

## ***POLICY ON PREVENTION, PROHIBITION AND REDRESSAL OF SEXUAL HARASSMENT OF WOMEN IN WORKPLACE***

**Under the SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION & REDRESSAL) ACT, 2013 notified in the Gazette of India on 9<sup>th</sup> December 2013**

### **1.0. Preface**

Assam Gas Company Ltd. , a premiere public sector organization in the North eastern state of Assam firmly believes in gender equality and gender justice in all its interventions/policies and practices . Keeping this in view, it is imperative to ensure an organizational climate wherein discrimination and harassment, particularly sexual harassment against women is prevented. For this, establishment of a WOMEN'S GRIEVANCE REDRESSAL CELL (following Visakha Guidelines & Sexual Harassment of Women at Workplace Act, 2013 of Govt. of India) is of utmost importance.

### **1.1. The Visakha Guidelines & Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013**

In a landmark judgment passed in 1997 between a women's right group Visakha Vs. the State of Rajasthan case, laying down guidelines to be followed by establishments in dealing with complaints about sexual harassment, the Supreme Court of India stipulated the Visakha Guidelines and stated that these guidelines are to be implemented until a separate legislation is passed to deal with the issue.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 came in to force w.e.f. 09.12.2013 superseding the Visakha Guidelines. The rules in the matter have been notified and came into force w.e.f. 09.12.2013. Under section 19(b) of the Act it is obligatory for an employer to frame the policy for prevention of sexual harassment at the work place and the procedure for dealing with the complaints arising from such Acts and display the same in a conspicuous place in the work place. Accordingly the policy has been framed and notified for the information of the employees.

### **1.2 Applicability**

This policy is known as Policy for Prevention, Prohibition and Redressal of Sexual Harassment at Work place & the Rules (hereinafter referred to as 'Policy') and is applicable to all employees of Assam Gas Company Limited deployed at the workplace who are either (a) on the rolls of the establishment or (b) engaged through the Contractor(s) having service agreement with the establishment or as enumerated in clause (f) of section 2 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, details of which are provided below:-

(a) **Staff/Employees:** The following will be covered under this policy:

- 1) Regular employees

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- 2) Temporary/part time/adhoc employees/daily wage earners either directly or through an agent/contractor whether for remuneration or not
- 3) Trainees/apprentices/probationer
- 4) Person working on a voluntary basis
- 5) Directors

**(b) Employer:** Employer refers Assam Gas Company Limited.

### **1.3. Employer's obligations**

The Sexual Harassment Act requires an employer to set up an 'Internal Complaints Committee' ("ICC") at each office or branch having more than 10 employees of any gender. The government is, in turn required to set up a 'Local Complaints Committees' ("LCC") at the District level to investigate complaints regarding sexual harassment 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. It also sets out the constitution of the committees, process to be followed for making a complaint and inquiring into the complaint in a time bound manner.

In addition to ensuring compliance with the other provisions stipulated, the Sexual Harassment Act casts certain obligations upon the employer to

- provide a safe working environment
- display conspicuously at the workplace, the penal consequences of indulging in acts that may constitute sexual harassment and the composition of the Internal Complaints Committee
- organise workshops and awareness programmes at regular intervals for sensitizing employees on the issues and implications of workplace sexual harassment and organizing orientation programmes for members of the Internal Complaints Committee
- treat sexual harassment as a misconduct under the service rules and initiate action for misconduct.
- The employer is also required to monitor the timely submission of reports by the ICC.

### **2.0. Penal Provisions under the Act:**

If an employer fails to constitute an Internal Complaints Committee or does not comply with any provisions contained therein, the Sexual Harassment Act prescribes a monetary penalty of up to INR 50,000. A repetition of the same offence could result in the punishment being doubled and / or de-registration of the entity or revocation of any statutory business licenses.

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### **3.0. Objectives**

- To create a congenial working environment which is free of sexual harassment or gender based discrimination for all women employees.
- To heighten awareness and sensitivity to this important issue amongst all concerned.
- To uphold the dignity of the organization by ensuring free atmosphere.

### **4.0. Definitions**

In this Policy document, unless there is anything repugnant to the subject or context thereof, the words and expression as stated below, shall have the following meanings:-

- 4.1 **Act** means Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and rules thereunder (SHWW Act)
- 4.2 **Company** means Assam Gas Company Limited having its Registered Office at Duliajan and other site offices and Coordination Office at Guwahati as the case may be.
- 4.3 **CE – AW – Complainant Employee/Aggrieved Woman:** Refers to any woman employee (as per section 2(a) of SHWW Act) who has lodged a complaint of sexual harassment at workplace and has been subjected to any act of sexual harassment by another employee (hereinafter referred to as ‘respondent’).
- 4.4 **ICC – Internal Complaint Committee** constituted in accordance with the provisions of this policy read with SHWW Act and Rules thereunder.
- 4.5 **Respondent Employee RE –:** Refers to any employee against whom the complaint of sexual harassment has been lodged.
- 4.6 **Workplace –** Workplace refers to all the offices of Company situated anywhere in India. It also includes any place visited by the employees arising out of or during the course of employment including transportation provided by the Company for undertaking the journey, the places where the employees of the Company have met for social, sports or extracurricular activities organized by the Company. For further clarity and details refer to the clause (O) Sec 2 of the SHWW Act.

### **5.0. Prohibited Activities**

According to the Hon. Supreme Court of India (Visakha Guidelines), definition of sexual harassment is any unwelcome sexually determined behavior, such as:-

- Physical contact and advances
- Demand or request for sexual favors
- Sexually coloured remarks

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- Display of pornography
- Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature i.e., teasing, mockery, joking or that of unwelcome physical contact. For example
  - Rebuff of payment or official endorsement in the absence of sexual favors.
  - Displaying sexually suggestive objects, pictures or magazines.
  - Comment made about personal appearance and dress.
  - Colored jokes shared in company that makes others uncomfortable.
  - Continual expression of sexual or social interest after an indication that such interest is not desired.
  - Conduct with sexual implication when such conduct interferes with the employee's work performance or creates an intimidating environment.
  - Suggesting or implying that failure to accept a request for a date or sex would adversely affect the employee in respect to a performance evaluation or promotion.

**6.0. Constitution of Internal Complaints Committee (ICC)**

6.1 The Internal Complaints Committee shall consist of the following members to be nominated by the employer namely –

- i) a Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees

Provided that in case a senior level woman employee is not available, the Presiding Officer shall be nominated from other offices.

Provided further that in case the other offices or administrative units of the workplace do not have a senior level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organization.

- ii) not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge .
- iii) one member from amongst non –governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:
- iv) At least one-half of the total members so nominated shall be women.

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- v) The presence of three members of the ICC shall constitute quorum for conducting the proceedings. The outside member shall always be present in all the proceedings to ensure objectivity.
- vi) The parties shall not be allowed to bring any legal practitioner to represent them in their case at any stage of the proceedings before the ICC.
- vii) The ICC shall have six members consisting of three female employees, two male employees and one external member (male / female).

**6.2.** The Presiding Officer and every member of the ICC shall hold office for such period not exceeding three years from the date of their nomination as may be specified by the employer.

**6.3.** The member appointed from amongst the NGOs shall be paid such fees or allowances for holding the proceedings of the ICC by the employer as may be prescribed.

**6.4.** The Presiding Officer or any Member of the Internal Committee can be removed from the Committee on the following grounds:

- i. Publishes, communicates or makes known to the public, press or the media about the contents of the Complaint or the Inquiry proceedings.
- ii. Convicted for any offence or an inquiry into an offence is pending against her/him.
- iii. Found guilty in any disciplinary proceeding or a disciplinary proceeding is pending against her/him.
- iv. Has abused his position in such a way that his/her continuance in office would be against public interest.

**7.0. Complaint procedure**

- i) A grievance box shall be kept in the office premise for collecting the complaints. It will be cleared once in a week. In case of urgency, complainant can directly hand it over to the Presiding Officer.
- ii) Any women employee who wants to file a complaint can do so by a written and signed complaint addressed to the Presiding Officer of the cell. In case of sexual harassment the complainant shall include the specific nature of the incident, date and the place of the incident, name of all parties involved as well as a detailed report of all pertinent facts. Complaint can be filed within three months from the date the incident took place. The Internal Committee can extend the time limit not exceeding another 3 months if it is satisfied that the circumstances were such that prevented the woman from filing the complaint within the said period.

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If the aggrieved woman is unable to make a complaint on account of her physical or mental incapacity or death, her legal heirs or such other person as may be prescribed may do so

- iii) Inquiries and/or complaints will be investigated immediately. Investigation will be conducted in confidential manner as compatible with a thorough investigation process.
- iv) During the process of handling the complaint the witnesses/complainants should not experience any kind of discrimination or victimization.

### **8.0. Conciliation and Settlement**

Before initiating an inquiry into the complaint, the ICC may at the request of the aggrieved woman, take steps to settle the matter between her and the Respondent to arrive at a settlement between the parties.

Where such a settlement has been arrived at between the parties, the ICC shall record the settlement and forward the same to the employer.

The ICC shall provide copies of the settlement to the aggrieved woman and the respondent.

No monetary settlement can be made as the basis of such conciliation.

Where a settlement is arrived at, **no further inquiry shall be conducted** by the ICC.

However, if the aggrieved woman informs the ICC that any term or condition of the settlement has not been complied with by the Respondent, the ICC shall proceed to make an inquiry into the complaint or forward the complaint to the police.

### **8.0. Redressal procedure**

- i) The complaint box shall be opened every week to collect and sort out the complaints. It shall be opened immediately if the complainant so desires.
- ii) The complainant shall be summoned to hear complaints (if necessary). Complaint of harassment will be promptly and carefully investigated. Investigation will include interview with all relevant persons, including the aggrieved and other potential witnesses in the case of sexual harassment and decision on grievances to be taken at a fairly senior level.

After hearing of complaints, the committee shall take appropriate decision in accordance with the service rules applicable to the Respondent or where no such service rules exist, in accordance with rules framed under the Act and then same will be communicated to the complainant within a period of fifteen days in general. If the nature of complaint is complicated, it may take longer to take a decision.

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- iii) Where both the parties are employees in the same workplace, the parties during the course of the inquiry shall be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.
- iv) If the complainant is not satisfied with the decision taken, she can take up the matter higher up the ladder to Local Complaints Committee or National Commission for Women.

**9.0. Inquiry Report**

On the completion of inquiry the ICC will provide a report of the findings to the employer within 10 days from the date of completion of the inquiry and such report will be made available to the concerned parties.

**10.0. Time limit of Inquiry**

The inquiry should be completed within a period of 90 days from the date of receipt of the Complaint.

**11.0 Time line for activities under the Policy:**

<b>SL. No</b>	<b>ACTION POINT</b>	<b>AUTHORITY/CONCERNED PERSON</b>	<b>TIME LIMIT</b>
<b>1</b>	Complaint:	Complaint to be lodged by aggrieved woman before Internal Complaints Committee	1) within the period of 3 months from the date of the incident, or 2) in case of series of incidents, within the period of 3 months from the date of last incident.
<b>2</b>	Initiation of Enquiry Proceedings	By the Internal Complaints Committee, by sending the copy of complaint to the Respondent	Within the period of 7 working days of receipt of the complaint
<b>3</b>	Reply by the Respondent along with his list of documents, names	To the Internal Complaints Committee	Within 10 working days from the day of receipt of the copy



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	and addresses of witnesses		of complaint forwarded by ICC.
<b>4</b>	Completion of Enquiry proceedings	By ICC	Within 3 months from the date of receipt of the complaint.
<b>5.</b>	Submission of Enquiry Report and Findings along with Recommendations by ICC	To the Management	Within 10 days of completion of Enquiry Proceedings by ICC
<b>6.</b>	Implementation of Recommendations made in the Enquiry Report of ICC	By the Management	Within 60 days of the receipt of the Recommendations made in the Enquiry Report by ICC
<b>7.</b>	Appeal under clause 12.0 of the policy.	By the aggrieved person	Within a period of 90 days of Recommendations by ICC.

**11.0. Recommendation**

The ICC shall give recommendations of any of the following to the employer on completion of the inquiry:

- I. If the ICC arrives at the conclusion that the allegation against the Respondent has not been proved, it shall recommend to the employer that no action is required to be taken.
- II. If the ICC arrives at the conclusion that the allegation against the respondent has been proved, it will recommend to the employer the following actions:
  - To take action for sexual harassment as a misconduct in accordance with the provisions of the service rule applicable to the Respondent;
  - And where no such service rules have been made or not applicable to the Respondent then the following actions shall be recommended to be taken.
    - i. A written apology
    - ii. Warning
    - iii. Reprimand or censure
    - iv. Withholding of promotions, pay rise or increments
    - v. Terminating the respondent from service



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- vi. Undergoing counseling session
- vii. Carrying out community work.

III. If the ICC arrives at a conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer to take action against the woman or the person who has made the complaint.

**The employer shall have to act upon the recommendations within 60 days of the receipt of the enquiry report.**

**12.0. Appeal**

An Appeal shall be preferred within a period of 90 days to the Court or tribunal in accordance with the service rules applicable to that person and if the service rules are not applicable then to the Appellate authority notified under section 2 (a) of the Industrial Employment (Standing Orders) Act, 1946.

**13.0. Powers of the ICC**

For the purpose of making an inquiry the ICC shall have the same powers that are vested in a civil court under the Code of Civil Procedure 1908 when trying a suit in respect of the following:

- i. Summoning and enforcing the attendance of any person and examining him on oath.
- ii. Requiring the discovery and production of documents.
- iii. Any other matter which may be prescribed.

**14.0. Recommendations by the ICC to the employer during the pendency of an Inquiry**

During the pendency of the inquiry of the ICC on a written request by the aggrieved woman, the ICC can recommend the following to the employer:

- i. Transfer the aggrieved woman or the respondent to any other workplace or
- ii. Grant leave to the aggrieved woman upto a period of 3 months or
- iii. Grant such other relief to the aggrieved woman as may be prescribed in the Act.
- iv. The leave granted to the aggrieved woman is in addition to the leave that she is otherwise entitled.

The employer shall implement the recommendations made by the ICC and send the report of such implementation back to the ICC.

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**15.0. Compensation to the aggrieved woman**

If the ICC arrives at the conclusion that the allegation against the Respondent has been proved, it will recommend to the employer to deduct such sum to be paid to the aggrieved woman or to her legal heirs from the salary or wages of the respondent. In case the employer is unable to make such deductions from the salary of the respondent due to his being absent or cessation of employment, the ICC may direct the respondent to pay such sums to the aggrieved woman. In case the respondent fails to pay the sum, the ICC may forward the order for recovery of the sum as an arrear of land revenue to the concerned District officer.

**16.0. Determination of compensation**

The basis of determining sums to be paid to the aggrieved woman will be –

- i. Mental trauma, pain, suffering and emotional distress caused to the aggrieved woman.
- ii. Loss in career opportunities due to the incident of sexual harassment.
- iii. Medical expenses incurred by the victim for physical or psychiatric treatment.
- iv. Income and financial status of the respondent.
- v. Feasibility of such payment in lump sum or in installments.

**17.0. Punishment for false or malicious complaint and false evidence against the respondent**

If the ICC arrives at a conclusion that the allegation against the respondent is malicious or the complainant has made the complaint knowing it to be false or the complainant has produced any forged or misleading document, it may recommend to the employer to take action against the woman or the person who has made the complaint in accordance with the provisions of the service rules or where no service rules are applicable as given below.

Similarly, if the ICC arrives at a conclusion that during the inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the employer of the witness to take action in accordance with the provisions of the service rules or in the following manner:

- i. A written apology
- ii. Warning
- iii. Reprimand or censure
- iv. Withholding of promotions, pay rise or increments
- v. Terminating the respondent from service
- vi. Undergoing counseling session
- vii. Carrying out community work.

**18.0. No Application of the Right to Information Act, 2005**

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The contents of the complaint, identity and address of the aggrieved woman, respondent and witness, information relating to conciliation and inquiry proceedings, recommendations of the ICC and the action taken by the employer shall not be published, communicated or made known to the public, press and media.

Penalty for publication or making known contents of the complaint and inquiry proceedings, in accordance with the service rules applicable to that person or the employer shall recover a sum of rupees Five Thousand from such person.

**19.0. Court**

The Court will take cognizance of the offence on a complaint made by the aggrieved woman or any person authorized by the ICC or the LCC. No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class will try any offence punishable under this Act. Every offence under this Act is non cognizable. (An offence for which the police cannot arrest without a warrant.)

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