
POSH IN PRACTICE: IMPLEMENTATION GAPS AND FUTURE DIRECTIONS

Yukta Gaikwad, Indian Law Society College, Pune

ABSTRACT¹

The Prevention of Sexual Harassment of Women at Workplace Act, 2013 (POSH Act), is a landmark Indian legislation rooted in the Vishakha Guidelines laid down by the Honourable Supreme Court in *Vishakha v. State of Rajasthan*. The Act seeks to protect women against workplace sexual harassment and provides a mechanism for prevention, prohibition, and redressal of such complaints. Sexual harassment at the workplace not only violates individual rights but also infringes upon the fundamental rights guaranteed under the Constitution of India, including the right to equality under Article 14 and the right to life under Article 21. The Vishakha Guidelines laid the foundation for this framework, and today the POSH Act stands as more than just legislation it embodies a system ensuring safety, security, and effective redressal for women at the workplace. However, the mere existence of legislation does not by itself guarantee safety and security. It is equally important to evaluate the challenges encountered in its implementation. This paper seeks to examine the current obstacles faced in enforcing the Act and explore possible ways to overcome them.

¹ *Vishaka & Ors vs State Of Rajasthan & Ors* AIR 1997 SUPREME COURT 3011
INDIA CONST. art. 32, 21 19(1)(g)

Introduction

In *Vishakha Vs. State of Rajasthan*, Bhanwari Devi, a women social worker, working for Government initiated women development. The primary objective of the project was to prohibit child marriage and to protect women's rights. In 1992, Bhanwari Devi tried to save a child baby from a marriage arrangement. On 22nd September 1992, a group of five men furious by interference of the Bhanwari Devi, in the child marriage, gang raped Bhanwari Devi as a punishment for her efforts. Investigation and medical examination of the incident was delayed by 50 hours and even after examination important aspects of the incident were omitted from her medical report. Even though incident was severe the trial court acquitted the accused due to lack of the evidence. Considering this as miscarriage of justice, women's right group filed a public interest litigation under article 32 of the constitution.

Issues raised highlighted absence of statutory provisions on the subject of sexual harassment in work environment and violation of fundamental rights of women through sexual harassment.

Bhanwari Devi's case directly violates a women's right to equality given under article 14, right to life with dignity and security and right to practice any profession or to carry on any occupation, trade, or business given by article 21 and article 19(1)(g) respectively. The absence of protective legislation left women solely vulnerable and without any effective recourse to redress. The court held that acts of sexual harassment are beyond violative of physical contact, they infringe the fundamental rights. All acts viewed as sexual harassment violate on a women's dignity while at work and deny her right to live with honour. Exercising its inherent power under article 32, supreme court asserted to frame guidelines in the absence of legislative enactment on the subject and Vishakha guidelines were framed.

Understanding Prevention of sexual harassment at workplace Act 2013²

Sexual harassment refers to unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature that may occur in the workplace or learning environment. It can take different forms, such as making employment or academic success conditional on sexual favour, either expressly or indirectly. It also includes physical acts of sexual assault, requests for sexual favours, unwelcome sexual advances, or unwanted touching and physical contact. Verbal harassment of a sexual nature, such as jokes about sexual acts or

² The Sexual Harassment of women at workplace (Prevention, Prohibition and Redressal) Act, 2013

sexual orientation, as well as discussing sexual relations, stories, or fantasies in inappropriate settings like workplaces or schools, also constitute harassment. Moreover, situations where individuals feel pressured to engage sexually, instances of indecent exposure or self-performed sexual acts, and the circulation of unwanted sexually explicit photos, emails, or text messages are all recognized as forms of sexual harassment.

The Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act 2013 aims to prevent and address sexual harassment against women at workplace. It applies to various workplaces, employers, and employees across sectors. The law is applicable to a wide range of workplaces, covering both government and private offices, including ministries, departments, public sector undertakings, and private companies. It extends to the organized as well as unorganized sectors, such as factories, shops, and establishments, regardless of whether they follow formal structures. Educational institutions like schools, colleges, and universities also fall within its scope, along with hospitals and nursing homes, whether privately managed or government-run. In addition, it applies to dwelling places or houses employing domestic workers, and to NGOs, trusts, and social enterprises, even if they are voluntary or non-profit in nature. Overall, the law applies to all workplaces that have 10 or more employees.

The **POSH Act, 2013** requires the organizations with **10 or more employees** establish an **Internal Complaints Committee (ICC)** to handle cases of sexual harassment. For workplaces with **fewer than 10 employees**, complaints must be addressed by the **Local Complaints Committee (LCC)**. The Act also requires organizations to submit an **annual report** to the appropriate authorities, ensuring compliance and transparency. It outlines the **entire process of inquiry**, from filing a complaint to resolution, and prescribes **penalties for non-compliance** with its guidelines. Additionally, it defines the **key responsibilities** of the **aggrieved party, employer, and the Internal Committee**, ensuring a structured and fair mechanism for addressing workplace harassment. The POSH Act mandates organizations to implement measures for the prevention of sexual harassment and to establish an effective mechanism for redressal. To fulfill the objectives of the Act, organizations are also required to conduct POSH training for their employees. POSH training ensures that employees understand what constitutes sexual harassment, their rights, and the organization's policies and procedures. By raising awareness and promoting a culture of respect, POSH training helps prevent incidents of sexual harassment from occurring in the first place. POSH training empowers employees to recognize and address potential harassment situations, fostering a culture where everyone

feels safe and valued. The training emphasizes the importance of respectful behavior and communication, contributing to a positive and inclusive work environment. POSH training encourages open communication and creates avenues for employees to report incidents of harassment without fear of retaliation. By implementing POSH training and policies, organizations can minimize the risk of legal liabilities associated with sexual harassment claims. A workplace free from sexual harassment enhances the organization's reputation and fosters trust with employees, customers, and stakeholders. A safe and respectful workplace leads to improved employee morale, job satisfaction, and productivity. Employees are more likely to stay with an organization that values respect and promotes a positive work environment. POSH training ensures compliance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Challenges and way forward to it³

The latest data from the Udaiti Foundation records a 29% increase in POSH complaints registered by NSE-listed companies from 1,807 cases in 2022–23 to 2,325 in 2023–24. The challenge is not the rising number of complaints; rather, the real concern is whether these complaints are being effectively addressed. Addressing complaints is a crucial part, for if complaints are not addressed, the very purpose of the POSH Act to ensure a safe, dignified, and harassment-free workplace stands defeated. POSH was enacted with a aim to protect the fundamental rights and interest of women's at workplace. POSH intends to spread awareness and make people vigilant about their duties and responsibility. The primary challenge faced in implementing Posh at workspace is lack of awareness about it,for instance, the knowledge of local committee is not well-know, the act mandates a organization with 10 or more than 10 employees to establish a internal committee but the Act also address the situation where the number of employees are less than 10. Where the number of employees is less than 10, local committee also known as the Local Complaints Committee (LCC), a district-level body constituted by the District Officer to address sexual harassment complaints or where the complaint is against the employer. The Local Committee's jurisdiction extends to the entire district where it is constituted.

Another platform people are unaware to raise complaint is She- Box. She- Box is a online platform where women can register complaint regarding sexual harassment at work place.

³The Udaiti Foundation , <https://www.udaiti.org/workplace-safety/> [(last visited 9th September 2025)]

Initially the portal was just available to women working under Central Government, but now any women irrespective of her sector whether private or public can file a complaint on the portal. It was launched in November 2017. The **She -Box (Sexual Harassment electronic - Box)** was launched under the **POSH Act, 2013** with the objective of providing a **safe, transparent, and efficient** platform for women to report incidents of **sexual harassment at the workplace**. This platform can help to protect the Confidentiality of the employee. But many organisation are unaware of it. An active effort should be taken in spreading awareness about the platform available. While conducting a posh session in a organisation, the committee should make sure to make the employees well versed about various redressal available. Another issue faced, is lack of knowledge regarding the inquiry process. The inquiry must be completed within 90 days from the day complaint raised After the inquiry is completed, the committee must prepare a detailed report on its findings. This report is sent to, the employer (if the accused is an employee), or The District Officer (if the complaint was handled by the LC). The report must be submitted within 10 days of completing the inquiry. A copy of the report is also shared with both the complainant and the accused. During an ongoing inquiry into a sexual harassment complaint, the Internal Committee or Local Committee can recommend temporary relief measures to protect the complainant. If a person is dissatisfied with the decision of the Internal Complaints Committee (ICC) or Local Complaints Committee (LCC), they have the right to appeal and seek further legal action. The appeal must be filed before the Appellate Authority as per the service rules of the organization. If the organization has no specific rules, the appeal can be made to a court or tribunal under Section 18 of the POSH Act Moreover, every year, the Internal Complaints Committee (ICC) or Local Complaints Committee (LCC) is required to prepare an annual report in the prescribed format and submit it within the stipulated deadline. This report is sent to both the employer and the District Officer. Based on the reports received from different workplaces, the District Officer compiles a summary report, which is then forwarded to the State Government for review. Additionally, every employer must disclose in their company's annual report the number of sexual harassment cases reported and resolved under the POSH Act. Organizations need to make serious efforts to address complaints raised; if such complaints are ignored or no action is taken, it undermines employees' trust, perpetuates a hostile work environment, and defeats the very spirit of the POSH Act

Lack of compliance lead to the frustration of the purpose of the Act. It is not only the responsibility of the employer of the internal committee to spread awareness rather it is the duty of every individual to know about their responsibility and to protect their fundamental

rights. The Latin maxim “**Vigilantibus non dormientibus jura subveniunt**”, which literally means “*The law assists those who are vigilant with their rights, not those who slumber on them*”. It is the responsibility of the individual to raise their voice against injustice.

The POSH Act emphasizes the importance of awareness and sensitization programs, making it mandatory for all organizations, whether small or large, to train employees about their rights and liabilities concerning sexual harassment. Such initiatives help create awareness, sensitize the work environment, and guide employees in recognizing unacceptable behavior in the workplace. In addition, workplace policies and guidelines under the Act play a crucial role in prevention and redressal. These include drafting and disseminating a clear POSH policy, forming an Internal Committee (IC), conducting awareness programs and training, displaying relevant information prominently, ensuring prompt investigation of complaints, protecting the identity of complainants, maintaining a safe workplace, and upholding every employee’s right to file a complaint. Beyond compliance, organizations must also focus on creating a safe and inclusive work environment. This can be achieved by building strong foundations through leadership and policies, promoting diversity and eliminating bias, encouraging open communication and active listening, offering training and development programs, and embracing flexibility to support work-life balance. Providing adequate support and resources, addressing harassment and discrimination effectively, celebrating differences, cultivating a sense of belonging, and overcoming challenges or resistance are all essential to fostering a truly respectful and inclusive workplace culture.