



MARATHA MANDIR'S Babasaheb Gawde Institute of Management Studies

POLICY ON PREVENTION, PROHIBITION & REDRESSAL OF SEXUAL HARASSMENT AT THE WORKPLACE

1. Introduction

Maratha Mandir's Babasaheb Gawde Institute of Management Studies ("MM BGIMS") strives to create and maintain a healthy, safe and productive work environment, free from discrimination and any kind of harassment including Sexual Harassment.

Accordingly, this Policy on Prevention, Prohibition and Redressal of Sexual Harassment at the Workplace ("Policy") has been framed with the intention of preventing and prohibiting Sexual Harassment at the Workplace, which includes redressal of Sexual Harassment should it occur.

All Employees are expected to uphold the highest standards of ethical conduct at the Workplace and in all their interactions with business stakeholders. This means that they have a responsibility to, inter alia:

- a) Treat each other with dignity and respect;
- b) Follow the letter and spirit of law;
- c) Refrain from any unwelcome behaviour that has sexual connotation;
- d) Refrain from creating a hostile atmosphere at Workplace via Sexual Harassment; and
- e) Report Sexual Harassment experienced and/or witnessed to appropriate authorities and abide by the applicable procedures.

2. Objective and Applicability

This Policy is applicable to all Employees and personnel engaged by MM BGIMS.

This Policy fulfills the directives contained in the provisions of "The Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (the "Act") read with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (the "Rules"). In the event of any inconsistency or conflict between this Policy and the Act and Rules, the latter shall prevail.

Through this Policy, a mechanism is being set up for prevention of, protection from and redressal of sexual harassment of women at the workplace, should it occur.

MM has adopted a policy of non-tolerance against any conduct leading to sexual harassment of women at the workplace as mandated by the law. This Policy is non-negotiable.

3. Definitions

3.1. Sexual Harassment:

"Sexual Harassment" includes any one or more of the following unwelcome acts or behaviour, namely:

- a) Physical contact and advances;
- b) Demand or request for sexual favours;
- c) Making sexually coloured remarks;
- d) Gender based insults or sexist remarks or remarks of a sexual nature about a person's clothing or body;
- e) Showing pornography or the likes;
- f) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature;
- g) Eve-teasing;
- h) Sexually colored jokes, indecent sexual pranks, innuendos and taunts causing or likely to cause awkwardness or embarrassment including sounds which have explicit and/or implicit sexual connotation;
- i) Unwelcome sexual overtone in any manner such as over telephone (obnoxious telephone calls), text messages, e-mails or on social media;
- j) Repeatedly asking to socialize during off-duty hours or continued expression of sexual interest against a person's wishes;
- k) Inappropriate touching or brushing against any part of the woman's body;
- l) Giving gifts or leaving objects that are sexually suggestive;
- m) Physical confinement against one's will, persistent watching, following, contacting and any other act likely to intrude upon

- or violate one's privacy;
- n) Explicitly or implicitly seeking sexual favours in return for hiring, compensation, promotion, retention, relocation or allocation of job/responsibility/work.

3.2. Aggrieved Woman:

An "Aggrieved Woman", in relation to a Workplace, is a woman, of any age, whether an employee or not, who alleges to have been subjected to any act of Sexual Harassment by the Respondent at such Workplace and includes a person making complaint on her behalf. Any woman visitor to Workplace or any woman who is temporary resident of any of the accommodations or premises designated as Workplace can be considered as an Aggrieved Woman if she faces any Sexual Harassment while on the premises of the relevant Workplace.

3.3. Complainant:

A "Complainant" is any Aggrieved Woman (or if the Aggrieved Woman is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, any other individual who is entitled to make a complaint on behalf of the Aggrieved Woman in accordance with the Act read with the Rules) who makes a complaint alleging Sexual Harassment under this Policy.

3.4. Disciplinary Authority:

"Disciplinary Authority" shall mean any person authorized to appoint or terminate the services of an employee or impose any punishment enumerated in MM BGIMS Policies / Rules / Law.

3.5. Employee:

"Employee" means any person at workplace for any work on regular, permanent, temporary, part time, ad hoc or daily wage basis, either directly or through an agent, including a retainer, a contractor, with or without the knowledge of MM BGIMS, 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 called by any other such name.

3.6. Employer:

"Employer" means any person nominated by Maratha Mandir's Babasaheb Gawde Institute of Management Studies (MM BGIMS) and responsible for the management, supervision and

control of the relevant Workplace and includes a person discharging contractual obligations with respect to his / her employees.

3.7. Respondent:

“Respondent” means the person against whom a complainant has made under this Policy.

3.8. Workplace:

“Workplace” means Premises, locations, establishments, enterprises, institutions, offices, branches or units, department or any other premises, including guest houses and townships, established, owned, and/or controlled by MM BGIMS including places visited by employee arising out of or during the course of employment including transportation, any location where employee visits to carry out MM BGIMS's business or attend any seminar, training, conferences, function, get-together, retreat and picnic organized by MM BGIMS.

4. Internal Complaints Committee

For timely redressal of complaints, Internal Complaints Committee (“ICC”) is constituted as under:

4.1. The ICC is constituted for each Workplace by strictly adhering to the following guidelines:

- a) At least half of the total member of ICC shall be women;
- b) A senior level woman employed at the Workplace shall be appointed as the Presiding Officer of the ICC (“Presiding Officer”); Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace or any other workplace of the same employer or other department or organization;
- c) Not less than two members of the ICC shall be appointed, as far as possible, from amongst employees who are preferably committed to the cause of women or who have had experience in social work or have legal knowledge in this field;
- d) One member shall be appointed from amongst non-governmental organizations or associations committed to the cause of women or familiar with the issues relating to Sexual Harassment.
- e) The Presiding Officer and every member of the ICC shall hold office for a period not exceeding 3 (three) years, from the date of their nomination, unless they have been reappointed by the employer after completion of their tenure. However, the

Presiding Officer and other members of ICC shall automatically vacate their office upon cessation of their employment with MM BGIMS.

- f) A member of the ICC may resign at any time by tendering resignation in writing to the Managing Committee of MM BGIMS.
- g) The Managing Committee of MM BGIMS shall, from time to time make necessary changes to the ICC, the number of ICC, the location etc.

4.2. Removal or Replacement of ICC member or Presiding Officer:
In the event the Presiding Officer and / or any member of the ICC:

- a) contravenes any provisions of the Act or the Policy; 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 / her; or
- c) has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him / her; or
- d) has so abused his / her position as to render his / her continuance in office prejudicial to the interest of employees or company; or
- e) ceases to be an employee of MM BGIMS or representative of NGO or association committed to the cause of women, or
- f) is named as the respondent or witness for either complainant or respondent in relation to a complaint filed by an Aggrieved Woman under this Policy, such Presiding Officer or member as the case may be, shall be removed from the ICC and replaced accordingly by the management of MM BGIMS in accordance with this Policy and the applicable law.
- g) Any vacancy created including due to cessation of employment, resignation, death, disability or removal or any other cause, as applicable, shall be filled by a fresh nomination by the management of MM BGIMS in accordance with the provisions of the Act.

5. Complaint of Sexual Harassment

- 5.1. An Aggrieved Woman may make, in writing, a complaint of Sexual Harassment to the ICC within a period of 3 (three) months from the date of incident and in case of a series of incidents, within a period of 3 (three) months from the date of last incident. However, the ICC may, for the reasons to be recorded in writing, entertain a complaint within a further period not exceeding 3 (three) months, if it is satisfied that the circumstances were such which prevented the Complainant

- from filing a complaint within the said period.
- 5.2. Where such complaint cannot be made in writing the Presiding Officer or any member of ICC shall render all reasonable assistance to the women for making the complaint in writing.
- 5.3. If the Aggrieved Woman is unable to make a complaint in writing on account of her physical incapacity, a complaint may be filed, with her consent, by:
- a) her family member; or
 - b) her relative;
 - c) her co-worker;
 - d) An officer of National Commission for women or State Women's Commission, or
 - e) Any person who has knowledge of the incident, with the written consent of the Aggrieved Woman,
- 5.4. If the Aggrieved Woman is unable to make a complaint on account of her mental incapacity, a complaint may be filed by:
- a) her relative or friend; or
 - b) a qualified psychiatrist or psychologist; or
 - c) the guardian or authority under whose care she is receiving treatment or care; or
 - d) any person who has knowledge of the incident jointly with the Aggrieved Woman's relative or friend or a qualified psychiatrist or psychologist, or guardian or authority under whose care she is receiving treatment or care.
- 5.5. If the Aggrieved Woman is deceased, the complaint may be filed by any person having knowledge of the incident with the written consent of her legal heirs.
- 5.6. Where the Aggrieved Woman for any other reason is unable to make a complaint, a complaint may be filed by any person who have knowledge of the incident, with her written consent.
- 5.7. The Aggrieved Woman shall inform any ICC Member and give a complaint in writing or by email.
- 5.8. The Complainant shall submit details of the complaint along with supporting documents and relevant details concerning the alleged incident(s), the date and time thereof, the name and details of the Respondent and names and addresses of the witnesses, if any.

6. Conciliation

- 6.1. Prior to initiating an inquiry, the ICC may, at the request Complainant take steps to settle the matter between the Complainant and the Respondent through conciliation, provided that no monetary consideration shall be made basis of such conciliation.
- 6.2. In case a settlement has been arrived at, the ICC shall record the settlement so arrived and forward the same to the employer to take appropriate action as recommended.
- 6.3. The ICC shall provide copies of the settlement as recorded to the Complainant and the Respondent. Upon conciliation being reached, the ICC shall not conduct any further inquiry in the complaint.

7. Enquiry into Complaint

- 7.1. Upon receipt of the complaint, subject to provisions of regarding conciliation and in the event of non-compliance of any term or condition of the settlement by the Respondent, the ICC shall proceed to make an inquiry into the complaint.
- 7.2. On receipt of the complaint, the ICC shall send a copy of the complaint received from the Complainant to the Respondent within seven working days from the date of receipt of the complaint.
- 7.3. The Respondent shall file his reply to the complaint along with his list of documents, and names and addresses of witnesses, within ten working days from the date of receipt of the complaint along with all documents referred to in the complaint.
- 7.4. The ICC shall make an inquiry into the complaint in accordance with the principles of natural justice. The Complainant and the Respondent shall be given an opportunity to cross-examine the witnesses examined by the other.
- 7.5. The Presiding Officer, or any member on behalf of ICC, shall notify in writing, the time, date and location of the inquiry hearing to the Complainant and the Respondent, not less than 2 (two) working days in advance of such scheduled date of inquiry hearing.
- 7.6. While conducting the inquiry, a minimum of 3 (three) members of the ICC including the Presiding Officer shall be present.

7.7 The ICC shall have the powers to summon and enforce the attendance of any person and conduct an examination, request the discovery and production of documents and / or any other matter which may be prescribed and deemed necessary for the inquiry process. The ICC shall have same powers vested in a civil court under the Code of Civil Procedure 1908 when trying a suit in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents

7.8 The ICC shall have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if the Complainant or Respondent fails, without sufficient cause, to present themselves, for three consecutive inquiry hearings convened by the Presiding Officer. Provided that such termination or ex-parte order may not be passed without giving a notice in writing, 15 (fifteen) days in advance, to the party concerned.

7.9. The Complainant and the Respondent shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the ICC.

7.10. During the course of inquiry, the Complainant and the Respondent shall be given an opportunity of being heard and a copy of the findings and report shall be made available to both the parties enabling them to make representation against the findings.

7.11. The inquiry shall be completed within 90 (ninety) days from the date of receipt of the complaint.

8. Action During Pendency of Inquiry

During the pendency inquiry, on a written request made by the Complainant, the ICC may recommend the following:

- a) transfer the Aggrieved Woman or the Respondent to any other Workplace;
- b) grant leave to the Aggrieved Woman up to a period of 3 (three) months;
- c) grant such other relief to the Aggrieved Woman as may be appropriate;
- d) restrain the Respondent from reporting on the work performance of the Aggrieved Woman or writing her confidential report and assign the same to another officer.

- e) The leave granted to the Aggrieved Woman shall be in addition to the leave she is otherwise entitled to.
- f) On receiving a recommendation from the ICC, the employer shall take appropriate action and send a report of such action taken to the ICC.

9. Inquiry Report and Action

- 9.1. On the completion of an inquiry the ICC shall provide a written report of its findings to the employer within 10 (ten) days from the date of completion of the inquiry and such report be made available to the Aggrieved Woman and the Respondent.
- 9.2. In the event that the ICC arrives at the conclusion that the allegations against the Respondent are not proved, it shall recommend to the employer that no action is required to be taken in the matter.
- 9.3. Where the ICC arrives at the conclusion that the allegations against the Respondent are proved, it shall recommend in writing to the employer:
 - a) to take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the Respondent or the contract of employment;
 - b) 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, having regard to
 - i. the mental trauma, pain, suffering and emotional distress caused to the Aggrieved Woman;
 - ii. the loss in the career opportunity due to the incident of sexual harassment;
 - iii. medical expenses incurred by the victim for physical or psychiatric treatment;
 - iv. the income and financial status of the respondent;
 - v. feasibility of such payment in lump sum or in installments.

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 directed by ICC, the ICC may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

- 9.4. The employer shall act upon the recommendation within sixty days of its receipt.

10. Punishment for False or Malicious Complaint and False Evidence

Where the ICC arrives at a conclusion that the allegation against the Respondent is malicious or the Complainant has made the complaint knowing it to be false or has produced any forged or misleading document, it may recommend to the employer to take suitable action against the Complainant who has made the complaint, in accordance with the provisions of the applicable MM BGIMS policies or service rules.

- a) Mere inability to substantiate a complaint or provide adequate proof need not attract action against the Complainant.
- b) The malicious intent on part of the Complainant needs to be established through the inquiry process before any action against such Complainant is recommended by the ICC to the employer.
- c) In case the ICC arrives at a conclusion that during the inquiry any witness against the Respondent is malicious or the has given false evidence or has produced any forged or misleading document, it may recommend to the employer to take suitable action against such witness in accordance with the provisions of the applicable MM BGIMS policies or service rules.

11. Prohibition of Publication or Making Known Contents of Complaint and Inquiry Proceedings

Notwithstanding anything contained in the Right to Information Act, 2005(22 of 2005), the contents of the complaint made to the ICC, 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:

Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the Aggrieved Woman and witnesses.

12. Manner to Organise Workshops Etc.

MM BGIMS shall-

- a) formulate and widely disseminate this policy for prohibition, prevention and redressal of sexual harassment at the workplace intended to promote gender sensitive safe spaces and remove underlying factors that contribute towards a hostile work environment against women;
- b) carry out orientation programmes and seminars for the members of the Internal Committee;
- c) carry out awareness programmes for employee and create forum for dialogues which may involve women's groups, mothers' committee, adolescent groups, urban local bodies and any other body as may be considered necessary;
- d) conduct capacity building and skill building programmes for the members of the Internal Committee;
- e) declare the names and contact details of all the members of the Internal Committee;
- f) use modules developed by the State Governments to conduct workshops and awareness programmes for sensitising the employees with the provisions of the Act.

13. Appeal

In the event that any person is aggrieved from the recommendations made by the ICC or non-implementation of such recommendations, he/she may appeal to the Tribunal or Court, as specified by the law, within a period of 90 (ninety) days of the recommendations.

14. Amendments

MM BGIMS reserves the right to amend this Policy from time to time in order to comply with applicable laws / rules / regulations that come into effect from time to time, related to Sexual Harassment. The latest version of the Policy including the composition of the ICC is available on MM BGIMS's official website and office.



Rajendra Pratap Gawde
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Maratha Mandir Trust
