

## HR Law Hotline

November 23, 2017

### SEXUAL HARASSMENT AT WORKPLACE: INDIAN GOVERNMENT INTRODUCES PLATFORM FOR FEMALE EMPLOYEES TO FILE COMPLAINTS

- The Ministry of Women and Child Development has launched “**SHe-Box**”, an online platform for reporting complaints of sexual harassment arising at the workplace.
- The SHe-Box facility can be used by both government and private sector employees.
- Complaints received on SHe-Box shall be directed by the government to the employer’s ICC or LCC.
- Progress of the investigation can be monitored by both the complainant and the Ministry of Women and Child Development.

#### WHAT’S SHE-BOX?

The Indian Ministry of Women and Child Development (“**WCD**”) had launched an online complaint platform named “**SHe-Box**”, which stands for “Sexual Harassment Electronic Box”<sup>1</sup>. SHe-Box has been introduced to allow female employees or visitors a platform to raise complaints of sexual harassment at the workplace<sup>2</sup>. This facility has also been extended to private sector employees<sup>3</sup>.

‘SHe-box’, which can be accessed at [www.shebox.nic.in](http://www.shebox.nic.in), seeks to ensure effective implementation of India’s Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“**Anti-Harassment Law**”). It aims at providing speedy redressal of sexual harassment complaints. In the event that a formal complaint is lodged with SHe-Box, based on an assessment of the complaint, the WCD will direct such complaint to the employer’s Internal Complaints Committee (“**ICC**”) or the Local Complaints Committee set up by the government at each district (“**LCC**”), as the case may be. The WCD also proposes to actively monitor the progress of inquiry conducted by the ICC / LCC and keep the complainant updated<sup>4</sup>. SHe-Box also proposes to work as a repository providing information related to dealing with workplace sexual harassment complaints. The users are free to access the resources available on SHe-Box for creating awareness<sup>5</sup>. The WCD promises to ensure that the identity of the aggrieved women / complainant is kept confidential<sup>6</sup>.

#### GRIEVANCE REDRESSAL UNDER THE ANTI-HARASSMENT LAW

Please refer to our research paper titled ‘[India’s law on Prevention of Sexual Harassment at Workplace](#)’ for information on India’s Anti-Harassment Law. A brief snapshot is as follows:

- The Anti-Harassment Law was enacted in December 2013, almost 16 years after the guidelines issued by the Supreme Court of India in the case of Vishakha<sup>7</sup>. Please refer to our legal alert on this topic [here](#).
- As per the Anti-Harassment Law, every employer employing at least 10 employees is required to set up an ICC at each office or branch to investigate and redress sexual harassment grievances.
- The government is also required to set up a LCC in every district to deal with complaints of sexual harassment arising from the unorganized sector or from establishments where the ICC has not been constituted (on account of the establishment having less than 10 employees) or if the complaint is against the employer.
- The law imposes a penalty of upto Rs. 50,000 (approx. USD 775) on employers who do not implement the provisions of the Anti-Harassment Law including failure to constitute an ICC.

#### ANALYSIS

The introduction of SHe-Box is a positive step of the Indian government in its continuing efforts to provide a safe and fair working environment for women. With this initiative, female employees now have another channel to raise workplace sexual harassment complaints.

In spite of the enactment of the Anti-Harassment Law in 2013, the WCD has been receiving sexual harassment complaints<sup>8</sup>. This indicates that either there are employers that may not have a fully functional ICC or necessary awareness has not been created at the workplace. It could even be possible that female employees do not have enough confidence in their employer’s internal complaint mechanism or that the investigation has been delayed.

The government will however need to quickly implement the requisite infrastructure and resources to manage this initiative to achieve the desired objectives. While SHe-Box has currently been designed to cater to the interests of female employees, enabling them to raise complaints of sexual harassment on a quick time basis without fear of retaliation, the government should also use this platform by providing necessary tools to help employers comply with the Anti-Harassment Law. By way of examples, SHe-Box could serve as a point of reference for employers or their ICC should they have any questions relating to the process to be followed upon receiving a complaint or how the report should be worded. It could also serve as a repository of experienced personnel who could serve as the

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external member on the employer's ICC at different locations.

According to the National Crime Records Bureau, between 2014 and 2015 (that is, after implementation of the Anti-Harassment Law by the Indian government), reporting of sexual harassment complaints has increased significantly<sup>9</sup>. In terms of statistics, 65.2% of women have reported that their employers do not follow the procedure laid out under the Anti-Harassment Act and 46.7% of the participant companies have admitted that their ICCs are not aware of the legal provisions pertaining to sexual harassment<sup>10</sup> The recent worldwide social media campaign **#MeToo** which was started in response to the Harvey Weinstein scandal, depicted the magnitude of sexual harassment issues worldwide. The movement gave many Indian women the space and encouragement to come out with their own experiences of sexual harassment<sup>11</sup> Some women also penned down horrifying instances from their childhood through social media, while some shed light on their daily struggles including incidents of sexual harassment at their workplaces.

In the last couple of years, sexual harassment issues have been widely covered in the Indian media. Given the litigational and reputational risks associated with non-compliance of the Anti-Harassment Law, it is high time that employers take affirmative steps in implementing zero-tolerance policies towards sexual harassment at their workplaces and ensure that the complaint is investigated swiftly, comprehensively and confidentially.

Please also refer to our recent article relating to the 3-year term for ICC members [here](#).

– **Preeetha S & Vikram Shroff**

You can direct your queries or comments to the authors

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<sup>1</sup> <http://shebox.nic.in/>

<sup>2</sup> <http://pib.nic.in/newsite/PrintRelease.aspx?relid=168892>

<sup>3</sup> <http://pib.nic.in/newsite/PrintRelease.aspx?relid=173299>

<sup>4</sup> <http://www.hindustantimes.com/india-news/she-box-to-the-rescue-of-govt-s-women-employees-facing-sexual-harassment-at-work/story-nb3z7lhcll9yag5MTLOol.html>

<sup>5</sup> <http://www.shebox.nic.in/user/termsConditions>

<sup>6</sup> Ibid

<sup>7</sup> Vishaka and others v. State of Rajasthan, 1997 (7) SCC 323

<sup>8</sup> <http://www.hindustantimes.com/india-news/she-box-to-the-rescue-of-govt-s-women-employees-facing-sexual-harassment-at-work/story-nb3z7lhcll9yag5MTLOol.html>

<sup>9</sup> [http://www.business-standard.com/article/current-affairs/70-working-women-do-not-report-workplace-sexual-harassment-in-india-117030400227\\_1.html](http://www.business-standard.com/article/current-affairs/70-working-women-do-not-report-workplace-sexual-harassment-in-india-117030400227_1.html)

<sup>10</sup> Ibid.

<sup>11</sup> <https://theprint.in/2017/10/16/me-too-indian-victims-sexual-assault/>

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