

Govt asked to explain law on harassment of women at workplace

ISLAMABAD: The Supreme Court on Thursday asked the government to help it determine whether a federal law on protection against harassment of women at workplace enacted to honour international commitments should prevail or the provinces could also enact their own laws on the subject.

And if the federal law had to be implemented, then what would become of the 18th Amendment, which guaranteed provincial autonomy, the court asked.

“The 18th Amendment will become practically ineffective if the federal government adopts laws in view of different international conventions and treaties to which Pakistan is a signatory,” feared Justice Sajjad Ali Shah.

These questions came to the fore during the hearing of a suo motu case instituted after an acrimonious situation with a potential to vitiate the dignity of the judiciary as former federal ombudsperson for protection against harassment of women at workplace Yasmin Abbasi issued an arrest warrant for then senior puisne judge of the Lahore High Court Syed Mansoor Ali Shah.

Fate of 18th Amendment is linked with implementation of federal law, SC observes

“Come up with solutions,” Justice Sheikh Azmat Saeed directed the government while heading a three-judge SC bench.

“If we look at the easy way out, then it will create disaster for the future,” he said. “We need to weigh in the impact before deciding the matter, otherwise it is very easy to hand down a consensus order right now.”

Justice Saeed asked Attorney General Anwar Mansoor to assist the court in reaching a final decision.

The judge also asked Additional Attorney General (AAG) Sajid Ilyas Bhatti, who was representing the federal government, to furnish all available judgements of the superior judiciary on entries 32 and 58 of the federal legislative list.

The entry 32 deals with the international treaties, conventions and agreements as well as international arbitration, whereas the entry 58 covers matters which under the constitution are within the legislative competence of the parliament or relate to the federation.

The court observed that while interpreting the issue, it had to be careful about possible consequences against the backdrop of 18th Amendment.

The controversy erupted after the subject of protection against harassment of women at workplace was placed under the social welfare department after the 18th Amendment. The law was enacted in line with different conventions under the International Labour Organisation, Convention on the Elimination of all Forms of Discrimination Against Women as well as the Beijing Conference 1995. Pakistan has ratified all the conventions.

Consequently, the provinces also enacted their own laws, except for Sindh. Though Punjab and Balochistan say that their laws are also applicable to the federal organisations working in the provinces, Khyber Pakhtunkhwa says that its law will have no jurisdiction over the federal offices in the province.

The AAG argued that the federal government could enact laws like the one on harassment of women at workplaces because Pakistan was a signatory to the international treaties.

Incumbent ombudsperson Kashmala Tariq requested the court to also involve the law ministry in the brainstorming since all amendments suggested by her office had been stuck up there.

Justice Saeed observed that the Supreme Court would endeavour to harmonise all the laws to develop clarity so that every complainant knew which bell to ring: whether to approach the federal organisation or the provincial.

The judge also highlighted the conflicting and overlapping jurisdiction between the federal and provincial laws on the same subject.

The Newspaper's Staff Reporter