

US BILL TO END FORCED ARBITRATION IN SEXUAL ASSAULT



Issue

A bill to end forced arbitration in sexual assault and harassment disputes at workplaces has been passed by the US Congress.

Background

The bill was introduced in the US Congress by Senator Kirsten Gillibrand in 2017 after #MeToo case at Fox News.

Details

- The bill could allow survivors to sue their abusers in courts even if they have signed employment agreements to settle disputes internally through an arbitrator.
- The bill is touted as a step towards changing a system that uses secrecy to protect perpetrators and silence survivors.

Forced arbitration

- Employee contracts contain arbitration that control what employees can say in public about workplace disputes especially those related to sexual harassment and racial discrimination.
- The companies can settle disputes using middlemen, known as arbitrators, behind closed doors. The arbitrators are lawyers or retired judges.
- The bill will negate both the predispute arbitration agreement and predispute joint-action waiver.

Criticism of arbitration

Employee arbitration clauses are criticized for favouring employers over workers as well as hindering survivors in seeking justice.

Significance of bill

Tech giant like Microsoft no longer require employees to settle sexual harassment cases in secrecy. Google and Facebook have rolled back arbitration clauses.

India's sexual harassment laws

There are no provisions for arbitration in India's Sexual Harassment of Women at Workplace Act 2013. The internal committees introduced in the act have also been criticized.

Justice Verma committee

- The committee found that internal committees discourage victims from filing sexual harassment complaints. It recommended forming employee tribunals.
- It recommended deleting Section 10 of the Act, which allows for 'conciliation' to settle the dispute. Monetary settlement should not be reached through conciliation.

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