



Human Rights Protected Under Various Legislations

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Abstract

Article 39 (a) provides that the citizen, whether men or women, equally have the right to an adequate means to livelihood. Same right has been recognised under article 23(3) of UDHR which says that everyone who works has the right to just and favourable remuneration. Under article 39 (d), Indian Constitution ensures that the state shall, particular; direct its policy towards securing that there is equal pay for equal work for not only men but also women. UDHR under article 23(2) also provides such right. Right to Health: Through article 39(e), Constitution of India guarantees that the state shall, particular, direct its policy towards securing that the health and strength of workers, men as well as women and the tender age of children are not abused and none of them are not forced by economic necessity to enter avocations unsuited to their age or strength. Article 25(1) of UDHR also provides right to a standard of living adequate for health and well-being.

Keywords: Human conditions; Legal rights; Legal provisions; Constitution; Harassment at workplace; Dignity of women

Introduction

Equal Justice and Free Legal Aid: Under article 39A of the Constitution provides assistance to those who are unable to afford legal expenses of lawyers. So, the state shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Article 42 of the Constitution directs that the state shall make provision for securing just and human conditions of work and for maternity relief [1]. In case of the violation of any of these fundamental rights, the aggrieved woman can move Supreme Court and High Court and file writ petition under Article 32 & Article 226 for seeking remedy but there is no such mechanism available in case of Directive Principles of State Policy, which are not enforceable by any court under writ jurisdiction. The state is under duty to implement such principles through its policy. Hence, Directive Principles of State Policy impose a moral obligation on the state for their implementation. There are various legislations in India which recognised women's human rights in form of their legal rights and provide protection to them. These laws are very important in order to ensure the overall empowerment of women. Under article 51 (A) (e), it is a fundamental duty of every citizen of India to renounce the practices derogatory to the dignity of women. Article 21 also confirms that every person has a right to live dignity full life. So, the women also have such right under which they can oppose the practices which are against their self-respect [2]. As per legal provisions, no woman can be presented indecently in any publications, paintings, writings, and advertisement or in any other way, if it is done so, it will be an offence under the provisions of Indecent Representation of Women (Prohibition) Act, 1986. If any person pulls Dupatta, Sari or any piece of their dress, they can lodge a complaint under Section 354 of Indian Penal Code, 1860.

Discussion

In case of occurrence of such incident at work place, she can move her complaint under Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act. In rape cases, First Information Report can be lodged under Section 376 in which the name and the identity of the victim woman will be kept under secrecy and not to be disclosed because the disclosure of the identity of such aggrieved women is itself an offence under section 228-A of Indian Penal Code, 1860 punishable with imprisonment up to 2 years

and fine. Women have the right to use the money as per their wish which they earn [3]. In past centuries, women had the right only on the property called Stridhan but the enactment of Married Women's Right on Property Act, 1834, extended the definition of women's personal property which includes: (a) Earning or salary from business, profession or service, (b) Earning from scientific, literature or artistic skills, (c) Saving from salary or capital gain, and (d) Insurance policy of women. These all properties are included in their earnings which can be utilized by women as they wish. The Hindu Succession Act, 1956 conferred absolute ownership to Hindu women on the properties possessed by her under section 14(1). The Apex Court upheld section 14(1) in Harak Singh v. Kailash Singh [4]. This Act enlarged limited estate of Hindu women and also abolished the reversionary rights to a great extent. So, Hindu women have got full rights on properties earned or acquired by her in gift or will. Many times, a woman finds herself in very difficult situations that apprehend immediate assault on her. If there is no one to save her or rescue her from such assault, the law empowers her to defend herself in form of 'Right to Private Defence'. Right of self-preservation existed during ancient India and self-help was the first rule of criminal law. At present, such right has been given to women under sections 96, 98, 100, 102 and 103 of Indian penal code, 1860, which can be practised by women in adverse situations. Article 23 (1) of UDHR provides everyone the right to work with free choice of getting an employment in just and favourable conditions. In India, discrimination on the grounds of sex or marital status in any employment, whether public or private, has now been outlawed by Sex Discrimination Act, 1975. The act applies to all employees of public as well as private sector. Though Sex Discrimination Act, 1975 was enacted to protect woman from sexual discrimination, provisions of the act are also applicable on men except provisions relating to pregnancy which have been inserted in the act especially for women on. Under Article 23(3) of UDHR, everyone including women has the right to get just

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and favourable remuneration for work which should be sufficient to maintain herself and her family with human dignity [5]. At domestic level, such right has been identified under Minimum Wages Act, 1948 which was enacted to fix minimum rates of wages in certain categories of employments. Under the Minimum Wages Act women, doing small jobs, have right to get minimum payment for work done by them. For all women, whether working in public sector, private sector, organised industry or unorganised industry, sexual harassment at work place is a big problem. Most of women employees experience such problem one or more times in their career. Some of the male counterparts think that the woman colleagues do not have self-respect and dignity; they try to exploit them. Inappropriately touching woman colleagues against their will; showing them any pornographic content or literature; compelling them for any indecent favour or for making sexual contact etc. are considered as sexual harassment. The Supreme Court in its historic decision in Vishakha and other v. State of Rajasthan and Others issued 12 guidelines and declared them as law under Article 142 because at that time there was no enacted law on the subject. After 16 years, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was enacted to empower all women against sexual harassment at work place. The act mandates all employers to set up internal complaint committee for Redressal of women employees' sexual harassment complaints, failure to which the employer may be fined up to Rs. 50,000. Apart from this, the Criminal Law (amendment) Act, 2013 has enlarged the scope of Section 354 of IPC which, now, also includes the sexual harassment at work place punishable with an imprisonment 1 to 3 years and /or fine [6]. Any aggrieved women can file complaint under section 354 of IPC even for any unwanted touch or behaviour. To perform the biological role of child bearing every woman need to leave work for some period in which she requires financial support not only for her living but also to meet medical expenses. So, the law provides maternity benefit to the working women for their survival and to protect their health [7]. The Maternity Benefit Act, 1961 regulates the employment of women employees in certain establishments immediately before and after child birth and provides them maternity benefit and certain other benefits. The act applies to all factories, mines, plantations whether public or private [8]. State government may extend its ambit to industrial, commercial, agriculture or any other establishments. The act prohibits woman work for 6 weeks immediately after the day of her delivery, miscarriage or medical termination of pregnancy [9]. The Code of Criminal Procedure, 1973 under section 125 recognises woman's right to get maintenance from her husband. Section 18 of the Hindu Adoption and maintenance act,

1956 also provides such right to women from her estranged husband. By using these provisions, women can claim maintenance even during separation [10]. The Supreme Court in Bhagwan Dutt v. Kamla Devi ruled that women can claim maintenance if monthly income earned by her is not sufficient to sustain her.

Conclusion

The court also clarified that the phrase Unable to maintain herself does not require a woman to be absolute destitute, to entitle for maintenance. Right to maintenance is restricted, in case of her remarriage or conversion to another religion.

Acknowledgement

None

Conflict of Interest

None

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