

# Shakti Sustainable Energy Foundation

## Prevention of Sexual Harassment Policy

### 1. **BACKGROUND**

Shakti Sustainable Energy Foundation (“**Company**”) is committed to maintain a safe, conducive, secure and positive work environment for all its employees and create an atmosphere where everyone can work with dignity and free from any sort of Sexual Harassment (as defined hereinafter). The Company does not discriminate on the basis of race, religion, origin, sex, age, disability, creed, or sexual orientation in offering employment to prospective as well as existing employees.

It is therefore important to ensure an organisational climate free from discrimination and harassment with a particular focus on sexual harassment. Sexual harassment of employees occurring in the workplace is unlawful and will not be tolerated by the Company.

Keeping in view the above philosophy of the Company and the governing law, i.e., **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013** (“**Act**”), the Company is introducing a policy (“**Policy**”) to prevent and redress the commission of any act of sexual harassment against any employee and women in particular who are working in the Company.

The Policy is applicable to the Employees whilst they are on Workplace, doing work related activities and also any activities or event work related or otherwise, which may take place offsite.

### 2. **SCOPE OF THE POLICY**

This Policy will deal with all the incidents and complaints of Sexual Harassment at the Workplace (as defined hereinafter), arising out of or during the course of employment with the Company.

This Policy with immediate effect extends to all the Employees (defined hereinafter) of the Company and is deemed to be incorporated in the service conditions of all the Employees.

### 3. **DEFINITIONS**

- 3.1 **“Aggrieved Woman or Employee”** shall mean any female person employed or working with the Company on regular, contractual, temporary basis for any work at the Workplace and includes trainees, interns, or consultants who alleges to have been subjected to an act of Sexual Harassment while working at or working in connection with the work of the Company.
- 3.2 **“Employer”** shall, for the purposes of this Policy, means the Chief Executive Officer of the Company.
- 3.3 **“ICC”** shall mean an Internal Complaints Committee constituted as per para 4 of this Policy to deal / dispose the matters relating to Sexual Harassment at the Workplace.
- 3.4 **“Members”** shall have the meaning ascribed to it in para 4.2 of this Policy.
- 3.5 **“Respondent”** shall mean a person against whom an allegation of Sexual Harassment is made.
- 3.6 **“Sexual Harassment”** shall include any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely :-
- i. physical contact and advances whether physical and/or non-physical; or
  - ii. a demand or request for sexual favors; or
  - iii. making sexually coloured remarks; or
  - iv. showing pornography; or
  - v. any other unwelcome “sexually determined behaviour” be it physical, verbal or non-verbal conduct of a sexual nature; or
  - vi. display of sexually graphic materials, including screen savers, wall papers, pictures, calendars, posters, objects or messages left on board or desks; or
  - vii. Electronic mail messages, voice mail messages, screen savers, any material of a sexual nature downloaded from the internet, or viewed on a computer, offensive telephone calls, faxes or gifts;
  - viii. unwelcome comments or questions about a person’s sex life, appearance or dress;
  - ix. deliberate and unnecessary familiarity such as deliberately touching, fondling, patting or pinching;

- x. inappropriate humour such as smutty or sexist jokes or comments or vulgar gestures; or
- xi. innuendo, including sexually provocative remarks, suggestive or derogatory comments about a person's physical appearance, inferences of sexual morality or tales of sexual performance.

The aforesaid instances are merely illustrative and not exhaustive.

3.7 **“Workplace”** shall in relation to an Employee, means any place where an Aggrieved Woman or respondent or both is / are employed, deployed or work(s) or visit(s) in connection with work during the course of or arising out of employment with the Company.

#### **4 INTERNAL COMPLAINTS COMMITTEE : CONSTITUTION**

4.1 The Company shall constitute an Internal Complaints Committee as a forum for redressal of any grievances of Sexual Harassment reported by an Aggrieved Employee. It will be an endeavor of this committee to formalize and publicize complaint procedures that are easy and non-threatening to an Aggrieved Employee with the assurance of confidentiality.

4.2 ICC shall be constituted by the Employer and shall have following composition –

- (i) Not less than four members nominated by the Chief Executive Officer of the Company to deal with complaints of Sexual Harassment at the Workplace;
- (ii) A woman employed at a senior level at the Workplace from amongst the employees of the Company and she will be appointed as a Presiding Officer (“**PO**”) of ICC;
- (iii) Not less than two members from amongst the Employees;
- (iv) One member from non-governmental organisation (“**NGO**”) or associations committed to the cause of women or person familiar with issues relating to Sexual Harassment;

The persons nominated above to ICC shall be collectively referred to as **“Members”**.

Other parameters regarding ICC shall be:-

- a) No less than one-half of the total Members so nominated shall be women;

- b) Members of ICC shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified at the time of appointment;
- c) If any member of the ICC, who is in employment of the Company, leaves the employment or is discharged, dismissed, terminated or suspended from his or her services, then she /he will automatically cease to be the member of the ICC. The Company shall appoint another person as Member of ICC in place of such Member within 90 (ninety) days from the date of cessation of his/her membership.

#### 4.3 Where the PO or any member of the ICC:-

- (i) contravenes the provisions of para 6.2 (ix) of this Policy; or
- (ii) has been convicted for an offence or an 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 proceedings or a disciplinary proceeding is pending against him/her; or
- (iv) has abused his/her position as to render his/her continuance in office prejudicial to the public interest.

Such PO or Member, as the case may be, shall be removed from ICC and the vacancy so created or any fresh vacancy shall be filled by fresh nomination by the Employer.

## **5 FUNCTIONS OF THE INTERNAL COMPLAINTS COMMITTEE**

- 5.1 The ICC shall hold at least one meeting in a year. However, in case, it receives any complaint pertaining to matter of Sexual Harassment, then the ICC shall be competent to proceed with the investigation accordingly.
- 5.2 The quorum for holding any meeting of ICC shall not be less than 3 (three) members, provided that in every meeting of ICC the presence of the member belonging to an NGO who is familiar with the issues of Sexual Harassment, is mandatory. However, during preliminary inquiry, presence of Member belonging to NGO may not be required.

## **6 PROCEDURE FOR DEALING WITH COMPLAINT**

### **6.1 Responsibility of the Employee**

- i. Any Aggrieved Employee who believes that or who has been subjected to Sexual Harassment by a manager, supervisor, colleague, customer, client, volunteer, trainee, intern or any other person who is connected with the Workplace, shall file a complaint in writing at the earliest point of time and in any case within 3 (three) months of the alleged incident of Sexual Harassment and in a series of incidents, within a period of 3 (three) months from the date of the last incident. Where such complaint cannot be made in writing, the PO or any member of ICC shall render all reasonable assistance to the complainant for making the complaint in writing or recording the statement of the complainant.
- ii. Such complaint should be made to the ICC or to any member of the ICC (along with the supporting documents and list of witnesses, if any) and to the direct reporting manager or the Human Resources (HR) Department. In case the complaint of Sexual Harassment is against the direct reporting manager or any official of HR Department or management, the complainant shall make complaint directly to the ICC;
- iii. Employees who are aggrieved by acts of Sexual Harassment may make complaint to their colleagues/ supervisors, who in turn shall without any delay forward the same to the ICC for remedial measures and inquiry;
- iv. Where the Aggrieved Employee cannot make a complaint on account of (a) physical incapacity, her legal heirs or relative or friend or co-worker or an officer of the National Commission for Women or State Women's Commission or any person who has knowledge of such incident, with the written consent of the Aggrieved Employee, may make a complaint; (b) mental incapacity, her legal heirs or relative or friend or a special educator or a qualified psychiatrist or psychologist or the guardian /authority under whose case she is getting treatment or any person who has knowledge of such incident jointly with any of the above may make a complaint; (c) death, her legal heirs or any person who has knowledge of such incident, with the consent of her legal heir; or (d) otherwise for any other reason, her legal heirs or any person who has knowledge of such incident, with the her consent.

### **6.2 Investigation procedure**

- (i) On receipt of complaint, the ICC shall forward a copy of the same to the Respondent within 7 (seven) working days. The Respondent shall file his reply to the complaint along with his list of documents and witnesses at the earliest and in any case not later than 10 (ten) working days from the date of receipt of the copy of complaint from ICC.
- (ii) The ICC may, before initiating an inquiry and at the request of the Aggrieved Employee take steps to settle the matter between the complainant and the Respondent through conciliation, provided that no monetary compensation shall be made as the basis of conciliation. If the settlement is arrived during conciliation proceedings, ICC will record the settlement so arrived and provide copies of the suitable action as per the settlement, each to the complainant as well as the Respondent and also to the Employer. No further investigation shall be conducted where a settlement has been arrived post conciliation.
- (iii) If the complainant informs the ICC that any such settlement is not complied with or where no settlement is arrived at, then in such a case, the ICC shall proceed with an inquiry. The ICC shall give both the parties (complainant and Respondent) an opportunity of being heard and copy of the findings shall be made available to both the parties to follow the principles of natural justice. Both the parties will also be required to submit the evidences in support of their statements.
- (iv) While conducting inquiry, the ICC shall also interrogate the witnesses, and determine if there are any individuals with direct or indirect information regarding the complaint, and, if so, ICC shall also interrogate them or obtain information from such other individuals and make such enquiries as it thinks fit.
- (v) The ICC shall recommend to the Employer, if any interim remedial measures can be taken to distance the complainant from the Respondent to prevent further Sexual Harassment at the Workplace.
- (vi) During the pendency of the inquiry, on a written request made by the complainant, the ICC may recommend to the Employer, following relief to the complainant:
  - a) Transfer of the complainant or the Respondent to any other office of the Company; or
  - b) Grant leave to the complainant up to a period of 3 (three) months or grant such other relief to the complainant as may be decided by the ICC; and

- c) Restrain the Respondent from reporting on the work performance of the complainant or writing confidential report, and assign the same to another employee of the Company.
- (vii) The complaint by the Aggrieved Employee should contain all material and relevant details concerning the alleged Sexual Harassment such as, the name of accused, the nature of the harassment, the dates and details of the incidents etc;
- (viii) For the purpose of making an inquiry, the ICC shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:
- summoning and enforcing the attendance of any person and examining on oath;
  - requiring the discovery and production of documents; and
  - any other matter which may be prescribed.
- (ix) Strict confidentiality of the complaint, identity and the address of the complainant, Respondent, witnesses, inquiry proceedings and the action taken by the ICC and/or the Employer shall be maintained and shall not be published, communicated or made known to public, press or media in any manner. However, the information regarding the justice given may be disseminated without disclosing the other particulars of Aggrieved Employee and witnesses.
- (x) Where the act of Sexual Harassment amounts to an offence under Indian Penal Code ,1860 or any other law in force, then on receiving the complaint, the complainant shall be informed by the ICC of her right to initiate action under the applicable provisions of Indian Penal Code, 1860, if the complainant so desires;
- (xi) The complainant and the Respondent may be allowed to be represented by a co-employee in the inquiry but shall not be allowed to bring any legal practitioner to represent them at any stage in the proceedings before the ICC.
- (xii) During the inquiry proceedings, Respondent and complainant shall be given full opportunity to rebut and cross-examine each other;
- (xiii) The complainant may also produce other witnesses, which may include outsiders with the permission of the members of ICC;
- (xiv) The entire record of the inquiry proceedings including statements of the witnesses, cross-examinations, averments and arguments made during the

inquiry shall be reduced in writing and all parties present at the inquiry shall sign the same and be given a copy thereof for their records;

- (xv) The ICC shall be free to adopt its own procedure for carrying out the inquiry on the basis of natural justice, equity and fair play so that no prejudice is caused to either party. Keeping in mind the sensitive nature of proceedings, the same shall be conducted expeditiously and without any unreasonable delay.
- (xvi) The inquiry shall be completed within a period of 90 (ninety) days from the date commencement of inquiry.

### **6.3 Withdrawal of the Complaint**

- (i) If at any stage, after the filing of a complaint and during the pendency of inquiry proceedings, the Aggrieved Employee wishes to withdraw the complaint, then she shall have the right to withdraw the complaint and the ICC shall permit her to withdraw the complaint and if an inquiry has commenced, then the ICC shall discontinue the inquiry without giving any findings or conclusions on merit.
- (ii) If it is brought to the notice of the ICC, or the ICC is of the opinion that there is pressure on the complainant or on the witnesses to withdraw their statements then ICC shall record the same in writing and propose its remedial recommendations to the Employer.

### **6.4 Third Party Sexual Harassment**

- (i) In case any matter of Sexual Harassment occurs as a result of an act or omission by any third party against the Aggrieved Employee or an Employee of the Company commits Sexual Harassment against any third party, being a sponsor/ contractor/ vendor's employee dealing with the Company in any manner, the ICC shall take all necessary steps and shall make reasonable efforts to assist and support the aggrieved person in any manner.
- (ii) The ICC shall ensure that the aggrieved person is immediately distanced from the accused and the harassment comes to an immediate end.
- (iii) The ICC shall also lodge a formal complaint regarding such incident with the sponsor/ agent/ vendor to ensure that the accused is punished.

## **6.5 Procedure for Dealing with False Complaints**

- (i) The Employees cannot be permitted to abuse the law and this Policy for personal gains, settling scores and revengeful tactics.
- (ii) Consensual activities cannot be construed as Sexual Harassment. Making a complaint of Sexual Harassment is an extremely serious matter and it affects the life, career and reputation of the parties involved, hence Company takes such issues with utmost seriousness and sincerity.
- (iii) Where the ICC arrives at a conclusion that the allegation against the Respondent is malicious or the Aggrieved Employee or any other person making the complaint, has made the complaint knowing it to be false or such person has produced any forged or misleading document, it may recommend to take action against the complainant as per the code of conduct/service rules of the Company including a verbal or written reprimand, probation, demotion, suspension or dismissal of Aggrieved Employee or such person.
- (iv) In the event of a malicious complaint, the complainant will not be entitled to any remuneration during the period of extra leave, if any, allowed pursuant to 6.2(vi)(b).
- (v) Mere inability to substantiate a complaint or provide adequate proof need not attract action against the complainant.
- (vi) The malicious intent on part of the complainant shall be established after an inquiry by the ICC.

## **7 INQUIRY REPORT AND ACTION**

- (i) On the completion of an inquiry / investigation, the ICC shall provide a written report of its findings and conclusions to the Employer within a period of ten (10) days from the date of completion of the inquiry and a copy of the report shall be given to the complainant and Respondent. The Employer shall act upon the recommendation within 60 (sixty) days of its receipt;

- (ii) Where 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 against the Respondent;
- (iii) Where the ICC arrives at the conclusion that the allegation against the Respondent has been proved, ICC shall recommend to the Employer –
  - (a) To take action against the Respondent for Sexual Harassment as a misconduct in accordance with the provision of service rules of the Company including a verbal or written warning, suspension, or termination of employment or seek a written apology, reprimand or censure, withholding of promotion, pay rise or increments, undergoing a counseling session or carrying out community service;
  - (b) To deduct, notwithstanding anything in the service rules applicable to the Respondent, from the salary or wages of the Respondent such sum as it may consider appropriate to be paid to the complainant or to her legal heirs;
- (iv) For the purpose of determining the sum to be paid, the ICC shall consider:
  - a) The mental trauma, pain, suffering and emotional distress caused to the complainant;
  - b) The loss in career opportunity due to the incident of Sexual Harassment;
  - c) Medical expenses incurred by the complainant for physical or psychiatric treatment;
  - d) The income and financial status of the Respondent;
  - e) Feasibility of such payment in lump sum or in installments.
- (v) In case the Company is unable to make such deduction from the fee or salary of the Respondent due to being absent from duty or cessation of employment or retainership, ICC may direct the Respondent to pay such sum to the complainant.
- (vi) The ICC shall have the right to terminate the inquiry proceedings or to give ex-parte decision on the complaint, if the complainant or the Respondent fails, without sufficient cause, to present herself/himself for 3 (three) consecutive hearings convened by the PO. Such termination or ex-parte order may not be passed without giving an advance 15 (fifteen) days' notice to the parties.

## **8 APPEAL**

Where any person aggrieved from the recommendations made under this Policy may prefer an appeal to the court or tribunal in accordance with the provisions of the Act.

## **9 MANAGEMENT OBLIGATION**

The obligations of the Company are as under:

- i. provide all necessary facilities and assistance to ICC for the purpose of ensuring full, effective and prompt implementation of this Policy
- ii. promote and facilitate measures in the establishment for prevention of Sexual Harassment at the Workplace;
- iii. ensure a safe working environment at the Workplace free from Sexual Harassment including prevention and deterrence;
- iv. maintain a proactive awareness program or conduct workshops at regular intervals to educate the employees of the Company as to the provisions of the Act, Policy and procedure for redressal;
- v. facilitate initiation of proceedings under this Policy if an act of Sexual Harassment has been brought to its notice;
- vi. ensure that the complainant or witness is not victimized, harassed or discriminated against for initiating or giving evidence in the inquiry proceedings under this Policy;
- vii. not alter to the prejudice of the aggrieved woman or witness or representative concerned, the conditions of service prevailing immediately prior to the complaint being lodged as a consequence to the making and prosecuting of a complaint under this Policy;
- viii. display at any conspicuous place in the Workplace, the penal consequences and the order constituting ICC (refer to para 4 above) of Sexual Harassments;
- ix. assist in securing the attendance of Respondent and witnesses before the ICC;
- x. make available such information to the ICC as it may require having regard to the complaint made under para 6.1(i) of this Policy;

- xi. provide assistance to the Aggrieved Woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force;
- xii. cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the Aggrieved Woman so desires, where the perpetrator is not an employee, in the Workplace at which the incident of Sexual Harassment took place;
- xiii. monitor the timely submission of reports by the ICC
- xiv. ensure that complainant or supporter or witness is not punished by discharging, transferring, dismissing or otherwise for any misconduct, as a consequence to the complaint except in cases where it is proved beyond doubt that the complaint, as filed and evidence as adduced was wholly false and vexatious to settle personal scores with the defendant or to shield against performance issues of the complainant.
- xv. treat Sexual Harassment as a misconduct under the service rules and initiate actions for such misconduct.

## **10 SUBMISSION OF ANNUAL REPORT**

The ICC shall submit its annual report to the Company and/ or to the district officer as required under the Act. Responsibility of placing the annual report before the Board of the Company will be that of HR Division, on an annual basis.

## **11 GOVERNING LAW**

This policy follows the Act of Parliament and its notification and is as per provision of **“The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013”**.

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