainings institute

Dwelling place or a house

Any other place visited by the employee arising out of or during the course of employment including transport provided by the employer

# Circumstances considered to be Sexual Harassment

Implied/explicit promise of preferential treatment in employment

Implied/explicit threat of detrimental treatment in employment

Implied/explicit threat about present or future employment status

Interference with work or creating an intimidating or offensive or hostile environment

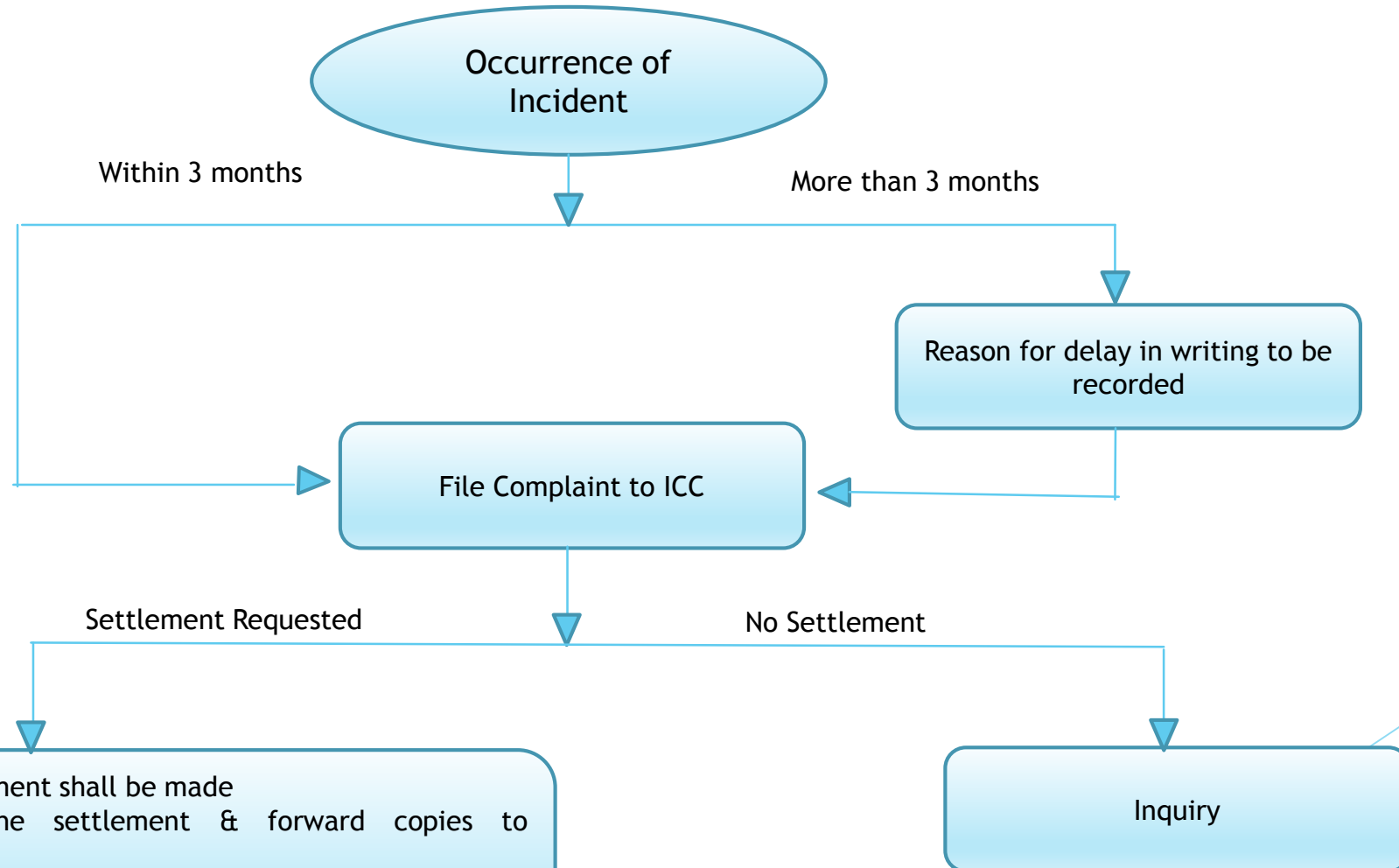
Humiliating treatment, likely to affect health or safety



# Internal Complaints Committee (ICC)

- ▶ Every employer of a workplace employing more than 10 employees shall constitute a Committee to be known as “Internal Complaints Committee” (ICC)
- ▶ A separate ICC has to be constituted for each branch office
- ▶ ICC shall be constituted by order in writing
- ▶ At least one half of the total member so nominated shall be women
- ▶ Presiding Officer/the Chairperson shall be a woman employed at a Senior level provided no senior level is available , the Presiding officer/the Chairperson shall be nominated from any other workplace of the same employer or other department or organisation

# Complaint Procedure



- No Monetary settlement shall be made
- ICC to record the settlement & forward copies to management
- ICC to handover copies of the settlement to the aggrieved woman and the respondent
- No further enquiry shall be conducted after the settlement

# Completion of Inquiry

- ICC shall provide a report of its finding to the management and to the concerned parties within 10 days from the date of completion of inquiry.
  
- If the allegation is proved against the respondent then ICC may recommend
  - To take an action for misconduct according the service rules
  - To deduct salary or wages of the respondent
  - The management shall act within 60 days of receiving recommendation from ICC
  
- If the allegation is not proved against the respondent then ICC may recommend
  - No action to be taken against the respondent
  - To inquire whether the allegation were made with a malicious intent
  - To take an action as against the person making false compliant according to the service rules

# Inquiry into Complaint

During the pendency of an inquiry, on a written request of aggrieved woman, the ICC may recommend to the employer to:

- Transfer the aggrieved woman or the respondent to any other workplace
- Grant leave to the aggrieved woman up to a period of 3 months
- Grant such other relief to the aggrieved woman as may be prescribed

# Determination of Compensation

ICC to consider below factors while determining compensation for the aggrieved woman

- The mental trauma, pain, suffering and emotional distress caused to the aggrieved woman
- The loss in the career opportunity due to the incident of sexual harassment
- The income and financial status of the respondent
- Feasibility of such payment in lump sum or in installments

# Prohibition of Publication

- ▶ The contents of the complaints, the identity and address of the aggrieved party, respondent and witnesses, any other information relating to inquiry of the case shall not be published, communicated or made known to the public, press and media in any manner
- ▶ The information may be distributed regarding the justice secured without disclosing the name, address, identity or any other particulars which can lead to identification of the aggrieved party and witnesses

# Penalty for Publication

- ▶ Any person entrusted with the duty to handle or deal with the compliant, inquiry or any recommendations or action to be taken shall be liable for penalty in accordance with the provisions of service rules or as may be prescribed in absence of such service rules

# Duties of Employer

Every employer shall

- Provide a safe working environment at the workplace
  
- Display at workplace
  - the penal consequences of sexual harassment,
  - the order constituting the ICC
  
- Organize workshops and awareness programmes at regular interval for sensitizing the employees with the provisions of the Act
  
- Organize orientation programmes e.g. capacity building and skills building programmes for the members of the ICC

# Duties of Employer

- ▶ Provide assistance to the ICC for dealing with the complaint
- ▶ Provide assistance in securing the attendance of respondent and witnesses before the ICC
- ▶ To sort information available with respect to the complaint made to the ICC
- ▶ Provide assistance to woman in filing a complaint to the ICC
- ▶ Treat sexual harassment as a misconduct under the service rules
- ▶ Initiate action under the Indian Penal Code or any other law
- ▶ Monitor timely submission of reports by the ICC



# Annual Report by ICC

- ▶ The ICC shall prepare an annual report and submit the same to the employer with the following details:
  - ▶ Number of Sexual Harassment complaints received during the year
  - ▶ Number of Cases disposed of during the year
  - ▶ Number of cases pending as on date
  - ▶ Number of workshop and/or awareness programmes carried out during the year
  - ▶ Nature of action taken by the employer

# Penalties for Non Compliance

An employer shall be punishable with fine up to fifty thousand (twice the mentioned amount if convicted earlier) and cancellation of license required for carrying on his business if he

- Fails to constitute an ICC
- Fails to take an action on the complaints received
- Contravenes or attempts to contravene or abets contravention of other provisions of this Act



Thank you !!!

Please write to us at [support@djhamb.com](mailto:support@djhamb.com) for any queries