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## POSH in the Digital Era

*Suhana Singh*

### Introduction

In a post-pandemic world, the work place is no longer limited to office desks and conference rooms. It has shifted to living rooms, mobile phones, video calls and instant messages. But while the workspace has gone virtual, so have instances of sexual harassment. What happens when a manager makes lewd comments during zoom call? Or a colleague sends inappropriate messages on an office WhatsApp group? Do these actions fall under the POSH Act, 2013? Is there legal recognition for harassment in digital workspaces?

This article explores how India's laws on sexual harassment at the workplace are being tested and sometimes outpaced by the digital testes and sometimes outpaced by the digital era. While the POSH Act was progressive when passed, its application in modern, tech-heavy workplaces raises new challenges and questions.

### POSH Act, 2013: A Quick Recap

The sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act 2013, commonly known as the POSH Act, was enacted to ensure a safe working environment for women. It was based on the principals laid down in the landmark Vishaka v. State of Rajasthan (1997) case.

Key definition to recall:

-Sexual Harassment [Section 2(n)]: Any unwelcome physical, verbal or non-verbal conduct of sexual nature.

-Workplace [Section2(o)]: Includes offices, government bodies, private sectors, NGOs, hospitals sports institutions, and even a dwelling place or house.

Important Point: Through the word **Digital** isn't used, the act is flexible enough to include remote workplaces if interpreted progressively.

### What counts as Digital Harassment?

Sexual harassment isn't limited to physical contact. In digital spaces, it can take many forms.

- Sending unwanted sexually suggestive messages, memes, emojis, or images via email, WhatsApp, or Slack.
- Making inappropriate jokes or comments during virtual meetings.
- Unwanted video calls at odd hours under the pretext of work.
- Sharing private content without consent on office digital platforms.
- Targeted cyberstalking or trolling using work accounts.

Even there's no physical interaction, the emotional and psychological harm is real. The law defines harassment as unwelcome behavior, and that can happen virtually too.

### Is the law keeping up?

The POSH Act doesn't mention digital tools, but courts and legal scholars have slowly started expanding its interpretation.

In *Medha Kotwal Lele v. Union of India (2012)*, the Supreme court reinforced that workplaces include any space where a woman working under professional obligations even unofficial settings. This judgment helps cover remote workshops too.

But there are no clear legal amendments or rules under the Act dealing with digital harassment yet. The result? Many Internal committees are unsure about:

- Whether harassment during zoom call from home is 'workplace' related.
- How to handle, or email trails.
- Whether cyber- harassment using persona accounts can be brought under POSH Act

Meanwhile, under the IT Act, 2000, certainly types of digital harassment (sending obscene material or hacking) can be punished under

- Section 66E - Violation of privacy
- Section 67 - Violation or transmitting obscene material

However, these are criminal laws, not workplace specific.

### Grey Areas and Challenges

**Jurisdiction confusion:** if a manager in Mumbai harasses an intern in Patna during Google Meet, whose ICC take complain? There's is no clear answer in the law.

**Evidentiary issues:** Screenshots and messages can be manipulated. Often, the harasser uses personal accounts, making it hard to link the act to workplace.

**Casual tone vs Harassment:** Many workplaces have a relaxed communication style – memes, emojis, inside jokes. But when does casual chat become harassment?

**Lack of Awareness:** Most employees don't know that harassment via WhatsApp, zoom, or email can be reported under POSH. And many companies don't update their policy to reflect online harassment.

### The way forward

To make POSH truly effective in the digital era, policy reform, training and awareness are essential.

#### *Suggestion:*

Update company POSH policies to explicitly include digital harassment scenarios: zoom, teams, WhatsApp etc.

Train ICC members in understanding digital evidence and including online complaints.

Encourage anonymous reporting systems for online behavior, especially in remote work.

From a legal angle, the government could issue updated guidelines under POSH Act that acknowledge online and hybrid workspaces clearly without waiting for a full amendment.

## Conclusion

Work has changed, and so has harassment. When the office shifts to digital spaces, the law must follow. The POSH Act was a bold step forward, but its full power depends on how we interpret and implement in today.

As more people work from home, attend virtual meetings, and communicate through digital platforms, its time we are asking, Is the virtual workspace as safe as it should be? If not, then it's not enough to have laws on paper. We need action, awareness and adaption.

### Judicial precedents supporting POSH in digital era

*Vishaka v. state of Rajasthan 1997*: The Supreme court held that a safe working environment is a fundamental right under Article 21. This principle supports the extension of POSH protection to digital workspace. [AIR 1997 SC 3011]

*Medha kotwal Lele & Ors. v. Union of India 2013*: The court held that workplace must be interpreted broadly. This judgment helps cover remote work and digital settings under POSH. [1 SCC 297]

