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"FOSTERING INCLUSION IN THE CORPORATE WORLD: HOW SAFETY FROM SEXUAL HARASSMENT EMPOWERS WOMEN AND STRENGTHENS WORKPLACE EQUALITY."

Shelza Manghnani

Workplace inclusivity has enhanced that's a fact, but it can truly be achieved by better realization of the POSH act!!

Today, when the corporate sector is growing tremendously, it has also been brought under the radar of serious scrutiny for several reasons including, concerns regarding the safety of women employees at the workplace which are surely critical to be discussed. In theory, it appears as bliss that the corporate world is inclusive in nature, but the participation of women in the workplace remains low over the years, with enough examples to show that lack of safety remains an obstacle for female employees.¹ For those who still turn a blind sight to this crucial issue, the legal take on it has been elaborated ahead;

1) THE VISHAKA GUIDELINES²

Despite a long battle, it took almost 16 years for the POSH act and its rules to be enacted after the famous Vishaka judgment in 1997, where Bhanwari Devi, a Dalit woman working with the Rajasthan government's rural development programme, was gang-raped for attempting to prevent child marriage. This incident exposed the daily risks faced by working women and underscored the urgent need for protective measures. In response, women's rights activists and lawyers filed

¹ Riya Tandon, *India Inc.'s POSH promises aren't saving women from workplace abuse*, ET EPAPER (Aug. 23, 2024), <https://m.economicstimes.com/jobs/hr-policies-trends/an-unfulfilled-promise-women-safety-at-work-continues-to-remain-a-concern/articleshow/112728542.cms>

² Vishaka v. State of Rajasthan, (1997) 6 SCC 241 (Ind.)

public interest litigation in the Supreme Court under the name Vishaka. The Court, for the first time, recognized workplace sexual harassment as a violation of human rights and highlighted the lack of adequate legal safeguards.³ The Vishaka Guidelines marked a turning point by holding workplaces and institutions directly accountable for ensuring women's safety and dignity at work. The Supreme Court made it clear: protecting women's fundamental right to equality isn't optional—it's a duty. To meet this standard, every workplace must focus on three core responsibilities: Prohibit sexual harassment, prevent its occurrence, and Redress complaints effectively.⁴

2) PROMINENCE OF THE POSH ACT AND HOW IT IS EMPOWERING WOMEN

Posh act 2013 is the most important legislative authority concerning the safety of female employees, due to the significant provisions it carry that extend assistance to women and empower them to raise their voice. As per the act's mandate the employees must be made actively aware about the following provisions:

DEFINITION AND SCOPE

Sexual harassment includes unwelcome physical, verbal, or non-verbal conduct of a sexual nature. The Act applies to all individuals at the workplace—employees, interns, part-time staff, visitors, and others, across physical and virtual spaces.

ORGANIZATIONAL STANCE

A zero-tolerance policy is central to compliance. Employers must send a clear message that any form of sexual harassment will invite serious consequences.

INTERNAL COMMITTEE (IC)

Every organization with more than 10 employees must constitute an Internal Committee, comprising a senior female presiding officer, an external NGO member, and employee representatives. The IC handles complaints, ensures confidentiality, and facilitates fair inquiry.

³ ELEARNSOSH, <https://elearnposh.com/> (Last visited July. 8, 2025).

⁴ MINISTRY OF WOMEN & CHILD DEVELOPMENT, *HANDBOOK ON SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013* 4-5 (Government of India 2015).

COMPLAINT PROCESS

Complaints can be addressed through formal (written submission within 3 months) or informal means (e.g., dialogue). IC members' contact details should be clearly communicated.

RIGHTS AND PROTECTIONS

The Act protects the complainant, respondent, and witnesses throughout the process, ensuring fairness and confidentiality. Retaliation against any party is a punishable offence.

RESPONSIBILITIES OF STAKEHOLDERS

- Employers must establish awareness programs, constitute the IC, and ensure policy implementation.
- Employees have a duty to maintain respectful conduct and report any observed or experienced harassment.
- Witnesses must support the process by reporting incidents or testifying if needed.

PENALTIES AND FALSE COMPLAINTS

If harassment is proven, disciplinary actions may include termination, fines, or even license cancellation or non-renewal in extreme cases. False complaints, if proven to be malicious, may result in disciplinary action. However, unsubstantiated complaints made in good faith carry no penalty.⁵

3) RECENT TRENDS IN THE IMPLEMENTATION OF THE POSH ACT

There is no denying the fact that, with the introduction of the posh act and its rules, the number of reported cases has spiked but unfortunately the numbers of resolved cases remain quite low. This can be observed from the following data:

When the POSH Act was first implemented in FY 2013-14, the selected companies reported 161 incidents of sexual harassment. This figure rose sharply to 465 in the following year. The upward trend continued annually until FY 2020-21, which marked the onset of the Covid-19 pandemic.

⁵ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 §§ 2,3,9,14, No. 14, Acts of Parliament, 2013 (Ind.)

That year saw a decline, with 586 cases reported across 300 companies, down from 961 the previous year. In FY 2021-22, the number rose again to 767, followed by a significant 51.2

percent surge in the next year, reaching 1,160 cases. However, the pace of resolving these cases has not matched the rise in complaints. In FY 2013-14, 109 cases were resolved, increasing to 406 in FY 2014-15. Despite this initial progress, in subsequent years, resolutions often lagged behind the growing number of complaints. For instance, in FY 2016-17, while reported cases rose by 12.9 percent from the prior year, the number of resolved cases fell by 2.1 percent.⁶ From this data collected over a decade, the existing limitations as to the real application of the posh act are highlighted. Lastly, here are some suggestions to enhance the implementation of the posh provisions:

- Addressing gaps in the POSH Act and needed reforms
- Shifting emphasis from Redressal to Prevention
- Increased sensitization drives on workplace safety.⁷

⁶ Akshi Chawla, *A decade of the POSH Act*, CEDA (May. 16, 2024), <https://ceda.ashoka.edu.in/a-decade-of-the-posh-act-what-the-data-tells-us-about-how-india-inc-has-fared/#cite>

⁷ Gaurav Sarma, *RG Kar horror a clarion call for stricter enforcement of POSH law at workplace?*, HT E-PAPER (Aug. 22, 2024) <https://www.hindustantimes.com/education/features/rg-kar-horror-a-clarion-call-for-stricter-enforcement-of-posh-law-at-workplace-advocates-pg-doctors-share-thoughts-101724141608044.html>