

## **Women's Rights in India: A Study with Special Reference to Gender Justice at Workplace**

**Dr. Sudhir Kumar Singh**

Department of Law, T.D. College of Law, Pilikothi, Jaunpur U.P. (India).

### **Abstract**

Women rights have always been serious issues around the globe. Traditionally then women were confined to house works and conception of their rights was limited. However with growing urbanisation and women's participation in every strata of society has paved the way for their equal treatment in all aspects. Women in India have been considered as an embodiment of all virtues, and thus she is worshiped and praised as a goddess in the Indian society. However the position and status of the women did not improve further with the passage of time. Many decades hence, women in India continue to struggle for basic rights such as minimum wages, equal wages and property rights, in spite of several protective legislations. Women's access to resources such as land, credit, skill training and education, in particular, is relatively poor, while they still carry the burden of a "double shift" at home cooking, cleaning, and caring for the young and the old, adversely impacting their abilities to contribute effectively in the labour market. Another prominent issue is discrimination of women at the workplace. Women workers are paid discriminating differential wages for the same work. The findings of the present study reveal that in spite of several legislations and policies towards employment generation especially female oriented employment programmes and schemes, work participation rate in general and especially for females is still very less. Gender bias is very high in employment. Participation in economic activity in the form of employment is very important for the development of individual in person and for the nation as a whole.

### **Introduction**

Women, who play different role in family, complete the world. Law is the set of rules upheld to regulate the conduct of individuals. From ancient time in this world, women is treated as a more vulnerable class of the general public and they are the survivors of the offences like assault, eve teasing, female infanticide, settlement, aggressive behavior at home, marriage during childhood and acid throwing. They were just spent their life underneath the shoes of their husband and father. Laws are being made assure them about the lives of the women from the viciousness of their families and social orders, and to give them their rights of which they are entitled. Women's right may be understood as the right to opportunities as well as freedoms

that women have, particularly the chance to be treated equally to and given indistinguishable lawful rights similar to men. The rights accessible to lady in India can be grouped into two classifications, particularly as constitutional rights and legal rights. The constitutional rights are those which are endowed in the different provisions of the constitution. The legal rights, then again, are those which are given in the different laws of the Parliament and the State Legislatures.

### **Historical evolution of women's rights in India**

The women should keep their exercises confined to the limits of the house. Despite the fact that change is taking spot in the conventional view, yet the "jail boundaries" has not so far been destroyed. To find women working outside their homes is, not new trend. Women have been participating in financial matters since times prehistoric. It is accepted that from post Vedic period, nonetheless, women just of lower strata of society worked outside home. Seeking employment by women in estates, mines began from the early times of the current century. Financial burden appeared to have caused this circumstance. A noteworthy change occurred after India turned out to be free in 1947. The Constitution of independent India announced that there ought to be no discrimination against the employment of women. The made further open door for employment of women and an increase in their employment rate was seen all the more especially among educated upper rank women.

### **International aspect of gender Justice at workplace**

Universal Declaration of Human Rights, 1948 is the primary manuscript which resuscitated the idea of Human Rights after the horrific episode of the Second World War. The preamble of Universal Declaration of Human Rights (UDHR) is a pioneer step for improvement of human rights, for example, equal opportunity and equity to the regular understanding and full acknowledgment of these rights. UDHR in its introduction sets out the sex equity as an essential objective of the global family to be accomplished. UDHR has underscored on ladies correct correspondence alongside men by utilizing words, for example, everyone, no one, all men and women. Article 23 contemplates equality in treatment to female and male in work conditions decision making and safety measures. Ladies have additionally the option to equal pay while working at the work environment. They are likewise qualified for just and ideal remuneration guaranteeing for herself and her family a presence deserving of human nobility, and enhanced, if essential, by different methods for social security. A distressed lady has option to frame and to join worker's organizations for the protection of her inclinations. Stressing on just and humane condition of work article 24 provides that woman has likewise option to rest and relaxation, including sensible impediment of working hours and occasional occasions with pay.

India has acquiesced to or confirmed different International Conventions, Covenants and Human Rights instruments to make sure about the right of ladies. One of them is the confirmation of the, Convention on Elimination of All Forms of Discrimination against Women (CEDAW) 1979. It is accepted that the CEDAW is one of the most remarkable instruments for sexual orientation equity.

India, a Founding Member of the International Labour Organisation (ILO), has been a permanent member from the ILO Governing Body since 1922. The first ILO Office in India a while began in 1928. The times of profitable association between the ILO and its constituents has common trust and regard as basic standards and is grounded in building continued institutional limits and fortifying limits of accomplices. It has a two directional concentration for financial improvement: generally speaking, systems and ground-level methodologies.

## **National legal framework on gender justice at the workplace**

### **Constitution of India and gender justice**

Our Constitution, the fountainhead of all laws and the organic law of the land, recognizes equality of the sexes and prohibits discrimination on the basis of sex. It also provides legislation to be made to confer more rights on women by making special provisions.

The Preamble explicitly expresses that equality ought to be given to all residents as far as status and opportunity. It must be comprehended that guarantying rights to individuals of a network gets pointless except if and until those rights are similarly appreciated by all individuals from the network. The composers of the constitution planned for guaranteeing equality of status and opportunity through the Preamble.

Part III of the Constitution, comprising of Articles 12 to 35, guarantees the Fundamental Rights. It has been held in Menaka Gandhi case that these are expressive of basic values since the ancient time determining the dignity of the individual and make conditions in which each human being can build up his personality to an utmost extent.

Part IV contains what might be depicted as the duties of the State. These Directives Principles are ideals which are based on the concept of Welfare State and they fix certain goals; social and economic; for immediate attainment by the Union and State Governments while formulating a policy or enacting a law.

Article 51-A(e) recognizes practices prejudicial to the dignity of women. The obligations under Article 51-A are mandatory on residents, yet it ought to be conjured by the Courts while choosing cases.

The Parliament has prevailing in its endeavors to accommodate reservation of seats for women in political election to the Panchayats and the Municipalities. Reservation of seats for women in Panchayats and Municipalities has been given in Articles 243 D and 243 T of the Constitution of India. Part IX and IX A have been added to the Constitution by the seventy third and seventy fourth Amendment<sup>30</sup>. By 81st amendment in 1996 legislature of India gave nod to 33% reservation to women within its premise. In any case, this bill has not yet been tabled because of political oppressions.

### **Labour law and gender justice**

**The Workmen's Compensation Act 1923** is perhaps the soonest bit of work legislation, received to benefit the workers. It covers all instances of mishap arising out of and in the course of employment' and the pace of compensation to be paid in a singular amount, is dictated by a timetable proportionate to the degree of injury and the loss of acquiring limit. The more youthful the worker and the higher the pay, the more noteworthy is the compensation dependent upon a breaking point.

**The Indian Factories Act, 1948** primary goals are to manage the working conditions in factories, to direct wellbeing, security welfare, and yearly leave and enact special provision in regard of youthful people, women and child who work in the factories.

The point and object of the Act is basically to defend the interests of laborers, stop their misuse and deal with their security, cleanliness and welfare at their work environments. It throws different commitments, obligations and duties on the occupier of a factory and furthermore on the factory supervisor. Revisions to the Act and court choices have additionally expanded the nature and extent of the idea of occupier, particularly versus unsafe procedures in factories.

**The Employees State Insurance Act, 1948** one of the most significant social legislation which has been enacted to accommodate different benefits in various possibilities. Under this Act, protected women laborers get ailment benefit, disablement benefit, health benefit and memorial service costs alongside safeguarded men laborers. Nonetheless, notwithstanding these benefits, protected women laborers additionally get maternity benefit if there should be an occurrence of specific possibilities emerging out of pregnancy, control, miscarriage, ailment emerging out of pregnancy, untimely birth of child or miscarriage and passing. The 12 weeks term of maternity benefit will provide for restriction not over about a month and a half will go before the normal date. The maternity benefit is paid for relaxation of women. In case of the demise of the women, these benefits can be claimed by legal delegate for the entire time frame if the child endures, and if the child additionally kicks the bucket, until the demise of the child.

**The Minimum Wages Act, 1948** was passed for the welfare of works. This Act has been enacted to make sure about the welfare of the laborers in a serious market by accommodating a base restriction of wages in specific livelihoods. The Act accommodates obsession by the focal legislature of least wages for occupations point by point in the calendar of the Act and carried on by or under the authority of the focal government, by railroad authoritative or comparable to a mine, oilfield or significant port, or any partnership built up by a focal Act, and by the state government for different businesses secured by the timetable of the Act. The object of this Act is to avoid abuse of the laborers and for this reason it focuses on obsession of least wages which boss must compensation.

## **Judicial trends on women's rights and gender justice at the workplace**

### **Woman shall not be denied a job merely because she is a woman**

The Supreme Court in the case of *Ashok Kumar Vs. State of Rajasthan*, AIR 1990 SC 2134 scrutinized the Session Court for ignoring the proof, only in light of the fact that it was given by a woman specialist for a situation where casualty was woman. The Court said that we think of it as important to record that the appointed authority was uncharitable in discarding the declaration of Dr. Patrisia and doubting her honesty principally in light of the fact that she was a woman.

The laborer passed on because of normal lightning while at the same time working at the site. It was held by the Supreme Court in the case of *State of Rajasthan Vs. Ram Prasad and another's* (2001) ILLJ 177(SC) stated that in request that a laborer may prevail in his case for compensation it is no uncertainty genuine that the mishap must have easygoing association with the employment and emerge out of it however in the event that the worker is injured because of normal power of lightning however it in itself has no association with employment of perished Smt. Gita, the business can at present be held subject if the inquirer shows that the employment presented the perished to such injury. In the current case the expired was working on the site and would not have been presented to such peril of lightning had she not been working so. Subsequently the litigant was held at risk to pay compensation.

### **Sexual Harassment at Workplace**

The Supreme Court Bench comprising Chief Justice J.S. Varma, Justice Sujata Vs. Manohar and Justice B.N. Kripalin conveyed a milestone judgment in the case of *Vishakha and others Vs. State of Rajasthan and others*, AIR 1997 SC 3011 on Aug. fourteenth, 1997 and supported the guidelines prescribing sexual harassment at work environment and different institutions, until important legislation is passed, the guidelines are legitimately binding and enforceable. For this situation of supposed fierce assault of a social laborer in a town of Rajasthan (Bhateri) the Court held that every incident of sexual harassment of women brings about violation of the crucial rights, sex equality and the right to life and nobility. According to the Court, it is an away from of the rights under Articles 14, 15 and 21 and furthermore under Article 19 (1) (g) (violation of casualties' key right to practice any calling, or to complete any occupation, exchange or business) of the Constitution of India. Such violations attract cure under Article 32 for the authorization of these basic rights of women. "Though sexual harassment brings about violation of the principal rights of a woman to equality under Articles 14 and 15 of the Constitution of India and her right to existence with poise under Article 21 of the Constitution and right to practice any calling or to continue any occupation, exchange or business which includes a right to a protected situation free from Sexual harassment."

### **Obligations of the employer at Workplace**

Section 4 of the Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013 lays down that every company with 10 or more employees must constitute an Internal Committee (IC). In the case of *Ruchika Singh Chhabra Vs. Air France India and Anr.*, 2018 SCC Del 9340. Delhi High Court has opined that the appointment of external member of the IC should be in strict

compliance with the act and the rules their under. In the case of Shital Prasad Sharma Vs. State of Rajasthan and Ors., 2018 SCC Rai 1676, the Rajasthan High Court held that the aggrieved woman can file a complaint with the IC without having to submit the complaint in person. The complaint could be sent to the IC through another person or by any other media, the main point being that it should be received by the IC. In the case Women in Cinema Collective Vs. State of Kerala, High Court of Kerala on 17 March 2022 held that each individual production of film unit was the work place of an individual film and therefore, they would be mandated to constitute an Internal Committee (IC).

### **Maternity Benefit at Workplace**

Women can guarantee benefits under the act wherever with the exception of in factories and the other foundation where the Employees State Insurance Act 1948 is pertinent. Women who are utilized, regardless of whether legitimately or through a contractor, have actually worked in the foundation for a period of at any rate 80 days during a year are qualified to guarantee the advantages under this act. Money advantages to women, who are missing from work during the maternity leave, are not being under 66% of her past earnings.

In its land mark judgment the Apex Court in a case Air India Vs. Nergesh Meerza, AIR 1981 SC 1829 has held that a woman will not be denied employment just on the ground that she is a woman as it adds up to violation of Article 14 of the Constitution. In the current situation where in air leaders of Indian Air Lines and Air India have tested the administration decides which express that:

Airhostesses will not wed for the initial four years of their joining; they will lose their positions on the off chance that they be gotten pregnant. They will resign at the age of thirty-five years, except if managing chief broadens the term by ten years in his circumspection. The Supreme Court recommended that the principal arrangement is lawful, as it would help in advancement of the family planning programs, and will increase the use of airlines recruiting air leaders on transitory or adhoc premise, yet the second and third arrangements to be announced as dishonest, hard, pitiless, despicable, loathsome, absurd, and unconstitutional and an open insult to Indian womanhood.

### **Conclusion**

Working in the casual economy frequently gets dangerous for undernourished women laborers. Filling in as locally situated laborers in family unit businesses, domestic workers, petty trades, administrations, construction, and so forth women contribute fundamentally to the national financial development as additionally to family welfare. However, their commitment isn't enough perceived; neither their sexual orientation explicit issues satisfactorily tended to. They remain largely chaotic, unheard, came up short on and under-spoke to. Albeit today every panchayat has countless women, yet the facts confirm that huge numbers of them are bashful, minor vindications for their spouses or siblings, the fact that their quality is required in a panchayat and they have the ability to settle on town concerns, have empowered the more well-spoken women actually to take part in the vote based procedure. It is conceivable that women's feeling of themselves, their jobs and capacities may experience a slow change sooner rather than later. The intricacy, difficulties, savagery and additional prerequisites had persuaded the women that

they can never come up under the current procedure of assignments and they required some impulse like portion and reservation.

On the role of the judiciary in protecting, enhancing and empowering of the women's rights and upliftment and development of women, the judiciary has been very conscious, sensitive and active, and acted as the ardent defender, preserver and protector of the constitution and rule of law regarding the liberty, equality, and fraternity of the people. Judiciary has acted at different times as interpreter of law and while do so has acted as a legislator and as an administrator also. Its role as an anchor which holds to the constitutional guarantee, ever watchful guardian of liberty, equality and fraternity of the people (rather we can say the guardian and protector of the spirit and soul of the constitution) against transgressions by the legislatures or executives can be noted as every steps of judicial performance. The role of judiciary in enforcing, protecting and enhancing the basic rights of women in making the judiciary a dynamic and important institution of the state where every person can hope to have, to feel, to spread and to see the justice, peace and equality irrespective of any colour, caste, creed, religion, sect, place of birth and gender which is the divine and humane goal to reach and to meet to the real spirit and soul of the constitution.

## **BIBLIOGRAPHY**

### **Books:**

- Anita Sharma, *Modernisation and status of working women in India: A socio-economic study* (Mittal Publications, New Delhi, 1990).
- Babu Rajendra, "Gender Justice-Indian perspective" 145, AIR 10 (2002).
- D.K. Bhatt, "Human Rights and Gender Issues" *Indian Bar Review*, 23-28 (Jan to March, 2000).
- International Labour Organization in India, Available at: [https://www.ilo.org/newdelhi/aboutus/WCMS\\_166809/lang--en/index.htm](https://www.ilo.org/newdelhi/aboutus/WCMS_166809/lang--en/index.htm), (accessed on April 12, 2019).

### **Journals:**

- Economic and political weekly
- Journal of Economics and Finance (IOSR-JEF)
- Law Mantra
- Orient Journal of Law and Social Sciences
- The Cambridge Law Journal

### **Websites:**

- <http://dx.doi.org>
- <http://www.womeninhistory.about.com>
- <http://www.civilservices.gov.in/lbsnaa/research/gender/gendemew.htm>
- <http://www.equalrightsamendment.org/era.html>
- <http://www.soros-org/voices/calling-un-leadership-women-s-property-rights>
- <http://www.thaindian.com/newsportal/politics>
- <http://www.un.org/womenwatch/daw/csw/57sess.html>
- <https://equitablegrowth.org>

### **Statutes and Reports:**

**Dr. Sudhir Kumar Singh (December 2022). Women's Rights in India: A Study with Special Reference to Gender Justice at Workplace**

*International Journal of Economic Perspectives*,16(12),63-70

Retrieved from <https://ijeponline.org/index.php/journal>

- Report of the National Committee on the Status of Women in India, 1974
- Report of Pam Rajput Committee on Status of Women in India, 2015
- Report on Social, Economic and Educational Status of the Muslim Community of India, 2006
- Report of the National Committee on Women's Education, 1958
- Report of the Steering Committee on Empowerment of Women and Development of Children (Syeda Hameed Committee)
- Report of Jeevan Reddy Commission on, Property Rights of Women: Proposed Reforms under Hindu Law 2000.
- The Sexual Harassment of women at workplace (Prevention, Prohibition and Redressal) Act, 2013, (No. 14 of 2013), 22<sup>nd</sup> April 2013.