CHAPTER SIX

THEME ONE

EMPLOYER RESPONSE TO REPORTED COMPLAINTS OF SEXUAL HARASSMENT

This theme gives insights into response of the employers to reported complaints of sexual harassment as experienced by women complainants in form of synopsis and excerpts. Additionally, the theme contains narrations of complaints committee members including chairpersons, NGO representatives functioning as external members, lawyers, and trade union members of experiences of implementing the Supreme Court Vishakha guidelines (1997).

1. Women who Reported Sexual Harassment

A

Post confrontation with the man; A approached HOD of the department where she was posted.

After having confrontation I straightway went to the head of the department (HOD). He was in the next room. I told him what happened and all that I had said to that man. HOD told me that he will speak to him. He will see what can be done. This was the reaction of the HOD.

After having met the HOD, A approached senior officer of the hospital because she did not have faith in the HOD. He assured her of action. On his suggestion she gave written complaint. She learnt that he called that man along with two senior social workers and told him not harass her. He warned that man saying that it was none of his business to harass her even if she did something wrong after office hours. She was not happy the way it was presented to the man by the officer. She wanted justice and not sympathy. Though she knew about the Vishakha guidelines she was unaware about existence of the complaints committee in the hospital. She came to know that senior officer spoke to the head of the hospital.
On the suggestion by the senior officer she submitted a written complaint. In response to her written complaint…

That man wrote that I was a psychic person. I was having some psychiatric problem. They appointed HOD of the psychiatry department as the inquiry officer. It was done because he wrote that I had psychological problem. Later I got to know that the sexual harassment complaints committee existed at that time. Then why the dean did not send me there? She should have done that. She must have inquired about me. Is it because my image had been maligned that she did not refer the case to the committee? What was the case? Why she had not referred the case to the committee? See how women perceive other women. Inspite of having a committee she did not send the case to them. The organisation was obviously callous about this issue.

The HOD of my department was good for nothing. He was not serious about my complaint. He said that he will speak to that man and give him warning. He should not do like this. The senior officer at least he gave me some idea to give the complaint in writing. I would not have thought about it.

B

We knew that it was sexual harassment. We knew that we were being harassed because we are women. However at that time no forum was active in the organisation. There was a circular about the apex complaints committee being there. However to the best of my knowledge no complaint was handed over to them. There was tremendous confusion at the level of the department about handling of the sexual harassment complaints in terms of in what manner and who should deal with the complaint. This was because there were department committees and the apex committee. The department committees did not meet periodically. We did not feel the existence of the apex committee. There was absence of a well-defined procedure for putting in a complaint. Most importantly there were no provisions for giving penalty to the guilty. It would be a situation where we would be at zero after having done everything needful. The regulation was not amended. There were little chances of getting justice. Instead there was a possibility that we would become targets.

B and her five colleagues’ feared retaliation. They had no idea whom to approach and where to go. They did not find any information about the same because no publicity was given to the issue of sexual harassment. There was tremendous confusion about reporting the complaint to the department committees and ways to deal with the complaint. There were some internal submissions about that man earlier. So it was expected that the management knew about his behaviour. Yet they did not take action against him.

After the incident of sexual harassment they met the head of the organisation next morning and requested for conducive work environment. They were not in frame of mind to put in an official complaint as he was at a senior position. However they complained in writing it on her (chairperson of the organisation) suggestion. She assured them that they would not face trouble in future. However it proved to be eyewash.

Within nine days of their meeting with the chairperson they were called for a preliminary inquiry. They were informed about it one day before they were to appear before the authority. During that period, that man harassed B in every possible manner and behaved with revengeful attitude. He threatened and blackmailed her by casting
aspersions on her character and spoke to her using double meaning language. One day he made her wait alone in his cabin till late evening and threatened her.

After the complaint, for some period I was reporting to him directly. At that time, I faced harassment from him every day. One day he called me to his cabin and in the presence of one more male officer asked me about my relationships with the HOD. Another instance again in the presence of one more male officer he told me that he had dirty letters about me with him. I received blank calls. He threatened me a lot. I did go to the HOD since the HOD was a new person in the organisation. I feel that for these complaints one needs to have faith in the person. One does not go to person just because he is the authority. I informed about this harassment which happened post complaint to the Personnel and Industrial Relations Manager. I thought she was the authority to report about it. I told her about the harassment two-three times. I did not faith and trust in the Human Resource Manager since within the organisation she is not known as person who will help others. If I would have reported to her, she would probably think of using for her gain in some way. There is a possibility that I would become a weapon in her hands. It is for this reason that I did not report about the harassment to her. I kept the papers with me. When I had the sufficient papers I put in a written complaint. By that time it had reached to a point where there was a plan to not allow me to live in the office quarters.

She approached the HOD and gave a representation to management with proofs of harassment attached. But there was no action. Advisory was issued to him by the organisation stating the he was to scrupulously follow the government guidelines about women employees and to keep the working atmosphere within the department proper. However that man refused the advisory in indecent and arrogant manner. But no action was taken against him.

B and her colleagues approached the National Commission for Women (NCW) since nothing moved post the preliminary inquiry. Two-three letters were sent by the NCW. Head of the organisation ordered action on the preliminary inquiry report because of those letters. Complaint was then handed over to the committee. Inquiry process started only because of the intervention of the NCW. They mentioned in their letters to the organisation that his behaviour fell within purview of sexual harassment and the organisation needed to take cognisance of them.

C

C complained to one of the directors of the company. She showed him the complaint letter that she gave to the police. He told her not to complain outside as the company would lose its prestige. He assured her of investigation. Informal investigation was done along with people from the head office. That man was found guilty and therefore his cabin was shifted. C was moved under the supervision of some other person. He started torturing C again, after that Director resigned from the company.
It was okay for sometime. Then it started again when the director left the company, harassment was double than what it was earlier. His anger against me was more because I had complained to the director. He said that nobody is there and I am the senior. After the director left, this man became the senior in the Mumbai factory. He is the main person. Personnel department and everybody is under him. He took the personnel department in his hands and started torturing me. After I gave the first complaint, when the director left, he formed a group. I was tortured from everywhere this time, from the personnel department, my immediate boss because of that man. He has told everyone that they should treat me in a way, torture me, and trap me from all directions that I should go with him. I had premature delivery of the second child because of that. I faced lot of torture. I complained to the personnel manager. He should have listened to me but he did not listen. In the absence of the director that man was the senior, there was nobody above him. I complained to the union and the union has taken action. They could not take severe action in support of me since I was not a union member. I was a management staff. Still, the union people met him and threatened him that he should not trouble me. They told him that I was good and that I was working hard. They knew me from many years. He was little scared of the union. He went to the personnel manager who told him that he should not worry about the union and that he will support him. I will do whatever needs to be done with the union; you do whatever you want to do. Personnel department was helping that man. The torture went on increasing and reached its height soon.

When she resisted he did not allow her to work and made her sit idle. She was made to do job of that an office assistant such as photocopying, filing and typing. He told her that he wanted her resign because he knew he could not throw her out of the employment easily. When C wrote a confidential mail to the VP, HR of the company based in other city but it was leaked to that man. He was furious and warned her that he would not allow her to continue working in the company. He gave her memos repeatedly for not working properly with an aim to terminate her.

First memo he gave that I was not doing work. I replied to that memo saying that I have not done any mistake. My post was that of an officer, but I was not doing any relevant job. I was doing clerical jobs like photocopying, filing, and just typing. Therefore, I replied to that mail that I was typing what my immediate boss gave me, as per his instructions. After that complaint, he told me that I will not do anything independently. Daily I used to go to office and meet my immediate boss, he will give in writing that too handwritten instructions. I have to do only that job. Next morning he would check whatever I did. My position was made to be worse than a clerk was too. Even then, I was doing it silently thinking that my job is to work for eight hours. When I replied to the first memo, I received a second memo that I was not doing the job well. They found small mistakes in my work. Again I went to the personnel department and told them that memos were given to me purposely. Personnel manager asked me not reply to the memo this time because if I replied they would give me one more memo. He told me to keep quiet. Then I stopped replying to the memos. Later I came to know that all three of them were together. During month of April, again, the computer and intercom was removed and there was no work. I was sitting idle for the full day.

Since the harassment grew severe, she formally complained to the personnel manager with a copy to the head office in writing.
In reply to this complaint letter they suspended me and eventually terminated me from service. First they wrote to me that they had received my letter. The chargesheet and suspension letter were attached to it. It was mentioned that I should immediately leave the company and not come to the factory tomorrow. It was written that in reply of my complaint letter the chargesheet was given to me. Then the department inquiry was held.

Until that was going on, I was given suspension allowance. Now that is also stopped. When they started the department inquiry, I told the management what inquiry you are doing. The chargesheet and suspension is wrong. My complaint is of sexual harassment and they should do that inquiry first. That they did not do. I went to the Women’s Commission and they wrote a letter to the company asking whether the company had a complaints committee according to the Vishakha guidelines. The company said that they did not have any such committee. Then the women’s commission asked them to establish a committee and enquire into my complaint. Our company has a code of conduct. In that the sexual harassment clause is there. Sexual harassment should not happen in the organisation. Everybody got a mail. I knew that code of conduct is there and there is no committee, since that man is the main what he will enquire. Somebody told me that there is women’s commission and I could go to the labour commissioner office. There should be a committee as per the Vishakha guidelines. Our company is not a small company. It is a multinational company. I went to the labour commissioner two-three times but I could not meet him. The women’s commission wrote a letter immediately and I got a letter from the company for the inquiry.

She challenged the suspension in the labour court and the constitution of the complaint committee in the High Court requesting to replace the male NGO member with a woman and his background not being clear. However the High Court did not concede to the request, only made the process time bound and asked company to submit the report.

D

The bank has good policies but there is no implementation. The bank policy cannot be downloaded, saved and carried by anyone. It can be read only on the intranet. This is to maintain confidentiality. The sexual harassment policy is a copy of the Vishakha guidelines. The policy cannot be accessed in the branches. They have no access to the intranet. Only corporate office is allowed access to it. The bank does not give any information about the sexual harassment policy at the time of induction. They told us about the woman portal. I found a link to the sexual harassment policy on the woman portal. They made a show of being a woman oriented organisation.

I decided to complain out of no other choice. He used to tell me that I will make sure that your appraisal will not happen and that you are not confirmed. I am the decision maker and everything is my hands. He avoided me, shouted at me, talked to me rudely and then hanging up the phone on me when I called him for work. I felt nervous and humiliated. I was given no work and made to sit idle.

D complained to her HOD who was holding Senior VP position. D approached her thinking the VP being a woman would be able to understand her better. After hearing D, HOD was shocked and surprised. She informed D that he had told her that D was brilliant and she need not fear since no one lost their job at the bank.
She told me that so far no one had faced problem in getting confirmed in the bank. She gave me lot of assurance and told me to go. Within two days, she called the team members and the supervisors for a review. She asked them about work and relations with each other. During that review I told her in his presence that he was not giving proper answers to me and he is not giving information to me. He was shocked because in the beginning when she asked him to talk about me he said that I was good and brilliant. However when I was asked to talk about him as my supervisor I said that he was not giving me response and feedback about my work. Then he changed his words on the spot and said that I was irresponsible and I did not know anything.

After this review, D waited for some months. However, harassment continued, rather it escalated post complaint. Work environment became volatile and hostile. It was a horrible and dirty experience for D. No one in the office spoke to her and she had no work to do. She was in a position where she could not ask anything to anyone.

I had no access to the Senior VP since I was the deputy manager. She spoke to him directly since he was the manager. Moreover she sat on the sixth floor and I was the lower floor. There was no connection between her and me. I went to her only to complain about him. She and he spoke to each other during the meetings. He convinced her that the problem was with me. She trusted him because he was working there for two years whereas I had joined the bank only two-three months back.

Then harassment from her started. She arranged for two presentations to be done by me. Ten-twelve team members were invited for the presentation. However I did the presentation making use of my previous knowledge. I said during the presentation that I have some questions and I have not got answers to those questions. She gave me answers to those questions during the presentation. At that time she asked him did he not give me answers to those questions. However he did not give any answer to her that time. She did this presentation thing twice that month with a gap of eight days. She called me once in the month of April and told me that I should start searching for a new job. When I asked her the reason she said that she did not want an incapable person like me.

Senior VP pressurised D to resign from the job. During this period she went to the office and sat idle.

Everybody stopped talking to me. No one was speaking to me. Senior vice president called me to her cabin when the appraisal process was beginning. She told me to leave the job. When I asked her the reason she told me that he did want me to continue. I said that it I who have complained about him and just because he is saying why should I leave the job? I told her that I will not leave the job. She said that I should understand her that he was important for her than me because I was new and he knew all the things. She added that she wanted him since she too was new to the department. I told her that she could terminate me if she wanted so. I told her that I would not go and that she should terminate me with a proper reason. Since I had read the policies I knew that she could not terminate me. She then said why I was harassing everyone including my family members unnecessarily. My husband had to reach me till the office every day. She would give me one month during which I should look for a new job. I should to resign once I found the job.

However I repeatedly refused to leave the job and told her to terminate me. She spoke to me sweetly and when I refused to leave the job she told me that she did not have any solution. She told me that she
was unable to figure out anything else and that I had to go. Then I left her cabin and returned to my seat. I used to go to the office regularly and sit there. Sitting there was a horrible and dirty experience since no one was speaking to me. She called me again after some days and told me that they were confirming everyone but I would not be given the confirmation letter. When I asked the reason she said that we had told you to leave. I again said that I will not leave the job. Then she said that we will extend your probation for three months. I knew that this was a their plan to get rid of me in a systematic manner since the bank policy was that if the performance is not up to the mark then the probation is extended. Experience people get confirmed after the period of six months and fresher’s get confirmed after a period of one year. However it never happens that the probation period is extended. She sent me the letter regarding extension of the probation period. I sent an email to her saying that it was wrong and that I would not accept it. I refused to sign on the letter sent by her.

Soon D got information about the complaints committee from the organisation website. She sent them an email attached with the complaint application. However there was no response from them. Meanwhile D contacted a women’s organisation in Delhi who gave her contact of women’s organisation in Mumbai. Women’s organisation in Mumbai told her give complaint application to the Women’s Commission and referred her to an activist working on sexual harassment at workplace. Activist wrote few emails to the bank asking them to form a committee for inquiry into the complaint and transfer to some other department within the bank.

Then the bank called me for a meeting. I went with the activist for the meeting. I saw that the bank had not formed a committee. Three people from the bank were there for the meeting. They were from the HR department, CSR department and Public Relations department. The activist had arguments with them. She told them that it was illegal on the part of the bank not to take cognisance of my complaint of sexual harassment in spite of me complaining to them repeatedly both verbally and in writing. She told them that instead of calling me for a meeting like this they should have straight away formed a complaints committee and called me for a meeting with the committee. In that meeting the panel asked me about my complaint. I cried before them and I told them it was becoming stressful for me to work in that environment. They told me that the bank would set up a complaints committee to investigate my complaint; I should be on leave till the inquiry is completed and till I receive intimation about my transfer to some other department from the bank. Before the inquiry began I asked the HR and the CSR in writing about the names of the committee members and the procedure to be followed by the committee. However I was not given information about it.

E

When I put in a verbal complaint of sexual harassment, to some extent my seniors took mockingly and told me that they would make that man understand. However, they did not take action. I was not given the protection and sympathy that I was in need of at that time. After that, I remained quiet for some time with a hope that the matter would be solved. During that time, I received threats that my confidential record would be spoilt and I felt that there would be some problem to my job. Since career was at stake, there was no other way but to put in a written complaint. When I used to go to his cabin with files he used say that you have complained to the executive engineer, how long will he protect you? I will entangle you in some matter and destroy you. I had come to know that he had
instigated the contractors to complain against me saying that I was asking for money from them. I realised that I would be in a problem since I had no proof and it is a practice that the office people believe the words of the officers. If I had complained of sexual harassment post a complaint against me, nobody would have valued my complaint. That was reason for me to immediately give a written complaint.

When her written complaint reached the head of the Corporation he handed it to the HOD of the department. Though complaints committee existed, the HOD sent an officer to inquire into her written complaint. The officer was aware about the existence of the committee as mentioned by her in the report. She concluded that complaint was false and recommended her transfer. She was transferred to other office. E approached a union leader and got the transfer cancelled with his help. At that time E was not aware about the existence of the complaints committee. Office circular about the committee was hidden by that man.

I got in touch with a NGO. The activist explained me the procedure and then we met the officer next to the head in hierarchy. Office constituted a new complaints committee without an NGO member. However, the complaints committee members were from across the state and so conducting an inquiry became difficult. This complaints committee paid a sudden visit to my office. They wanted to begin the inquiry that day. I was given no intimation about the date of the hearing and I was made to sit along with the respondent and the executive engineer. Therefore I refused to begin with the inquiry process. Other people were informed about the date except me. I received the letter intimating me about the date of inquiry sometime in the afternoon on the day of the inquiry. I could see that the committee had begun with non-cooperation. At that time, I reported to the Joint CEO at the head office about this mental harassment. He fired the committee members. That committee was then replaced with local members along with a NGO member. For the third time a committee was formed with local women officers and a NGO member with it. This committee started the inquiry. By then several months had passed by.

G

When I complained to the senior supervisor about sexual harassment she told me that I should have hit that man with footwear - chappal and abused him verbally. I told her that this was not my culture and that she should take action against him as an officer. She could not do it. This happened everywhere. I was told that why I was taking it seriously. His dirty talk caused trouble to me and I approached the officer. She fired him over the phone that he should not do such things. The officers were in a dilemma as to where they should forward the complaint given by my husband. Who should do the inquiry, where it should be done, and how it should be done?

Social worker from the hospital where she was undergoing treatment for depression motivated her saying she needed to do something for getting justice. G’s husband wrote the complaint. The officer called her for a department inquiry. Since she was going through the treatment she was not in a state to go for it. There was a message for her husband to be there for the meeting. When her husband went for the meeting the education officer told him that he could not be there for the inquiry for it since he was not an employee of the organisation.
Husband told them that since she was affected and suffering he complained on behalf of her. Then the officer asked him questions related to the complaint. During this meeting that man was present and he replied to questions. After that man left, the officer asked her husband whether she wanted transfer or they wanted that man to be transferred. Her husband said that since he was not the employee he was not in a position to talk about the transfer part and only she was the one who could make a choice.

Officers in the organisation including my inquiry officer and many others do not know about the complaints committee as per the Vishakha guidelines. They were using the term Vishakha committee as they thought that it was formed by Vishakha Raut who was the ex-Mayor of the city. It is sad to hear such things. How can such people carry out inquiries? They do not know about the existence of the Vishakha guidelines. I have a question that whether such people are qualified to be inquiry officers. They do not know the background incident to the guidelines and the legal provisions. The inquiry officer should first understand the concept of the complaints committee and its scope. We were given an impression that this was a committee formed due to Vishakha Raut. We met her too. I told her that women were getting justice because of her initiative. Later on when the activist sent the guideline copy to us we read it and got to know the proper information about the guidelines. At that time, I felt that I was a fool. Officers need to study the Vishakha guidelines.

Inquiry officer told me that when a woman wants to be transferred she makes an issue out of something and complains that the man is doing this and the man is doing that. In this way, she gets her transfer done to the desired place. This may be happening. However, in each case truth needs to be found out in terms of her family atmosphere etc. Inquiry officer needs to think in this manner.

After some days when we went to the officer again, the officer asked the same question about the transfer. That time I was feeling better and my husband had taken an appointment with the officer. The focus of the questions was on work and not harassment. I told the officer that there was no need for that man to pass sexually coloured remarks on me. I told the officer that since everybody knew me at the school, I did not want transfer from there. The officer accepted this and said that the man will be transferred. It did not happen immediately. We had to get political people to pressure them for that. The officer wanted to close the matter. Since nothing was happening in the meantime we approached a women’s organisation. My husband got information about the women’s organisation from a newspaper reporter. Due to the intervention of the women’s organisation after few months the complaints committee called me for a meeting at the office of the NGO member.

I also went to the Mayor of the city along with one of the political party women. I had a bad experience there too. The Mayor thought that the complainant would be a beautiful and chic young woman. She said “mala vatala koni tari chikni porgi asel” When she met me she said that I should settle the matter outside. She did not pay attention looking at it as a problem of a woman. I never received any reply for all the detailed paper work that I did during that time. I expected that to happen.

Another issue is that I was on leave from work for five months and eleven days due to depression. I do not expect paid leave but it created problems for me in getting my leave travel concession. Moreover, I was marked as absent. I made an application that it should be treated as special leave. We are entitled to casual leaves but we do not have privilege leave. We have to apply for long leave. I am told that I
should present any such case in the past where such a thing as happened so that my leave can be regularised.

H

On several occasions, I brought the issue of sexual harassment to my manager and my immediate supervisor. Every time, I was either told that something would be done about it or I was asked to not take the harassment so seriously. I believe that there was callousness in dealing with my complaints. There was not enough sensitivity to the fact that the harassment was real and was creating an unjust and illegal work environment for me.

Due to his constant advances towards H, there was a perpetration of jokes around how he was in love or not in love with her. It became a common joke within the group including participation of her manager. Despite her objections to him about the same and her repeated complaints to the managers, nothing was done to deter him. The problem became so acute that H requested her manager to transfer her to another part of the office.

He told her colleagues and her supervisor that since he was subject to ragging when he joined, it was his turn now that she was a junior. Repeated harassment made it extremely difficult for her to work at the bank. It came to a point that H decided to resign from the job.

There was no training or guidance provided educating us about process for complaining about sexual harassment. I believe that it would have greatly helped me and would help others if there were clear guidelines against sexual harassment that every employee was made aware of. This would have enabled my managers and colleagues to clearly understand that the behavior that was being perpetrated unto me constituted sexual harassment and workplace hostility.

H told her manager that she wanted to resign from bank due to constant harassment. While she did not name the person in her complaint, she believed that the manager was aware of the situation because he was an active participant in the jokes about her in her office. Manager reassured her that he understood her concerns and that she could reduce her interactions with the people who harassed her. However no action was taken and the situation did not change for her.

After I complained to my manager and when no action had been forthcoming, I complained to my immediate supervisor. In my complaint, I specifically told him the nature of harassment and how he was following me around. Supervisor however, chose to brush off my complaint and told me, and I quote here verbatim, ‘What rubbish!’ He also asked me to reduce my interactions with that man. I told him that I needed to work with that man since he was more experienced. Rather I needed his guidance from time to time, supervisor decided to organize training for our entire team so that I (and others) could reduce our dependence on that man.

I would like to point out here that instead of taking any action against that man, supervisor chose a path of avoidance in this case. Again, I believe that my manager and supervisor at the bank did not act in accordance with either the law of the land or bank’s own laid down guidelines against sexual
harassment. When he used to come to my desk often even without any professional reason, I complained to my manager about it and requested him to ask him to desist or to relocate me to another part of the office building where he could not bother me, manager refused to relocate me and instead offered to move me to share that man’s desk. I would like to point out that there were several other informal occasions also on which I complained to both manager and supervisor about sexual harassment. By choosing to take no action or indeed guide me to the formal process at bank for handling such complaints, both manager and supervisor only encouraged further harassment.

H finally decided to resign from the bank.

In my exit interview with the HR manager and her manager, I clearly expressed the fact that the sexual harassment I was facing at the bank was the primary reason I was resigning from the bank. Manager, at this point, told me that he would talk to that man about it and actually requested me to reconsider my separation. Further, he requested me not to complain to HR since it might spoil that man’s future. He also said that as a young attractive girl I would have faced such situations innumerable times and that I would know how to handle such a situation. I offered to work through my notice period provided that I was ensured a safe and non-hostile working environment. Instead of organising any of this, manager offered to waive off my notice period, thus denying me a chance to look for employment while I was earning.

HR manager asked her to reconsider the resignation. H gave her a complaint in writing. HR manager assured H that appropriate action would be taken by HR.

Subsequent to my written complaint to the HR manager, when I did not hear of any action from the bank, I wrote to bank India’s Branch Banking Head. He responded to my complaint and assured me that the VP HR would get back to me and investigate this matter further. Subsequently, I met with VP HR. I provided him the details of the harassment. He informed me that in internal investigation would be conducted and appropriate steps would be taken. He also offered me another position in the bank. I, however, decided not to join the bank until appropriate action had been taken by them. Upon subsequent follow-up, VP HR informed me that an internal investigation was completed and appropriate action was taken. However, citing bank policy, I was left completely in the dark about the actual results of the investigation and the subsequent steps. I believed that as a victim of the harassment, I had the right to know how my grievances were addressed by the bank. I also believe that the investigation conducted by the bank so far is not in line with Supreme Court’s guidelines as per Vishakha and Others vs. State of Rajasthan and Others case in 1997.

I met an activist working with an NGO. She gave me information about the Vishakha guidelines. I therefore requested that a committee investigation be conducted as per Supreme Court guidelines. My release letter is yet to be processed, and I am unable to seek employment elsewhere. I had withheld certain exit documents that I decided to sign only after this investigation was initiated. The bank did not issue a release letter to me, and this prevented me from getting another job with any of the bigger firms. Further, though most of my interviews went very well, and they asked me when I could join, nothing ever materialised when a background check was conducted with the bank. It left a very bad impression on most firms when I was unable to provide contacts of colleagues to do background check.
2. External Members - Complaints Committees

Employer response to sexual harassment cases is subjective. Whosoever is the head of the institution it depends upon that person. It cannot be prescribed in a law or in a bill. It depends upon the head of the institution how they promote that entire committee and functioning of the committee. I am talking especially with reference to the public hospitals. We as a group are supposedly the external members for all public hospitals. I have letter from hospital in eastern suburb where I have not gone once. I am getting response from two other hospitals where the inquiry committee is active. I do not know who goes to the other hospitals and who is representing in those committees because I have a formal letter from the eastern suburb hospital that as a NGO representative you have been taken in by the inquiry committee.

When a case is reported status of that man and what kind of person he is that matters. How it is reported that matters. Who is involved in reporting it and who is the person behind it matters. All this matters because it is subjective. There was an issue about a doctor at one of the hospital. Memo was given to the doctor. It was used against her by a senior administrative officer who harassed her sexually. The whole case revolved around the fact the whole thing is happening because she is irregular in attending her duties and that she has complained to cover that up. This was the picture created. Her sexual harassment case was given low priority because the head was not interested in bringing this up. We did the inquiry and we gave the report. The committee got dissolved since the chairperson was taken out since she was a strong person. It is in a mess. They have changed the entire committee. I have not been asked to join it. I do not know what is happening.

In some cases the head of the institution or whatever the machinery may be responsible. While is certain cases where their interests are that stake there they will be not so. That is the reason I pointing out again and again the subjective factor. Sexual harassment itself is about subjective since it is about perception. The existing concepts about sexuality matters a lot. It is a complex thing. Functioning of a complaints committee depends on the chairperson. I am not getting calls from other hospitals may be because the chairperson is not active and bothered. As a leading person in the complaint committee the chairperson has a vital role. They can come out but may not be powerful.

External members said people in few organisations spoke about Vishakha guidelines because it was a compulsion coming from the higher level and they wanted to oblige to that. For others they were still getting to about the Vishakha guidelines and it was a new thing for them. While many organisations did not have complaints committees and they did not know about the Vishakha guidelines. They were not aware about the mechanisms to deal with sexual harassment at workplace. In some government offices, it was seen that the employers did respond and the complaints committees were in place. However, in private organisations, process of implementation of the Vishakha guidelines was not yet initiated and the complaints committees were not in place. Though they existed, it was only last two-three years that there was focus and emphasis on them. As a result of this people started knowing and reading about the guidelines.
Most women who faced sexual harassment did not know what they could do and wanted to know more when they faced sexual harassment. They reached to the NGOs and the police. However this state of oblivion was found if one went to the police station and / or some NGO. It was seen and understood that the implementation of the Vishakha guidelines in most organisations was low. Committees were not formed in many offices, meetings were not held, prevention programmes were not done and there was no work at the preventive level. They began functioning only when a case was reported. They shared experiences…. 

The attitude of the employers about the responsibility of forming a committee is not constructive or positive. It is a formality. It is done in a manner that there is a judgement by the SC and it is binding on us. Employers do not look at it as violence to the women and justice to women. Every establishment says that the atmosphere in our organisation is good and therefore women do not such experiences. Whenever an employer receives a complaint, that time there is arrangement from the employer by the maintaining utmost secrecy that it does not affect the reputation of the establishment.

One of the participants said, employer response to a complaint of sexual harassment to begin with was not sympathetic. Since the public sector had some structure and guidelines, they could not be completely dismissive. They set up some complaints committee. However it was done in a reluctant manner. In the private sector there was an attempt not to pay attention to the complaint. She narrated her experience: 

I had experience with two public sector organisations. One was with the national airline and another one was with a government dental college. There have been some private sector organisations too. In the case of the national airline, she was the member of the complaints committee. She was an executive. When this happened she made a complaint. Then they did an initial inquiry and then they went in for a full-fledged inquiry. The person who did it was her senior. There was no effort to create an environment which would support her to come out of this was not created. People did not support her. He used his social popularity to build up a hostile environment for her. 

What happens if the person is creating a hostile environment outside and selectively setting out his points of view? What should the management do to stop him? It is the accused who tend to use those tactics. He was suspended or removed from there for a while but he came back after a little while. She was transferred out from there rather he being removed from there. In the government dental college there was criticism because she made a police complaint. In the public sector they do not want the police to be there on their campus. One needs to take permission and inform before doing it. There was lack of supportive environment in both the cases. Though some public sector undertakings have been forthcoming most of the managements are reluctant. In the private sector the woman is pressurised to leave the job. She is not given hearing. However I am not sure how much justice is coming for women. Though one goes through the procedures the justice part of it is not favourable to women. People in authority are not getting punished. When we see the outcomes in complaints procedures it is unsatisfactory. This is an argument to have a law. 

In the government dental college they were not just coming out with the action taken report. It sat with the Commissioner. The Medical Director was to a great degree was biased against the woman due to some administrative issues in the hospital. There was an inquiry against her for making it public
and going to the police. She had to go to the court to get the action taken report and to get it implemented. In the national airline case the case was dragged by giving him a show cause notice and his reply to it, till he resigned. The day he resigned it was announced that he was found guilty. He got his pension plus arrears and he had retired with a big farewell party. It is farcical. If the harasser is a powerful person in the structure the employer generally go by them unless it is going to become a big scandal. Powerful ones are protected by the management. I know of a case in one of the districts where a young woman doctor was harassed by a senior doctor. It was a private medical institution. She was based in that place away from her family. She was forced to leave her post graduation studies. There was no question of inquiry. She was isolated and at their mercy. She had to give up her education and she had to just leave from there. I am not sure what happens to such cases in smaller places.

External members said reported complaints were pushed under carpet. Attitude of the employer was casual and that of avoidance. They saw sexual harassment as normal and took it in a light manner. It was not taken seriously and something to be dealt with immediately. The woman was made to understand that she should not have complained because the doer may have not done it with that intention.

How can you say that it is sexual harassment? It could be just anything between the two and now it has taken the form of sexual harassment.

External members said mere forming a complaints committee was not enough but the employers needed to go a step ahead about their responsibility. They talked more about it....

We have to see that the people appointed as per the guidelines know about the issue of violence against women and they have sensitivity. Efforts have to be made to do their capacity building. Mere forming a complaints committee is not enough. Inputs should be given to the committee and those should be brought into the functioning of the committee. Both male and female employees should be made aware of the existence of the complaint committee as per the Vishakha guidelines. I am not sure that all working women know about these committees.

Complaints committee should do outreach. My observation is that committee members avoid doing outreach with a thought that it will add to their work. Their departments have not given them time to do this work. Departments say that they should do this work during the office hours and then sit late evening to complete their usual work. Nobody else does their work or shares their work. They think that if they do outreach then more cases might be reported and lot of time will be spent. This will result in increased burden of work on them and department will not give any concession to them in the same. They do want to increase their work. Department should give them concession and committee members should take a proactive role. Inputs should be given to the committee and those should be brought into the functioning of the committee. She says that trainings need to be specific and well done.

External members said sexual harassment policies were vague and organisations needed help with them. Policies were not written properly and laid down. They needed to incorporate different situations. Then the committees would not need to think a lot.
I am with two sexual harassment committees of the public hospitals. When I asked for the policy they gave me a small leaflet. The leaflet did not contain anything.

3. Lawyers

a. Lawyer One

Whatever cases have come to me are that the woman has complained and she has been terminated. Largely dealing with the workers, whether it is the unorganised sector or from the organised private sector, I have dealt with cases where the women have been illegally terminated or there are charge sheets or memos issued to her for various unrelated issues like misconducts at work usually minor misconducts. The basis or foundation of it would that there would be some complaint made about some form of sexual harassment or other. The official redress mechanism has been used to quiet her down or to teach her a lesson. Usually in the government sector wherever, I have come across usually the situation of department enquiries conducted against her for complaining or actually making representations to the superior or whomever she is supposed to complain. Then immediately the spotlight comes on to the woman. It could be situations of going on leave or file being misplaced or not completing work not having specified how much work she should be given and suddenly saying that oh! she has not finished this work. Somehow or the other some sort of a thing; regular workplace situations are taken and there will be a spotlight on the woman. She can be rest assured that her personal file will be plucked out and something or the other will be taken out of it.

In all her cases the employers got absolutely vindictive and made it difficult for the women to seek employment elsewhere. News was spread around that the woman was a trouble maker. In cases of sexual harassment the workplace is 95% with the man and 5% with the woman. The 5% was weak since they knew that they would face the brunt of it being employees of the organisation. They too will face retaliation.

Since women met with denials from the time they complained they wanted an acknowledgement from the institution that they did not tell lies and it was not a cooked up story. The denial by the employer slightly broke when women fought tooth and nail; produced evidence that it became impossible for the employer to deny the charges. In that case the man was given honourable exit. Many times women wanted the man to be punished.

However, post liberalisation things changed and women sometimes got nothing after fighting for many years. Many times women were not in a position to go back to their jobs. They wanted back wages and compensation. They said ‘Mera jo bacha hai woh de do’. She said she was yet to meet women who asked only for compensation. Only after a woman fought it out for more or less ten years that she got some compensation. Women talked about monetary compensation only when the fight dragged on and they were unable to go ahead in physical and
financial sense. Initially they said ‘mujhe justice chaahiye, usne kiya hai’ and moved on to demanding compensation only when their survival became impossible economically.

Lawyer saw complaint committees were on paper and mostly formed by the employer under pressure if a complaint was reported. Nature of the committee depended on the person from the human resources involved in that particular situation. Most of the times the HR department had not functioned in the way they would be expected to do so. Invariably they protected the man responsible for sexual harassment and made things difficult for the woman or they stage managed the committee in a fashion that it cannot give justice.

Companies feigned strict global standards and sophistication outwardly. Inside they had the patriarchal attitude which believed, woman complained since she wanted attention. It was a façade. It was clear speak when a case is reported. They combined sexual harassment with bullying to make it gender neutral because they do not want the women-women thing i.e. focus on women.

c. Lawyer Two

Employer response to sexual harassment complaints is negative. When it comes to the organised sector one would expect that the employer is more enlightened and look at the issue positively. There is an expectation that the employer takes effective steps to prevent it and give some sort of relief to the woman who has complained of sexual harassment. However, it does not happen. Majority of the cases, in fact almost all the cases the employer has not dealt with the issue and the complaint from a sensitive point of view. Either employers ignore the issue or if they feel that the woman is going to take some action then there is retaliation against the woman. Most of the cases women are victimised. That is the major problem.

Whenever women appeared before a committee they did not challenge the constitution of the complaints committee instantly. The committee looked fair because it had women as members and outsider working on the issues of women. However she suggested they found out more about the external member as it was important. Enquiries under the RTI Act regarding the NGO, whether it existed, their work with women, time for which they were working, role of the woman in that NGO, kind of work done by her revealed that the NGO did not exist. Some woman was appointed as an external member since she was known to the company and close to the directors of the company. It because of these reasons women needed to start from the basic level of challenging the constitution of the committee in the High Court. It took long time.
Secondly, the companies did not give details about the members of the committee. Therefore, women had to try to get details through the RTI Act and then approach the court. This activity was time consuming. By the time the High Court constituted another complaints committee, it was long time. Initially women did not agree initially with the names suggested by the Court but did so finally because they wanted to speed up the process. This resulted in the decision going against the women as there was major problem in the constitution of the committee. There was not a single case where the decision was given in the favour of women. Lawyer suggested that more responsibility should be on the employer. If the employer is held liable and responsible for the acts of harassment by the employee then there will be steps to ensure prevention of sexual harassment.

d. Lawyer Three

Employers do not see this problem as a serious issue. My observation from whatever case experience that I have is that generally employers look at this issue as trivial and say that since the woman was a non-performer it is one of the reasons why she has complained of sexual harassment. They are unable to define sexual harassment and they say that what was there for the woman to feel sexually harassed. If it is a non-verbal conduct then the employer does not see it as a serious form of sexual harassment and they just feel that the woman is making an issue out of it. The status of implementation of the Vishakha guidelines across sectors is extremely poor. In the year 2005, the Women’s Commission had called the record from all the departments of Mantralaya. They wanted to know whether at least after ten years the committees were established. Most of the departments informed the Commission that they did not know about the Vishakha guidelines. Some departments informed that they had committees but no NGO member with those committees. They said that they had not received a single complaint of sexual harassment. This record can be actually crosschecked with the Commission. All the documents are there.

She said that wherever complaints committees are in place, their capacity building is not done by the organisations. She noted her observations….

It is unfortunate that when a woman makes a complaint of sexual harassment there is not even a slight warning from the establishment to the man. Even if the woman seeks transfer then also it is not done. Moreover, she is placed in a solitary place. Other employees are not allowed to talk to her. She definitely suffers more than anybody else does. Even if the woman wants the harasser to be transferred and to be taken on record that for this reason he was transferred it is not done. It should not be a normal administrative transfer but because he has misbehaved in the workplace. There was a complaint of sexual harassment against him. This kind of record needs to be created. However, this kind of harassment is not acknowledged by the offices. If it is a normal or a routine transfer nobody in the office would know that it is not a regular transfer. Somewhere there has to be a note in his record or his confidential report.

4. Trade Union Members

a. Union Member One
She spoke about her experiences with a state government Corporation. In the beginning attitude of the people within the Corporation towards implementation of Vishakha was that of resistance. When the union gave a letter for implementation of the Vishakha guidelines concerned officer was against formation of a complaints committee. The officer said there was no need for such a mechanism as it would lead to problems. Until a particular doctor was involved in the process, she included the union in the policy making process.

However after she retired from the organisation, union stopped getting included in the process. Currently, when the union received a case, they carried out correspondence with the concerned department within the Corporation. She narrated her experience regarding reported cases within Corporation….

Whenever there is a complaint, the perspective of the employer is that, for so many days why there was no complaint. Why it has come all of a sudden? Is it that the woman wants to take revenge? Mostly it is thought by the employer and her colleagues around her, that the woman is complaining because she is seeking revenge on that man. People fear that if the man is punished in this case then his family will suffer. But nobody instantly says that he is behaving wrongly. This is the problem. Recently we received a complaint of a woman security guard. She complained against a male security officer. Nothing happened after she complained and the seniors never asked her anything. Finally, she complained to the sexual harassment complaints committee. We do not know the procedure followed by the sexual harassment committee. Meanwhile the complainant was transferred. When she reported about the transfer to the sexual harassment committee, they said that it was not part of their job.

Actually, the committee should have interfered into it looking at the transfer as an outcome of her complaint. This happened though the committee comprised of women officers. It was unfortunate. The complainant is demoralised and she said she has no support. There was a systematic effort to tarnish her character. However, her husband was firm about his support to her. That was one good thing. Finally, in anger I said that just because she could be having relations with the man mentioned by you, is it expected that she should have relations with you too. This is bad. If this is the attitude then it is wrong.

In the above mentioned case, though she wrote to the sexual harassment committee and to the seniors for a male committee member to be removed from the committee since he did not come across impartial. But there was no action.

Union member said Corporation had many cases of sexual exploitation of young women who were employed on compassionate grounds after the death of their husbands. She shared one such instance….

A man asked one woman for relation. She asked him whether he would marry her and told him that she would marry him only if he divorced his wife. She stopped talking to him. Then he started harassing her by brushing against her body deliberately. She complained of sexual harassment. She was targeted at her workplace. Male teachers working with him spoke vulgar about her character and her relationship with him. As a result, the woman did not come to work since one and half year after she complained of sexual harassment. She was depressed and lost her confidence completely.
Moreover, she was a single woman. In such cases, husbands are not present to support the woman. She lost her salary too. Recently, when it came to our notice we put her back to work.

She added though there was vulgar talk in the offices of the Corporation continuously nobody felt anything about it. Attempts were made to keep the issue of sexual harassment under cover by portraying that the provision would be misused. Women too did not complain about sexual harassment because it led to getting them a bad name. When a woman complained, there was a systematic effort to tarnish her character….

In one of the cases, the officer supported the man who was charged with sexual harassment. They were telling that the woman was of a bad character in front of people and the propaganda was done in a loud manner. That changed perception of people towards her. That marginalised the woman further who was already a victim.

She said that mostly men were not punished by the Corporation and the case was closed by transferring the man. According to her it was important part of the redress that the man was punished and transfer was not punishment. In rare cases punishments are given to men where they suffered some loss in terms of money and they were exposed socially too. However the union did not protect a man who was accused or found guilty of sexual harassment. If he approached the union for defending himself the union would help him.

However, wherever possible the union made an effort to make sure that the women got justice. She said that union members should not become defense assistants for the charged man and they did not have such provision for representation by the union. However she admitted, the union is fraught with gender bias and people did not want to be involved with such cases. Mostly women were advised to settle the matter amicably instead of pursuing it to its logical end. She says that as an office bearer of the union her stand was that punishment should be given in cases of sexual harassment. She quoted examples to illustrate stand of the union….

Some time there was a case of sexual harassment in one of the hospitals where the man was charged of sexually abusing a patient (female) admitted in the hospital. Though he was a member of our union, we took a stand that since it was a case of sexual abuse he should be punished. In one of the case of a teacher (female) working with a corporation school, the man was the member of the union. There we took a stand that the man should be punished since the woman faced sexual harassment from him. He tried to defend himself before us but we did not consider that much.

b. Union Member Two

Sexual harassment at workplace is an evil in the solidarity. If the man is powerful then we try to compromise. I can share one experience. The woman belonged to our union and the harasser belonged
to the other union. He was holding a high position in the organisation. There was a pressure on me as union person that I should bring about a compromise in the case and it should not go further.

The union received four-five cases of sexual harassment. Whenever they conducted education classes for women they highlighted the issue. Otherwise women never dared to talk about it. Stand of the union leaders about sexual harassment varied according to the person. The union was focusing on membership of women. She talked about one reported case….

Once when we were having a residential class, one member working as employee with the class four category told us that one of the officers was making unwanted demands to her. She was scared. We told her that we would take care of her. While we were at the class, she agreed that she would complain in writing. Unfortunately, when we reached the city she refused to put in a complaint. Maybe we failed to create confidence in her that we could give her justice.

In one office where the woman was facing harassment from the officer, our leader wrote a letter to the management. Management transferred that officer. However, the woman was scared that if he would harass her again if he was posted back there. We assured her that it would not happen but there was lot of fear in her mind.