

Vishakha Case - Important SC Judgements for UPSC

Many Supreme Court judgements have left a deep imprint on Indian society and polity. These landmark SC judgements are very important segments of the [UPSC syllabus](#). In this series, we bring to you important SC judgments explained and dissected, for the benefit of IAS aspirants. In this article, you can read all about the Vishakha case. Get a list of [landmark SC judgements for the UPSC exam](#) in the linked article.

Vishakha Case

Case Summary - Vishakha v State of Rajasthan

The growth of a society is often determined by the way it treats its most vulnerable sections; women and children are among the most vulnerable in a society like ours and to safeguard their rights is of paramount importance. Sexual harassment of women in general and such harassment at workplaces is a phenomenon that puts women at higher levels of risk. A robust mechanism against the same goes a long way in safeguarding their interests. The decision of the [Supreme Court](#) in Vishakha v State of Rajasthan was a landmark one as it laid down elaborate guidelines to deal with the menace of sexual harassment against women at workplaces. The ruling was delivered by a three-judge bench comprising of Chief Justice Verma, Justice Sujata V. Manohar and Justice B.N. Kripal.

Vishakha Case Background

It all started when Banwari Devi, a social worker in a programme to stop child marriages, stopped a child marriage that was taking place in an influential Gujjar family. While Banwari Devi did a commendable job despite protests against her, the Gujjars were hell-bent on taking revenge. One Ramakant Gujjar along with five of his men gang-raped her in a brutal manner in front of her husband. Her subsequent attempt to file a police case was met with apathy for a long time and once she succeeded in doing so, she faced further stigma and cruelty. The trial court acquitted the accused citing lack of evidence but Banwari Devi, along with a sympathizer, approached the Supreme Court by way of a writ petition which eventually led to an immensely important judgement.

Vishakha Case Details

The Supreme Court was to delve upon the deep-rooted gender inequality in Indian society which manifests itself in the form of violence against women (in the form of sexual harassment at workplaces and rape). The Supreme Court while looking into the issue also had to decide whether it was willing to lay down elaborate guidelines to deal with the same. The Court rose to the occasion and did come up with several guidelines to stop sexual harassment at workplaces and these guidelines are popularly known as **Vishakha Guidelines**.

- The Court ruled that sexual harassment leads to depravity among the victims and was a gross violation of their [fundamental rights](#) as provided under Articles 14, 19 and 21.
- The Court declared that in order to meaningfully dispose of the case, a set of guidelines are necessary. The Union of India also gave its consent for the guidelines through the Solicitor General, in addition to making a commitment to devise a women's policy that would make sure that women's rights are protected to provide them with a safe atmosphere to flourish in various fields of life.

The Court defined sexual harassment as any physical touch or conduct, any unpleasant taunt or misbehaviour, showing of pornography and asking for any kind of sexual favours.

- It was held that sexual harassment at the workplace should be informed, produced and circulated. Every act of harassment shall be dealt with in an appropriate manner which shall include criminal proceedings and disciplinary action.
- For the time-bound and effective redressal of complaints, a robust mechanism should be in place at workplaces.
- A complaints committee should be put in place which should be headed by a woman and more than half of its members should also be women.
- In order to prevent any pressure by the higher-ups at the workplace, a third party like an NGO should be involved.
- Moreover, concrete steps must be taken to create awareness at the workplace as to what sexual harassment is and how to approach appropriate people if someone is harassed at the workplace.

Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Seventeen years after the Vishakha Guidelines were pronounced, the Parliament woke up from its deep slumber and passed the **Sexual Harassment at Workplace (Prevention, Prohibition and Redressal) Act, 2013**.

- The Act is much wider in application than the guidelines but a cursory look tells us that the basic framework has been borrowed from the Vishakha Guidelines.
- The “aggrieved women” covers a wide range of women irrespective of age and employment status while “workplace” includes corporate and private places as well as both the organised and unorganised sector.
- Specific time limits have been provided for inquiry and redressal of complaints. Penalties including fines up to Rs 50,000 have been prescribed for non-compliance with the provisions of the Act.
- The most important feature of the Act is the establishment of the Internal Complaints Committee (ICC) in establishments with 10 or more employees by an order given in writing by the employer.
- This Committee shall constitute of a presiding officer who should be a senior female employee, an external member to guard against undue influence from the employer or any other higher-ups, and two other members.
- A Local Complaints Committee (LCC) is a committee to receive complaints of sexual harassment at the workplace from establishments that do not have an Internal Complaints Committee because they have less than 10 workers, or when the complaint is against the employer himself.
 - This Committee is important for women who work in the unorganised sector or for domestic workers.
 - The LCC is mandated under Section 6 of Act.
 - The committees have the same powers as that of a civil court under the Civil Procedure Code. However, strict procedural laws shall not be followed during the complaint redressal.
- The Committees may take steps towards conciliation (informal settlement between parties) at the request of the woman.
- Otherwise, it shall initiate an enquiry into such allegations. If a prima facie case of sexual harassment exists, the Committee shall submit its finding to the police station.
- On the completion of the report, it shall be submitted to the employer or the district officer.

Conclusion

The merits and demerits of [judicial activism](#) are always debated in legal circles; there are pros and cons to it but the Vishakha judgment enforces the good side of the activism of judges. Before the pronouncement of Vishakha, India was lacking a law on sexual harassment even after five decades of independence and numerous instances of gender discrimination and sexual violence against women. The judgement brought to fore the evil of sexual harassment even though it was brushed under the carpet for a very long time till then. The act of sexual harassment against women takes away from them the dignity, that is an inherent right of every human being and a single act of harassment creates a lifetime of sorrow. There is no doubt that the

Vishakha Guidelines and the enactment of 2013 are welcome steps but the eradication of the culture of sexual harassment at workplaces is still a long way away and it, among other things, requires removing the stigma that is associated with the victims of such brazen actions.

