



**NISARGA FOUNDATION**

**PREVENTION OF SEXUAL HARASSMENT at WORK PLACE POLICY  
(POSH)**

## NISARGA FOUNDATION'S

### PREVENTION OF SEXUAL HARASSMENT at WORK PLACE POLICY (POSH)

#### PREAMBLE

NISARGA FOUNDATION, a non-governmental organization registered under the Indian Trust Act, was established in the year 1997. Our work for the cause of its a non-profit, voluntary, registered organization, the organization is based in tribal thaluk of Heggadadevana Kote of Mysuru district in Karnataka. The organization is governed by a Governing Body which comprises of six members of repute. Based on a firm decision of the GB, Nisarga Foundation since its inception has opted to work for the realization of rights of the tribes and non-tribes in and around Heggadadevana Kote.

We, the members of our governing board, staff, volunteers and associates share a common commitment to protect, promote and uphold the Rights of all Women- particularly those with disability- as outlined in the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**. An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

#### PURPOSE

NISARGA FOUNDATION aspires to create a workplace free from harassment in any form, based on factors such as gender, caste, colour, religion, age, national origin, ancestry, disability, veteran status, marital status, sexual orientation or any other employment status protected by applicable law. To maintain a safe and inclusive work culture, Nisarga Foundation takes a zero-tolerance stance on this behaviour.

The Parliament has passed the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill in 2013 which makes it mandatory that all offices, hospitals, institutions and other workplaces should have an internal redress mechanism for complaints related to sexual harassment based on the guidelines laid down by the Supreme Court of India.

To promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons, particularly women and to promote respect for their inherent dignity.

To ensure that all staff, interns, volunteers, consultants and members of the Governing Board work together, own the responsibility and share accountability to encourage the development of an ethos which respects the dignity and human rights of all persons in all its dealings and in all settings in which they work.

To ensure that any woman who is a victim or witness of any abuse, neglect or exploitation is treated with dignity and concern for her wellbeing and safety

## **SCOPE**

This Policy applies to all staff, contractors and casual employees who work for Nisarga Foundation It also applies to visitors to Nisarga Foundation offices.

## **CORE VALUES AND PRINCIPLES**

**Nisarga Foundation** Women's Protection Policy is aligned to the organization's core values and the principles practiced in our work:

### **Core Values:**

- We as Nisarga Foundation respect Adivasi culture values and their identity.
- Nisarga Foundation beliefs non-violent direct action.
- We as Nisarga Foundation respect elders and protect nature.
- We believe nature called Nisarga.

**DATE OF ADOPTION:**

This policy adopted on **08-01-2019** after being presented and deliberated at the meeting of the Governing Board.

**APPLICABILITY:**

The following persons come under the purview of the POSH Policy:

- Members of the Governing Board
- Employees of the Organization
- Volunteers, interns
- Consultants and
- Visitors who come to Nisarga Foundation for any purpose

**DISSEMINATION:**

- This POSH Policy is a public document and is available on our website and on request at our Human Resources Department or any of our offices.
- It is officially handed over to all new recruits, volunteers, consultants and interns and is an official part of any agreement with our partners.

**ASSISTANCE AND CONTACT INFORMATION:**

- For any assistance or clarification regarding this policy please contact the POSH Internal Complaint committee (ICC): Telephone no. 08228-257873 or at [mail id: nfposh@gmail.com](mailto:nfposh@gmail.com)

**DEFINITION OF WORK PLACE:**

- This covers all working places of NISARGA FOUNDATION, including residential campuses.

## Duties of Employer

- ▶ The Act enlists the duties of the employer as follows:
- ▶ Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace.
- ▶ Display at any conspicuous place in the workplace, the penal consequences of sexual harassments and the order constituting, the Internal Committee under subsection (1) of section 4.
- ▶ Organise workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act and orientation programmes for the members of the Internal Committee in the manner as may be prescribed.
- ▶ Provide necessary facilities to the Internal Committee for dealing with the complaint and conducting an inquiry.
- ▶ Assist in securing the attendance of respondent and witnesses before the Internal Committee.
- ▶ Make available such information to the Internal Committee as it may require having regard to the complaint made
- ▶ Provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code (45 of 1860) or any other law for the time being in force;
- ▶ Cause to initiate action, under the Indian Penal Code (45 of 1860) 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;
- ▶ Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
- ▶ Monitor the timely submission of reports by the Internal Committee.

## **KEY RESPONSIBILITIES OF ICC**

To effectively address workplace sexual harassment complaints, a Complaints Committees must first be aware of their key responsibilities, some of which are highlighted below:

1. Be thoroughly prepared
2. Know the Act, Policy and/or relevant Service Rules
3. Gather and record all relevant information
4. Determine the main issues in the complaint
5. Prepare relevant interview questions
6. Conduct necessary interviews
7. Ensure parties are made aware of the process and their rights/responsibilities within it
8. Analyse information gathered
9. Prepare the report with findings/recommendations

## **KNOWLEDGE, SKILLS, TRAINING FOR ICC MEMBERS**

Dealing with workplace sexual harassment complaints is often complex. Hence Complaints Committee/s must possess critical skills/capacity to effectively carry out their role. That includes a sound grasp of the Act, Vishaka Guidelines, applicable Service Rules, relevant laws and an understanding of workplace sexual harassment and related issues. Complaints Committee skills must include an ability to synthesise information i.e. relevant documents, the law and interviews. They should also be able to communicate effectively, write clearly, listen actively and conduct interviews. They should be competent at showing empathy, being impartial and being thorough. They should be able to identify sexual harassment and its impact. A Complaints Committee/s is required to be trained in both skill and capacity to carry out a fair and informed inquiry into a complaint of workplace sexual harassment. An absence of such training will lead to unequal and unfair results, which can cost employers, employees, complainants as well as respondents.

## DEFINITIONS

### 1. Sexual Harassment

Sexual harassment includes any unwelcome behaviour of a sexual nature that could be reasonably expected to make someone feel offended, humiliated or intimidated.

It includes situations where a person is asked to engage in sexual activity as a condition of that person's employment, as well as situations which create an environment which is hostile, intimidating or humiliating for the recipient.

**A.** Sexual harassment can involve one or more incidents and actions constituting harassment may be physical, verbal and non-verbal. Examples of contact or behaviour which constitute sexual harassment include, but are not limited to:

**PHYSICAL:** Unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling, or inappropriate touching, and Physical violence including sexual assault.

**VERBAL:** Comments on a worker's appearance, clothing, body, age, private life, etc., Sexual comments, stories and jokes, the use of job-related threats or rewards to solicit sexual favours

**NON-VERBAL:** Display of sexually explicit or suggestive material, Sexually-suggestive gestures, persistent watching, whistling and Leering

**SEXUAL ADVANCES:** Repeated and unwanted social invitations for dates or physical intimacy, Insults based on the sex of the worker, condescending or paternalistic remarks, and sending sexually explicit messages (by phone or by email)

**B.** The following circumstances if it occurs or is present in relation to any sexually determined act or behaviour amount to sexual harassment:

- Implied or explicit promise of preferential treatment in employment
- Implied or explicit threat of detrimental treatment in employment
- Implied or explicit threat about the present or future employment status
- Interference with the person's work or creating an intimidating or offensive or hostile work environment
- Humiliating treatment likely to affect a person's health or safety

**2. COMPLAINANT:** In relation to workplace, a person of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment

**3. RESPONDENT:** A person against whom a complaint of sexual harassment has been made by the aggrieved person

**4. EMPLOYEE:** A person employed at the workplace for any work on regular, temporary ad-hoc or daily wage basis

**5. WORKPLACE:** Any place where the aggrieved person visits in connection with his/her work in the course of employment with NISARGA FOUNDATION.

**6. EMPLOYER:** A person responsible for management, supervision and control of the workplace.

#### **GUIDELINES FOR COMMUNITY / FIELD STAFF:**

- A. In the case of lady staff members, only those who have completed one month in the NISARGA FOUNDATION community can undertake home visits. In these cases, too, they have to go along with an experienced staff member in the field. In such cases the following precautions need to be adhered to:
- B. Ensure specific daily plan is submitted to the immediate reporting authority to enable movement to be tracked.
- C. In case a home environment is not conducive to a therapy / counselling / educational session, request for the session to be carried out in a common community centre
- D. Note to be submitted to the immediate reporting authority giving details of such cases.

## **INTERNAL COMPLAINTS COMMITTEE**

**Nisarga Foundation** will constitute **ICC (Internal Complaints Committee)** as a mechanism for redressal of complaints related to Sexual Harassment. The committee will be chaired by an NISARGA FOUNDATION employee holding at least the position of FIELD CO ORDINATOR. The committee will have 5 other members comprising of 4 ladies, one NISARGA FOUNDATION staff (from the middle management level) and one member of the Governing Board and one external member.

### **THE COMMITTEE IS RESPONSIBLE FOR:**

- Receiving complaints of sexual harassment at the workplace
- Initiating and conducting enquiry as per established procedure
- Submitting findings and recommendations of enquiries
- Coordinating with the employer in implementing appropriate action
- Maintaining strict confidentiality throughout the process as per established guidelines

**A complainant (an employee of NISARGA FOUNDATION) who believes he/she has been sexually harassed should:**

- If comfortable to do so, inform the alleged harasser that his/her behaviour is offensive, unwelcome, against the organisation's policy and should stop.
- He/she should take a note of the date, time and location of the incident/s
- If not comfortable to confront the alleged harasser or if unwelcome behaviour continues, report to the nominated Complaint Redressal Committee

If this is inappropriate, speak to another senior member of the organisation, the head of the organisation or a member of the Governing Board

### **TIMELINE OF COMPLAINT AND COMMITTEE'S ACTION**

- The complaint must be lodged within **3 months** from the date of incident/last incident by the aggrieved person or his/her friend, relative, Co-worker or any person having the knowledge of the incident

- After receiving the complaint, the informal resolution (if possible) between the complainant and the respondent is completed within **2 weeks**
- The respondent replies with all supporting documents within **10 days** of receiving the complaint, if a formal investigation is initiated

The Complaint Redressal Committee's final report is completed and submitted to NISARGA FOUNDATION's director within **90 days** of initiating the formal investigation

## **CONCILIATION**

- ▶ The Internal Committee may, at the behest of the aggrieved woman, before beginning its investigation take steps to settle the matter between the aggrieved woman and the accused through conciliation.
- ▶ No monetary settlement may be made through conciliation.
- ▶ The Act and the Central Rules spell out implementation procedures with regard to conciliation

## **GUIDELINES FOR RECEIVING A COMPLAINT**

Dealing with incidents of harassment is not like any other type of dispute. Complainants may be embarrassed and distressed and therefore it requires tact and discretion while receiving the complaint.

A Committee member listens to the complaint and the complainant is assured that NISARGA FOUNDATION takes the concerns seriously. Written notes are taken while listening to the person and mostly words used by the complainant are recorded. Clear description of the incident in simple and direct terms is prepared and details are confirmed by the complainant. All notes are kept strictly confidential. Complainant's agreement is taken to proceed with the formal investigation.

The complainant is advised that although the process is confidential, the respondent needs to be informed and any witnesses and persons directly involved in the complaint process will also learn of the complainant's identity.

When a complaint is received, the Complaint Redressal Committee will:

- Obtain and record a full, step-by-step account of the incident/s
- Ensure the organisation's process for handling the complaint is understood
- Ascertain the complainant's preferred outcome, e.g. an apology, the behaviour to cease, a change in working arrangements
- Agree on the next step: informal resolution or formal investigation
- Keep a confidential record of all details of this discussion and subsequent steps in the process.

## **PROHIBITION OF PUBLICATION**

- ▶ As per Sec. 16 the contents of the complaint, the identity and personal details of the parties involved, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee and the actions taken shall not be published, communicated or made known to the public, press and media.
- ▶ Any person who is entrusted with the above documents, shall be liable for penalty, in accordance with the provisions of the service rules, if he/she contravenes regulations.

## **INFORMAL RESOLUTION**

Once the complaint is received regarding sexual harassment, the Committee may take steps to conciliate between the complainant and the respondent. It is possible, if a step is requested by the aggrieved person. It is just a practical mechanism through which issues are resolved or misunderstandings cleared. If an informal resolution is chosen by the complainant, the Complaint Redressal Committee will take recourse to the following process:

- Inform the alleged harasser of the complainant and provide an opportunity to respond
- Ensure both parties understand their rights and responsibilities under the organisation's policy
- If possible, mediate an outcome that is satisfactory for the complainant
- Ensure that confidentiality is maintained
- Follow up to ensure the behaviour does not re-occur.

The Committee provides copies of the settlement to complainant & respondent. Once the action is implemented, it shall be recorded that no further enquiry shall be conducted on the complaint.

### **FORMAL INVESTIGATION**

If an informal resolution fails and a formal investigation is requested by the complainant, the Complaint Redressal Committee will take necessary steps to:

- Afford natural justice to all involved
- Interview all directly concerned, separately
- Interview witnesses, separately
- Keep records of the interviews and investigation
- Ensure confidentiality and minimise disclosure
- Decide as to whether there is sufficient evidence that a reasonable person could conclude, on the balance of probabilities (i.e. it's more likely than not), that an incident/incident of sexual harassment has occurred

### **MANNER OF INQUIRY**

Complainant should submit the complaint along with supporting documents. Upon receipt of the complaint, the committee shall send one copy of the complaint to the respondent. The respondent receives the complaint and sends his/her reply to the committee. The Committee shall make an inquiry into the complaint in accordance with the principle of natural justice.

While conducting the enquiry, minimum of three committee members including the president of the Committee should be present.

The decision of the committee is final. The employer is requested to take action on the respondent as recommended by the committee. No legal practitioner can represent any party at any stage of the inquiry.

### **INQUIRY PROCEDURE**

All proceedings of the inquiry are documented. The documentation shall be shared with complainant and the respondent, if requested. The committee shall interview the respondent separately. Any witnesses produced by the respondent are also interviewed by the committee. If the complainant or respondent desires to cross examine the witnesses, it shall be facilitated by the committee.

### **INTERIM ACTION**

During the process of formal investigation, NISARGA FOUNDATION management shall determine an appropriate action, which may include a change of duties for the harasser and change to working arrangements.

If the incidents were frequent and/or severe, they may take recourse to the dismissal of the respondent.

In case it cannot be determined by the required test, that an incident/incident of sexual harassment has occurred, may still take action to ensure the proper functioning of the workplace without prejudice to any party.

The management will also continue to closely monitor the situation and provide further training to the staff, if required.

When the interim action is implemented, the employer shall inform the committee regarding the action taken.

## **TERMINATION OF INQUIRY**

The committee may terminate the process of an enquiry if both the complainant and respondent are absent for three consecutive hearings without giving any reason in writing. If the committee concludes that the complaint was malicious, it can request the employer to take appropriate action against the complainant.

## **SUBMISSION OF ANNUAL REPORTS**

- ▶ The Internal Committee is required to prepare and submit an annual report to the employer.
- ▶ The employer is required to include in its report the number of cases filed, and their disposal under this Act in the annual report of the organisation.

## **REVIEW OF THIS POLICY**

The committee will be dissolved every 3(Three) years and a new Chairman and members will be nominated/renewed. All nominations, including for vacancies caused by attrition or other reasons, will be made by a team consisting of 5(Five) of NISARGA FOUNDATION.

## **CONCLUSION**

There is an official obligation and an individual obligation to fulfil the intent of this Policy. The Policy will be prominently displayed in all NISARGA FOUNDATION office premises and it is expected that every employee will have a working knowledge of permissible activities in the work place and will seek guidance from HR department.

Details of NISARGA FOUNDATION Internal Complaints Committee members of POSH policy are mentioned below:

- ▶ Senior Woman employee
  - Chairperson: Mrs Dilshad
- ▶ 2 members from employees who have had experience in social work
  - Mrs. Marcelin R Fernandis
  - Ms. Anitha Kumari
- ▶ Middle Management
  - Operations Manager
- ▶ Board Member
  - Mr MVN Rao
- ▶ External Member
  - Mr Raghavendra (Ex staff of Nisarga)

## **Declaration of Commitment by Concerned Nisarga Foundation Members**

**I, hereby declare that:**

- I have read and understood the “POSH Policy” of Nisarga Foundation and I agree to adhere to this policy.
- I will work within the procedure as laid out in the “POSH Policy” of Nisarga Foundation.
- I understand that the policy holds good in all the locations where I represent Nisarga Foundation directly or indirectly.
- I understand the procedure involved in handling any complaint and I accept to cooperate with committee in case if I am the accused for any sexual abuse at workplace.
- I understand the decision of the committee is the final.
- I agree to attend any awareness or training program that Nisarga Foundation organises related to POSH policy.

