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VISHAKA VS. STATE OF RAJASTHAN

Court – The Supreme Court of India

Citation – AIR 1997 SC 3011

Coram – J. S. Verma (then Chief Justice of India), Justice Sujata Manohar and Justice B. N. Kirpal

Theme – Sexual Harassment at Workplace

Subject – Criminal Law

Judgement – India

Brief Facts of the Case¹

A woman named Bhanwari Devi was a worker in Rajasthan. She was working under the Women's Development Project which was operated by the Rajasthan government. She used to speak against the issue of child marriage and tried to prevent child marriage from taking place. But some of the villagers were in favour of child marriage and did not agree with the idea of prevention of it. Some men from the village, so as to seek revenge against her, attacked her husband and brutally gang-raped her. Many activists raised voices against this incident, which

¹ Case Analysis: Vishaka v/s. State Of Rajasthan, available at: <https://www.legalserviceindia.com/legal/article-7309-case-ananalysis-vishaka-v-s-state-of-rajasthan.html> (last visited on March 2, 2022)

resulted in the filing of a Public Interest Litigation (PIL). This PIL was filed by a group known as “Vishaka”.

- Article 14, 15, 19 and 21 of the Indian Constitution

Article 14 – *“Equality before law. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.”*

Article 15 – *“Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.”*

Article 19 – *“Protection of certain rights regarding freedom of speech etc*

(1) All citizens shall have the right

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India; and

(f) to practise any profession, or to carry on any occupation, trade or business.”

Article 21 – *“Protection of life and personal liberty. No person shall be deprived of his life or personal liberty except according to procedure established by law.”*

Issues

- 1) Does sexual harassment at the workplace constitute a violation of Articles 14, 15, 19 and 21 guaranteed under the Constitution of India?
- 2) Is it necessary to establish mandatory guidelines regarding sexual harassment at the workplace?

Judgement

One of the major contentions of the case was whether articles 14, 15, 19 and 21 of the Indian Constitution are violated or not. Gender equality is enshrined as a fundamental right in these articles of the Indian Constitution. The court held that sexual harassment at the workplace clearly infringes gender equality. Hence, the court held that incidents related to sexual harassment violated the above-mentioned articles of the Constitution.²

Also, the Court had dealt with the concept of applying the International Conventions in cases where there is a lack of appropriate or no Domestic Law. The court also underlined that the appropriate international convention can be referred to if it does not go against the spirit of the Indian Constitution and; does not violate any of the fundamental rights enshrined in the Constitution.

The Court had held that there was a clear infringement of fundamental rights provided under the constitution. The court also restates that the right to life under Article 21 (Protection of life and personal liberty) includes the right to live with dignity.

There were no appropriate domestic laws to deal with the issue of sexual harassment at the workplace, so the Supreme Court of India recognised that the guidelines can be considered as laws so as to provide a better working environment for women. The guidelines of this landmark judgement are:³

- 1) The employers and other relevant authorities are required to prevent the happenings of such incidents of sexual harassment.
- 2) The employers and other authorities who are in charge must take some preventive measures like notification or circulars which mention the prohibition of sexual harassment and penalties mentioned by the government against the offender.
- 3) The definition of the term 'sexual harassment' has been subject to some modifications.
- 4) Sexual harassment and these types of other offences come under the purview of the Indian Penal Code (IPC), 1860.

² Case Analysis: Vishaka v/s. State Of Rajasthan, available at: <https://www.legalserviceindia.com/legal/article-7309-case-ananalysis-vishaka-v-s-state-of-rajasthan.html> (last visited on March 2, 2022)

³ Case Analysis: Vishaka v/s. State Of Rajasthan, available at: <https://www.legalserviceindia.com/legal/article-7309-case-ananalysis-vishaka-v-s-state-of-rajasthan.html> (last visited on March 2, 2022)

Case Analysis

The landmark judgement of Vishaka v. State of Rajasthan was given by the Supreme Court of India in the year 1997. This judgment dealt with the issue of sexual harassment at the workplace. India is a fast-growing economy and the contribution of women in it is equally important. With time, we have seen increased participation of women that are working and contributing to the economic sector. But, still today, there are many incidents of sexual harassment at the workplace that are not being reported and this creates an unsafe working environment for women.

The Supreme Court of India, in this judgement, has made some mandatory guidelines to be followed and they are to be considered as laws because there is a lack of any proper and appropriate domestic law in our country dealing with this issue. These guidelines are a must and the Court has worked toward a well-needed step to make a safer environment for providing safer working conditions for women of the country. The court also held that the incidents like this infringe gender equality which is guaranteed by the fundamental rights of the Constitution. This was a much-needed judgement to reduce the number of sexual harassment crimes and to create a safer working environment for women.

Conclusion

The Vishaka judgement is considered as a landmark judgement dealing with the matter of sexual harassment at the workplace. This was a very well needed judgement so as to improve the working conditions and working environment for women. Earlier, many cases of sexual harassment at the workplace used to go unreported. The court through this judgment aims that more and more crimes of sexual harassment get reported and the offenders get punished. Also, the Supreme Court had held that there is a clear infringement of gender equality ensured by the fundamental rights of the Constitution. The Supreme Court has also laid down the guidelines which shall be considered as laws. These guidelines would help in getting more cases of sexual harassment being reported. This landmark judgement was a very important one and would help in curbing the crime of sexual harassment at the workplace and would contribute to making a safer environment for women at the workplace.
