

Policy on prevention, prohibition and redressal of sexual harassment of Women employees at workplace and redressal of complaints of sexual harassment

Finova Capital Private Limited

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INTRODUCTION

Finova Capital Private Limited (hereinafter referred to as “the Company”) is committed to make its workplace a great place to work, which entails promotion of an environment of openness, safety and sensitivity for all employees.

Pursuant to our Company’s commitment to make its workplace a great place to work for all our employees and furthermore, in strict compliance with the Sexual Harassment of Woman at Workplace (Prevention, Prohibition & Redressal) Act 2013 and the Rules framed thereafter, this policy is formulated.

As a part of Company’s ethos, Company believes that all the employees of the Company have the right to be treated with dignity and sexual harassment at workplace or other than workplace, if involving employees, is a grave offence and needs to be prohibited as a matter of Policy & prevented with appropriate measures. Company believes that there should be an effective system in place that provides speedy redressal of the complaints received from the victims of sexual harassment.

At the national level, sexual harassment has been recognized as menace that needs to be dealt with as a misconduct forming part of conditions of employment besides being defined as a punishable offence. In terms thereof "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and rules made thereunder [POSH Act, 2013] has been enacted and brought into force with effect from December 09, 2013 creating much required legal framework for anti sexual harassment measures.

The Company through this Policy on Prevention, Prohibition and redressal of Sexual Harassment of Women besides complying with requirements of POSH Act, 2013 intends to translate its ethos of zero tolerance to sexual harassment into action.

SCOPE AND APPLICABILITY OF THIS POLICY

This Policy applies to the prohibition and prevention of sexual harassment of women and to the redressal of sexual harassment complaints. The policy extends to the acts of sexual harassment occurring at the workplace:

The workplace includes:

- Any department of the Registered Office, Corporate Office, Branch, or any other business location of the Company.
- Any site away from the Company's premises where Company business is conducted in any form.
- Any social, business, or other meetings, seminars, workshops, or functions where a woman employee of the Company is subjected to sexual harassment by another employee of the Company.

This Policy is applicable to complaints of sexual harassment made by women employed on a permanent, temporary, ad hoc, or daily wage basis. It also covers contract workers (whether employed directly by the Company or through a contractor), probationers, trainees, apprentices, and co-workers.

DEFINITION OF SEXUAL HARASSMENT

Sexual harassment includes one or more of the following unwelcome act or behavior (whether directly or by implication) namely:-

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1. physical contact or advances; or
2. a demand or request for sexual favours; or
3. making sexually colored remarks; or
4. showing pornography; or
5. any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

In addition to the above, the following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act or behavior of sexual harassment may amount to sexual harassment :-

1. implied or explicit promise or preferential treatment in her employment; or
2. implied or explicit threat of detrimental treatment in her employment; or
3. implied or explicit threat about her present or future employment status; or
4. interference with her work or creating an intimidating or offensive or hostile work environment for her; or
5. humiliating treatment likely to affect her health or safety.

GOVERNANCE MECHANISM

In accordance with the POSH Act, 2013, the Company has constituted the Internal Committees [ICs] to prevent and prohibit the instances of Sexual Harassment against women and to effectively deal with complaints involving Sexual Harassment.

IC may be hereinafter referred to as “Committee” or collectively/generally as “Committees”. Committees are constituted as per the administrative set up of the Company either at regional / state/ local levels. Details of composition of Committees along with the contact details of the members are available at the respective locations of the Company.

CONSTITUTION OF INTERNAL COMMITTEE

In compliance with Section 4 of the POSH Act, 2013, the Company constitutes Internal Committee (“IC”) at workplace. The IC shall comprise of the following members to be nominated by the Board of Directors of the Company namely:

- i) a Presiding Officer who shall be a woman employed at a senior level in the Company;
- 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 organisations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment:

Provided that at least one-half of the total Members so nominated shall be women.

The Presiding Officer and every Member of the Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the Board of Directors of the Company.

REMOVAL OF MEMBERS FROM THE INTERNAL COMMITTEE

Where any Presiding Officer or any Member of the IC shall be removed from the Committee if he/she:

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- i) fails to maintain confidentiality and publishes, communicates or makes known to the public, press and media or any other person:
 - a) the identity and addresses of the aggrieved woman, respondent and witnesses
 - b) any information relating to conciliation
 - c) enquiry proceedings
 - d) recommendations of the Committee as the case may be.
- ii) has been convicted for an offence or inquiry into an offence under any law for the time being in force is pending against him/her; or
- iii) has been found guilty in any disciplinary proceeding or a disciplinary proceeding is pending against him/her; or
- iv) has so abused his/her position as to render his continuance as member prejudicial to the public interest.
- v) is found guilty of, interfering with the, impartial conduct of inquiry or arrival of settlement in case of complaint relating to Sexual Harassment.

Such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the resulting vacancy or any casual vacancy shall be filled by fresh nomination by the Board of Directors of the Company.

ROLES AND RESPONSIBILITIES OF INTERNAL COMMITTEE

The Internal Committee shall be responsible for:

1. Receiving complaints of sexual harassment at the Workplace;
2. Initiating and conducting inquiry as per the established procedure under law;
3. Submitting findings and final recommendations on complaints of sexual harassment at Workplace which will be implemented by the Company;
4. Maintaining strict confidentiality throughout the process as per established guidelines and
5. Ensuring absolute transparency in its activities, disclosing necessary information to the respective stakeholders when required and investigating the complaints while abiding by the principles of natural justice.

PROCEDURE AND GUIDELINES FOR COMPLAINT AGAINST SEXUAL HARASSMENT

1. FILING A COMPLAINT:

- i. Any aggrieved woman may make, in writing, a complaint of sexual harassment at workplace to the Internal Committee, within a period of three (3) months from the date of incident and in case of a series of incidents, within a period of three months from the date of last incident;

Provided that where such complaint cannot be made in writing, the Presiding Officer or any Member of the IC as the case may be, shall render all reasonable assistance to the woman making a complaint in writing.

Provided further that the IC for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the said period.

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- II. Anonymous complaints cannot be accepted by ICC at any point in time.
- III. The complaint must contain a description of the event (s) as well as the names and contact email/phone number of Witnesses if any. Supporting documents, if available, such as letters, transcription of text messages etc., supporting the complaint of sexual harassment at Workplace against the Respondent should accompany the complaint.
- IV. Where the aggrieved woman is unable to make a complaint on account of her physical incapacity, a complaint may be filed by:
 - a) Her relative or friend;
 - b) Her co-worker;
 - c) an officer of the National Commission for Women or State Women's Commission
 - d) any person who has the knowledge of the incident
- V. Where the aggrieved woman is unable to make a complaint on account of her mental incapacity, a complaint may be filed by:
 - a) Her relative or friend; or
 - b) A special educator; or
 - c) a qualified psychiatrist or psychologist; or
 - d) the guardian or authority under whose care she is receiving treatment or care; or
 - e) any person who has knowledge of the incident jointly with her relative or friend or a special educator or qualified psychiatrist or psychologist, or guardian or authority under whose care she is receiving treatment or care;
- VI. where the aggrieved woman for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident, with her written consent.
- VII. where the aggrieved woman is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of her legal heir.

TIME AND MANNER OF INQUIRY INTO COMPLAINT

A. PROCESSING A COMPLAINT

- I. The complainant shall submit to the IC, six copies of complaint along with Supporting documents, names and addresses of the witnesses.
- II. On receipt of complaint, IC shall send one of the copies received from the aggrieved woman to the respondent within a period of seven (7) working days.
- III. The Respondent shall file reply to the complaint along with his list of documents, names and addresses of witnesses within period not exceeding ten (10) working days from the date of receipt of documents.

B. CONCILIATION BEFORE INQUIRY:

IC before initiating enquiry and at the request of aggrieved woman shall take steps to settle the matter between her and the respondent through conciliation ***provided that no monetary settlement shall be made as the basis of conciliation***

Where settlement is arrived at, IC shall record the settlement so arrived as well as its

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recommendations and forward the same to the Executive Director to take action as specified in the recommendation.

The Committee as the case may be, shall provide copies of the settlement as recorded to the aggrieved woman and the Respondent. Where settlement is arrived at, no further enquiry shall be conducted by the IC as the case may be.

C. INQUIRY INTO COMPLAINT:

- I. Where the aggrieved woman informs the IC, that any term or condition of the settlement arrived through conciliation has not been complied with by the Respondent, IC shall proceed to make an inquiry into the complaint or, as the case may be, forward the complaint to the police.
- II. In case no conciliation is arrived at, IC shall initiate an inquiry into the complaint immediately after receipt of reply from the Respondent.
- III. IC should make inquiry into the complaint in accordance with the principles of natural justice and should give opportunity of being heard to both the parties 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. IC shall have the right to terminate the inquiry proceedings or to give an ex parte decision on the complaint, if the complainant or respondent fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Presiding Officer of IC.

Provided that such termination or ex-parte order may not be passed without giving a notice in writing, fifteen days in advance to the party concerned.

- V. The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of proceedings before the IC.
- VI. While conducting, inquiry, minimum three members of the IC, including Presiding Officer as the case may be, should be present.
- VII. In all cases inquiry has to be completed within a period of 90 days from the receipt of complaint.

D. INTRIM RELIEF DURING THE PENDENCY OF THE INQUIRY:

During the pendency of the inquiry, IC at the written request of the aggrieved woman may recommend the following to the Management of the Company:

- i. transfer the aggrieved woman or the respondent to any other workplace; or
- ii. grant leave to the aggrieved woman up to a period of three months; or
- iii. restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, and assign the same to another officer;
- iv. restrain the respondent in case of an educational institution from supervising any academic activity of the aggrieved woman.

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The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.

E. INQUIRY REPORT:

- I. On completion of inquiry, the IC shall provide a report of its findings to the Executive Director of the Company within a period of 10 days from the date of completion of the inquiry and such report shall be made available to the concerned parties.
- II. Where the IC arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the Executive Director that no action is required to be taken in the matter.
- III. Where the IC arrives at the conclusion that the allegation against the Respondent has been proved, it shall recommend to the Executive Director:
 - (1) Disciplinary action for the misconduct of sexual harassment including a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service or undergoing a counseling session or carrying out a community service.
 - (2) Monetary compensation to the aggrieved women or her legal heirs by way of deduction from the salary and other emoluments of the respondent. IC may decide the quantum of compensation taking into consideration:
 - Mental trauma, pain, suffering and emotional distress caused to aggrieved woman;
 - The loss in career opportunity due to the incident of sexual harassment;
 - Medical expenses incurred by the victim for physical or psychiatric treatment;
 - The income and financial status of the Respondent;
 - feasibility of such payment in lump sum or in instalments.
- IV. Action for false or malicious complaint or false evidence:

If the IC arrives at a conclusion that the allegation against the respondent is malicious or the complainant has knowingly made a false complaint or the complainant or the witness has knowingly produced a forged or misleading document, IC may recommend any action including a written apology, warning, reprimand or censure, withholding promotion, withholding of pay rise or increments, terminating the Respondent from service or undergoing a counseling session or carrying out a community service.

PROHIBITION OF PUBLICATION OR MAKING KNOWN CONTENTS OF COMPLAINT AND INQUIRY PROCEEDINGS:

Notwithstanding anything contained in the Right to Information Act, 2005 (22 of 2005), the contents of the complaint made, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee and the action taken by the Executive Director of the Company under the provisions of this Act shall not be published, communicated or made known to the public, press and media in any manner, Provided that information may be disseminated regarding the justice secured to any victim of sexual harassment under this Act without disclosing the name, address, identity or any other particulars calculated to lead to the identification of the aggrieved woman and witnesses

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APPEAL AND FURTHER LEGAL REMEDIES

Any person Aggrieved (Complainant or Respondent) from the recommendations of the IC or non-implementation of such recommendations may prefer an appeal to the Appellate Authority notified under clause (a) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946) within a period of 90 days from the date recommendations.

ANNUAL REPORT

IC in each calendar year, prepare an Annual Report with the following details, namely:

Number of complaints of sexual harassment received in the year;
Number of complaints disposed off during the year;
Number of complaints pending for more than ninety days;
number of workshops or awareness programme against sexual harassment carried out;
Nature of action taken by Company against the perpetrators.

REVIEW

This Policy is subject to periodic review by the Board of Directors the Company at the intervals as it may deem necessary.