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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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CASE COMMENT: MEDHA KOTWAL LELE & ORS. V. UNION OF INDIA & ORS. (2012)

AUTHORED BY - SAATVIK

Institution: Second Year Law Student

Vivekananda Institute of Professional Studies, GGSIPU.

Case Number	Writ Petition (Criminal) Nos. 173-177 of 1999, T.C. (C) NO. 21 of 2001 and Civil Appeal Nos. 5009 and 5010 of 2006
Counsel	For Appearing Parties: A. Mariaputham, AG, Colin Gonslaves, T.S. Doabia, Sr. Advs., Manish Singhvi, AAG, Jayshree Satpute, Jyoti Mendiratta, Aparna Bhat, S. Udaya Kr. Sagar, Krishna Kumar Singh, Praseena E. Joseph, Advs. For Lawyer's Knit and Co., Sunita Sharma, Sadhana Sandhu, B.V. Balram Das, Sushma Suri, M.S. Doabia, Asha G. Nair, S.S. ...
Judges	R.M.Lodha, Anil R. Dave, Ranjan Gogoi, JJ
Laws	Article 141 of the Constitution of India, The Vishaka Guidelines, Protection of Women against Sexual Harassment Bill 2010, Central Civil Service (conduct) Rules, 1964 (CCS Rules), Industrial Employment (Standing Orders) Rules, The Beijing Platform for Action
Citation	AIR 2013 SC 93, 2013 (2) ALD 26, 2012 BomCR 811 (Cri), ILR 2012 (4) 451 Ker, 2013 (1) JLJR 22, JT 2012 (10) SC 598, 2013 (3) KarLJ 562, 2013 LabIC 512, 2013 (2) LW 554, 2013 (1) LW 396 (CrI), 2012 MLJ 599 (CrI), 2013 (1) PLJR 40, 2012 (4) RCR 972 (CrI), 2012 (10) SCALE 458, 2013 (1) SCC 297, 2013 (1) SCC (LS) 159
Date of Judgement	19 October, 2012
Court Involved	Supreme Court of India

¹ABSTRACT:

The Medha Kotwal Lele & Ors. v. Union of India & Ors. case of 2012 revolves around the issue of sexual harassment in the Indian workplace and the inadequate implementation of the Vishaka Guidelines. The petitioners brought attention to specific instances of harassment and the failure to comply with the guidelines, resulting in continued suffering for women. This case underscored the need for comprehensive mechanisms to protect women's rights and prevent workplace harassment. The Supreme Court's judgment addressed the shortcomings in implementation and issued directives to enhance adherence to the guidelines.

BACKGROUND OF THE CASE²:

The case is rooted in the context of a long-standing effort to address the issue of sexual harassment against women in the workplace in India, both through the judicial system and legislative measures.

In a landmark case of Vishaka & Ors. V. State of Rajasthan & Ors.³ in 1997, the Supreme Court of India recognized that in order to uphold a woman's constitutional rights to live with dignity, equality, and the freedom to pursue any profession or occupation, safeguards against sexual harassment in the workplace were to be established.

As there were no legislative provisions at that time, the Court deemed it necessary to come up with an alternative mechanism to ensure these fundamental rights of working women were not infringed. Consequently, it established the "Vishaka Guidelines⁴" which outlined the responsibilities of employers to prevent and address incidents of sexual harassment, setting forth measures to be taken for prevention, deterrence, and redressal.

The Court declared that the Vishaka Guidelines should be considered legally binding until relevant protective legislation was enacted by the Parliament.

The court expressed regret over the fact that even after 15 years since the formulation of the

¹ Vlex, 'Case law- Medha Kotwal Lele & Ors. V. Union of India & Ors.' (vlex.in), <https://vlex.in/vid/medha-kotwal-lele-and-571961018>, accessed 31 May, 2024.

² Equal Rights Trust, Case Summary in Medha Kotwal Lele V. Union of India (19 October, 2012), <https://www.equalrightstrust.org/ertdocumentbank/Case%20Summary%20Medha%20Kotwal%20Lele%20Vs%20%20Union%20of%20India%20October%202022>, accessed 31 May, 2024.

³ Vishaka & Ors. V. State of Rajasthan & Ors., AIR 1997 SC 3011.

⁴ Cag.gov.in, https://cag.gov.in/uploads/cms_pages_files/Vishkha-Guidelines-against-Sexual-Harassment-in-Workplace-061de8308de91c7-65164897.pdf, accessed 1 June, 2024.

guidelines by the Court to prevent and address sexual harassment, and until suitable legislation was enacted by the Parliament, many women continued to encounter difficulties in protecting their fundamental rights in the workplace. The statutory legislation was not in place.

Subsequently, the "Protection of Women against Sexual Harassment at Workplace Bill 2010"⁵ was passed by the Lok Sabha in September 2012. However, it was, at that time, awaiting approval in the Rajya Sabha and had not come into effect.

FACTUAL MATRIX OF THE CASE⁶:

The Human Rights Law Network (HRLN) brought the case before the Constitutional Court concerning the non-compliance with a previous ruling that set forth guidelines to combat sexual harassment in the workplace in India.⁷

In the given case, Medha Kotwa Lele, the coordinator of Aalochana, which is an organization dedicated to the documentation and research of women's rights, along with other women's rights organizations filed a Public Interest Litigation (PIL) in the Apex court. The petition brought attention to various instances of sexual harassment and highlighted the sorry state of implementation of guidelines laid down in Vishaka V. State of Rajasthan⁸.

The petitioners alleged that despite the regulations, women continued to experience workplace harassment as the Vishaka guidelines were being violated by the state officials who used both legitimate and extra- legitimate means to harass women, causing them to endure suffering and sabotaging their modesty.

Medha Kotwal penned a letter citing specific instances of sexual harassment and expressing her discontentment with the lapses in the implementation of Vishaka Guidelines. The Supreme Court tried to oversee the implementation of these guidelines nationwide by instructing State Governments to provide declarations detailing the actions they had taken to implement the guidelines by converting the letter into a writ petition. However, the results revealed that a significant number of states demonstrated inadequate progress in implementing the Vishaka

⁵ Manupatra, <https://www.manupatra.com/manufeed/contents/PDF/634248075732330758.pdf>, accessed 1 June, 2024.

⁶ MEDHA KOTWAL LELE & ORS. V. UNION OF INDIA & ORS., [2012] 9 SCR 895.

⁷ ESCR-Net, 'MEDHA KOTWAL LELE & ORS. v. Union of India and Others. [2012] INSC 643', <https://www.escr-net.org/caselaw/2013/medha-kotwal-lele-ors-v-union-india-and-others-2012-insc-643>, accessed 31 May, 2024.

⁸ *Supra* at 3.

Guidelines.⁹

ISSUE RAISED BEFORE THE COURT¹⁰:

The Supreme Court had to assess whether individual state governments had made the necessary procedural and policy changes outlined in the Vishaka Guidelines and several previous court orders.

COURT'S JUDGEMENT¹¹:

The Court invoked the Beijing Platform for Action, which states that violence against women not only violates their human rights but also hinders their ability to enjoy fundamental freedoms. The Court acknowledged that women and girls in all societies and countries, regardless of income, class, or culture, experience physical, sexual, and psychological abuse to varying degrees.

Furthermore, the Court criticized India's inadequate progress in achieving gender equality. It noted that while there has been notable advancement in gender parity in local self-governments, the representation of women in Parliament and Legislative Assemblies remains dismally low, with women occupying only around 10-11 percent of the total seats. India's ranking in the United Nations Gender Equality Index was also not something to boast of, standing at 129 out of 147 countries.

The Court highlighted that the framers of India's Constitution advocated for fairness and justice for women. They incorporated provisions in the Constitution that obligated the states to ensure gender equality and gender parity and provide safeguards against sexual harassment for women. The Court emphasized that the Vishaka Guidelines should be executed in form, substance, and spirit in order to promote gender equality by ensuring that women work with dignity, decency and appropriate respect.

There was a lack of proper mechanisms to address the complaints of sexual harassment faced by women lawyers in Bar Associations, lady doctors and nurses in medical clinics and nursing homes, women architects working in the offices of engineers and architects, and similar professions.

⁹ Prakhar Vashisth, ' Medha Kotwal Lele v/s Union of India' (Legal Service India E-Journal), <https://www.legalserviceindia.com/legal/article-6115-medha-kotwal-lele-v-s-union-of-india.html>, accessed 31 May, 2024.

¹⁰ *Supra* at 2.

¹¹ *Supra* at 6.

It underscored that the guidelines impose obligations on employers, as well as other individuals or institutions in positions of responsibility, to adhere to them and actively work towards preventing sexual harassment against women¹².

The primary concern, while addressing the case, was the inadequate implementation of the Vishaka guidelines. It was pointed out that the failure on the part of both the states and employers in the public and private sectors, to establish a robust and comprehensive mechanism, as outlined in these guidelines, undermined the intended objective and purpose of these guidelines.

The Court referred to its previous findings on 17/01/2006, where it identified the inadequate implementation of the Vishaka guidelines by various Indian states and departments and reiterated the directions it gave at that time to enhance execution and implementation.

The Court pointed out that some states seemed to disregard earlier court orders that mandated them to align their legislation with the guidelines.

It noted that while some states had modified only specific aspects of their enactments rather than making all the essential amendments, others had failed to take significant actions¹³.

The Court emphasized the inevitability of preventing all forms of violence inflicted upon women. It stressed that mere verbal affirmations, empty declarations, and ineffective legislations with lax execution are insufficient for the real and meaningful empowerment of women, who form a significant portion of our society.

Therefore, the Court declared that the Vishaka Guidelines should not remain merely indicative but should serve as a guiding force until the legislative enactment of the Bill. Consequently, the Court determined that several states had not fulfilled all the necessary obligations outlined in the Guidelines and issued the following directives¹⁴:

- The state governments were required to make the necessary alterations to their CCS Rules and Standing Orders within a period of two months from the date of the judgement.

These amendments should clarify that the report of the Complaints Committee will be considered an inquiry report in disciplinary actions under the Civil Services Conduct

¹² *ibid.*

¹³ *Supra at 6.*

¹⁴ *ibid.*

Rules. In other words, the disciplinary authority should regard the report and findings of the Complaints Committee as the findings in a disciplinary inquiry against the employee in question and take appropriate action accordingly. The report and findings of the Complaints Committee should be treated as the outcome of an inquiry into the misconduct of the employee, rather than just a preliminary investigation or inquiry leading to disciplinary action.

- State governments and Union territories were obligated to establish sufficient number of Complaint Committees, ensuring their functioning at taluka, district and state levels to address complaints. If a state or Union territory had, at that time, formed only one committee for the entire region, it must form sufficient complaint committees within two months of passing of this judgement. These committees would be led by female chairperson and whenever feasible, an independent member must be included in such committees.
- State authorities and private and public sector undertakings/organizations/bodies/institutions etc. must establish effective mechanisms to ensure the proper implementation of the Vishaka Guidelines.
- The Bar Council of India was made responsible for ensuring that all bar associations in the country and individuals registered with the State Bar Councils adhere to the Vishaka Guidelines. Similarly, the Medical Council of India, Council of Architecture, Institute of Chartered Accountants, Institute of Company Secretaries, and other statutory institutes must ensure that the organizations, bodies, associations, institutions, and individuals registered or affiliated with them also comply with the Vishaka Guidelines. To facilitate this, all the above mentioned statutory bodies were required to issue necessary instructions or circulars within two months of passing of this judgement.

The Court mentioned that in case of violation of Vishaka Guidelines, court's orders and/or directions, aggrieved individuals should move to the High Court of the respective state.¹⁵

ANALYSIS AND CONCLUSION:

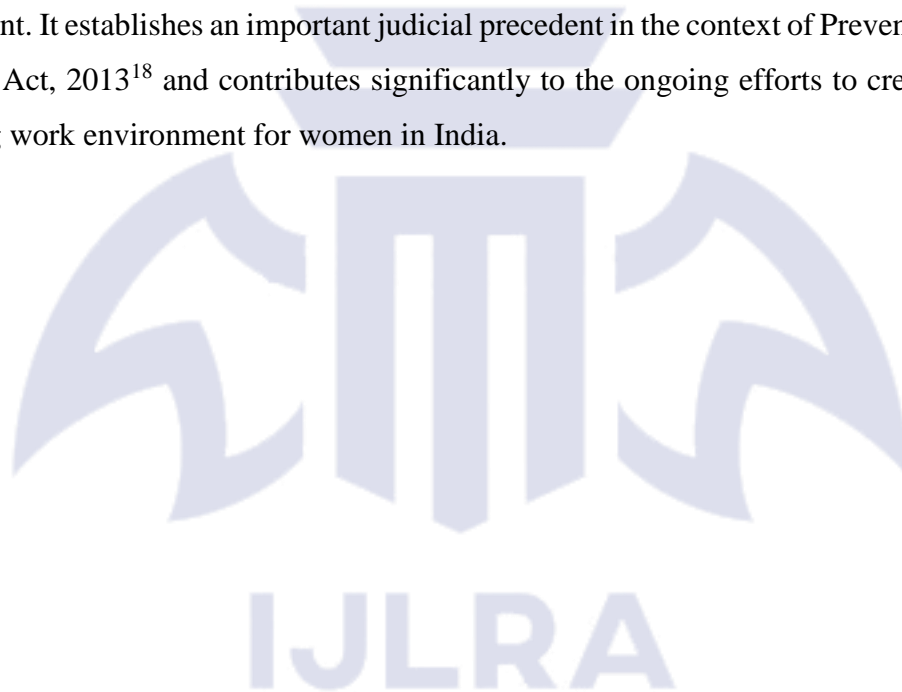
The Court not only reaffirmed the landmark case of Vishaka & Ors V. State of Rajasthan & Ors.¹⁶ but also recognized the potential of legal measures to implement judicial decisions. Colin Gonsalves, the founder of HRLN, pointed out that despite the guidelines being formulated many years ago, they were never effectively implemented. This judgment aimed to encourage

¹⁵ *Supra* at 6.

¹⁶ *Supra* at 3.

implementation and revive the guidelines that had been largely neglected.¹⁷

The judgment in the Medha Kotwal Lele case served as an important step in combating sexual harassment in the Indian workplace. By highlighting the lack of compliance with the Vishaka Guidelines and the persistence of harassment, the Court emphasizes the urgency of establishing robust mechanisms for prevention and redressal. The directives issued by the Court sought to ensure the proper implementation of the guidelines and hold state governments, employers, and organizations accountable for safeguarding women's rights. This judgment reiterates the commitment of the judiciary to promote gender equality, dignity, and respect in the workplace, signaling the importance of addressing sexual harassment as a crucial aspect of women's empowerment. It establishes an important judicial precedent in the context of Prevention of Sexual Harassment Act, 2013¹⁸ and contributes significantly to the ongoing efforts to create a safe and empowering work environment for women in India.



¹⁷ *Supra at 9.*

¹⁸ Prevention of Sexual Harassment Act, 2013, No. 14, Acts of Parliament, 1949 (India).