

# A Study of Legal and Practical Challenges in the Working of the Posh Act

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**Abstract:** *The primary objective behind the enactment of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, commonly known as the POSH Act, is to ensure a safe, secure, and dignified working environment for women in India. The Act aims to provide protection against sexual harassment at the workplace and to establish an efficient and effective mechanism for the prevention of such harassment, as well as for the redressal of complaints. It also seeks to uphold the constitutional rights guaranteed to women under the Constitution of India, particularly the rights to equality, dignity, and life with safety, while promoting the broader objective of gender equality.*

*This research paper primarily focuses on the legal and practical challenges faced in the effective implementation and functioning of the POSH Act. Although the Act is a comprehensive piece of legislation, its implementation at the ground level continues to face several significant challenges. One of the major issues is the inadequate implementation of the Act across various workplaces and institutions. In many organizations and institutions, there is a failure to constitute a proper Internal Committee, which is mandatory under the provisions of the Act.*

*Another important issue relating to the POSH Act is the lack of awareness among both employees and employers regarding their respective rights and duties under the legislation. From a practical perspective, factors such as fear of retaliation, social stigma, workplace pressure, and concerns regarding confidentiality often discourage victims from reporting incidents of sexual harassment. This study also examines the difficulties involved in implementing the POSH Act in diverse work settings, including remote work environments, informal workplaces, and small organizations, where institutional mechanisms are either weak or entirely absent..*

**Keywords:** POSH Act, Sexual Harassment, Women's Rights, Internal Committee, Legal Challenges

## I. INTRODUCTION

The issue of sexual harassment in the workplace continues to be a problem that impedes women's growth, safety, and participation in the working all across the world<sup>1</sup>. The enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (POSH Act) by the Indian government is a significant step towards the protection of women's rights and the establishment of a secure working environment. The purpose of the Act is to provide a setting that is free from sexual harassment, to provide victims with a means by which they may have their complaints heard, and to increase awareness about the need of gender equality in the workplace<sup>2</sup>. In spite of the fact

<sup>1</sup> Gandhi A. & Thakur R., Reasons for Low POSH Compliance, SSRANA (2023), <https://ssrana.in/articles/reasons-low-posh-compliance-india/>.

<sup>2</sup> Saket Sharan, Sexual Harassment Laws in India: Gender Neutrality and Other Limitations, 5 Indian J.L. & Legal Rsch. 1 (2023).



that the POSH Act has a solid statutory base, there are still difficulties that stand in the way of its proper implementation and enforcement, especially in sectors that are dominated by males, such as the legal profession.

In India's legal profession, which includes the courts, law firms, and other connected legal workplaces, women have made substantial progress but continue to face major difficulties related to gender discrimination and harassment. This is the circumstance in which they continue to face significant obstacles<sup>3</sup>. On the workplace, sexual harassment is experienced by a significant number of women working in the legal industry; yet, these women may be reluctant to speak out for fear of reprisal from their colleagues or from organizations that do not provide them with complete support. Furthermore, the fact that the legal profession is famously conservative and hierarchical adds another layer of complexity to the situation. Taking into consideration the aforementioned context, the Gwalior division serves as an advantageous case study for the purpose of researching the implementation of the POSH Act and the specific obstacles that female attorneys face as a result of the peculiar socio-legal dynamics that exist within the division<sup>4</sup>.

### **INDIAN LEGAL FRAMEWORK- WORKPLACE RIGHTS OF WOMEN UNDER THE CONSTITUTION OF INDIA**

Article 14: Right to Equality- Article 14 is based on the principle of equality and prohibits all forms of discrimination on any grounds. It mandates that people who are in equal position should be treated equally. This guarantee applies to women as well and no discrimination can be made on the basis of being a woman.<sup>5</sup>

Women have been given equal status as men and no discrimination can be made against them. Also, considering the age-old discrimination against women and their adverse position, they have been given special rights and the government can make special laws for them if needed.<sup>6</sup>

Article 15: Prohibition of Discrimination on the Basis of Sex- Article 15 is another provision which is important and it aims to establish equality for women and it contributes to the empowerment of women. Under this article, no discrimination can be made on the basis of sex and secondly, the state can make special laws which are necessary for the empowerment of women.<sup>7</sup>

Article 16: Equal Opportunity in Public Employment- Article 16 provides that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. Clause (2) states that no citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State. Thus, clauses (1) and (2) of Article 16 lay down the general rule of equality in State employment.<sup>8</sup>

Article 21 is a fundamental right of the Indian Constitution which provides protection of life and personal liberty to every individual. It does not only mean the right to live but also the right to live with dignity. This right is closely linked to the rights of working women. Respect, safety and equality for women at the workplace is an essential part of their dignity of life, and is protected under Article 21. The Supreme Court clarified in the case of Vishaka vs. State of Rajasthan that sexual harassment at workplace is a violation of the right to life and dignity of women. Based on this, it

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<sup>3</sup> Aditi Shree Karra, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal): A Detailed Analysis of POSH Act, 2013, 3 *Jus Corpus L.J.* 622 (2022).

<sup>4</sup> Surabhi Dhingra, Corporate Governance: Direct Impact of Functioning of Organization's on Internal Complaints' Committees, 2 *Int'l J. L. Just. & Jurisprudence* 16 (2022).

<sup>5</sup> Aakriti Kumar, Legal Safeguards and Challenges to Women's Rights at Workplace in India: A Constitutional and Statutory Analysis, *Indian J. L. & Legal Rsch. (IJLLR)* (July 13, 2025), <https://www.ijllr.com/post/legal-safeguards-and-challenges-to-women-s-rights-at-workplace-in-india-a-constitutional-and-statut> .

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.



becomes the responsibility of the state to provide women a safe and respectable workplace, facilities related to maternity, health services and a discrimination-free environment.<sup>9</sup>

Article 39 - Some policy elements to be followed by the state

In the above article, mainly clauses (a), (d), and (e) are the provisions related to the rights of women at the workplace.

(a): Right to adequate means of livelihood for men and women equally.

(d): Equal pay for equal work for both men and women.

(e): The health and strength of male and female workers and the tender age of children should not be misused and citizens should not be forced by economic necessity to take up such jobs which are not suitable for their age or strength.<sup>10</sup>

Article 42: Responsibility of the state for maternity protection - It directs the state to make such laws that ensure just and humane conditions at the workplace and provide for maternity. It puts the duty on the Central and State Governments to apply the principle in making laws related to maternity benefits and working conditions in factories etc. Its objective is to create such working conditions that every employee is motivated to work efficiently.<sup>11</sup>

It also aims to ensure maternity benefits for women workers so that they can take leave from work during delivery without worrying about losing their jobs.<sup>12</sup>

#### **LEGAL FRAMEWORK OF THE POSH ACT**

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 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.<sup>13</sup>

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.<sup>14</sup>

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

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Yukta Gaikwad, *Posh in Practice: Implementation Gaps and Future Directions*, *IJLLR J.* (Sept. 26, 2025), <https://www.ijllr.com/post/posh-in-practice-implementation-gaps-and-future-directions> .

<sup>14</sup> *Id.*



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.<sup>15</sup>

#### **LANDMARK JUDICIAL PRONOUNCEMENTS**

In the case of *Vishaka vs State of Rajasthan*<sup>16</sup>, the Court held that any act of sexual assault or harassment is a violation of the right to life and personal liberty and should be viewed with utmost seriousness. It is a violation of the fundamental right of the victim and the aggrieved woman can resort to a writ under Article 32 of the Constitution. The court highlighted that safe working environment is required to avail fundamental rights and the legislature is duty bound to provide safe working environment to working women.

On February 25, 2020, the Supreme Court of India, in a judgment delivered by a bench led by Justice Chandrachud and Justice Rastogi, dismissed Civil Appeal No. 1809/2020 involving *Punjab and Sindh Bank and Others v. Durgesh Kuwar*<sup>17</sup>. The Court asserted that sexual harassment of a woman in the workplace constitutes a violation of her fundamental rights to equality and to live with dignity.

In a landmark decision regarding *Aureliano Fernandes v. State of Goa and Others*<sup>18</sup>, the Supreme Court has underscored numerous shortcomings in the application of the POSH Act. The Court has issued a series of guidelines in this case, instructing both State and non-State entities-such as educational institutions, private hospitals, and nursing homes-to rigorously enforce the POSH Act. This enforcement is vital to uphold the best interests of all working women and to fulfil the noble purpose for which the POSH Act was enacted.

In *Saurabh Kumar Mallick v. Comptroller & Auditor General of India*<sup>19</sup>, the respondent claimed that sexual harassment allegations were invalid since the misconduct occurred at an official mess rather than a workplace. The Delhi High Court deemed this argument misguided, affirming that the official mess qualifies as a workplace.

In the case of *Anjali Kumari v. Yamuna Kumar Chaubey, DIR (Tech) NHPC & Others*<sup>20</sup>, which was decided in July 2023, it was determined by the Calcutta High Court that an individual who is the subject of a sexual harassment

<sup>15</sup> *Id.*

<sup>16</sup> *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241.

<sup>17</sup> *Punjab & Sind Bank v. Durgesh Kuwar*, (2021) 6 S.C.C. 442.

<sup>18</sup> *Aureliano Fernandes v. State of Goa*, 2023 SCC OnLine SC 621 (India).

<sup>19</sup> *Saurabh Kumar Mallick v. Comptroller & Auditor Gen. of India*, WP(C) No. 8649/2007 (Del. H.C. May 9, 2008).



complaint should not be involved in the performance evaluation of the complainant under any circumstances. According to Rule 8(a) of the POSH Rules, 2013, the Internal Complaints Committee (ICC) has the explicit authority to recommend that the respondent be prohibited from assessing the work performance or preparing the confidential report of the aggrieved woman.

### **LEGAL AND PRACTICAL CHALLENGES IN IMPLEMENTATION OF THE POSH ACT**

POSH was enacted with an 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 an 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.<sup>21</sup>

Another platform people are unaware to raise complaint is She- Box. She- Box is an online platform where women can register complaint regarding sexual harassment at work place. Another platform people are unaware to raise complaint is She- Box. She- Box is an online platform where women can register complaint regarding sexual harassment at work place. 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 organization are unaware of it. An active effort should be taken in spreading awareness about the platform available. While conducting a posh session in an organization, 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

<sup>20</sup> Anjali Kumari v. Yamuna Kumar Chaubey, Dir. (Tech.) NHPC & Ors., CPAN 24 of 2023, in WPA 1935 of 2022 (Cal. H.C. (Jalpaiguri Bench) July 7, 2023).

<sup>21</sup> Yukta Gaikwad, PosH in Practice: Implementation Gaps and Future Directions, IJLLR J. (Sept. 26, 2025), <https://www.ijllr.com/post/posh-in-practice-implementation-gaps-and-future-directions> .



taken, it undermines employees' trust, perpetuates a hostile work environment, and defeats the very spirit of the POSH Act.<sup>22</sup>

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.<sup>23</sup>

## II. CONCLUSION

The study of the legal and practical challenges in the working of the POSH Act clearly shows that while the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is a progressive and rights-based legislation, its effectiveness largely depends on sincere implementation at the institutional level. The Act was enacted with the objective of ensuring a safe, dignified, and gender-sensitive workplace for women, in line with the constitutional guarantees of equality, dignity, and personal liberty under Articles 14, 15, 16, and 21 of the Constitution of India. As discussed throughout this research paper, the statutory framework of the Act is comprehensive and provides mechanisms for prevention, prohibition, and redressal of workplace sexual harassment.

However, despite the strong legal foundation laid down through the POSH Act and reinforced by judicial pronouncements such as *Vishaka v. State of Rajasthan* and *Aureliano Fernandes v. State of Goa*, several legal and practical difficulties continue to obstruct its proper functioning. One of the most significant challenges is the lack of awareness among employees and employers regarding their rights, duties, and the available complaint mechanisms. Many organizations still fail to constitute a proper Internal Committee, and in smaller establishments the Local Committee mechanism remains largely unknown and underutilized. Fear of stigma, retaliation, damage to professional reputation, and lack of confidence in institutional support further discourage women from reporting incidents.

In today's rapidly changing work culture, the challenge has become more complex with the rise of remote work, hybrid offices, gig employment, digital platforms, and informal sectors, where traditional workplace boundaries no longer exist. The concept of workplace harassment now extends beyond physical offices and includes online meetings, work chats, emails, and social media interactions connected to employment. Therefore, the implementation of the POSH Act must evolve in accordance with contemporary workplace realities. The true success of the Act lies not merely in formal compliance, but in creating a culture of respect, accountability, and zero tolerance towards sexual harassment.

Thus, it can be concluded that the POSH Act is a landmark legislation for the protection of women's workplace rights, but its objectives can only be fully achieved through stronger enforcement, continuous awareness, and institutional commitment. The need of the present era is not only legal compliance but also social and organizational transformation.

## SUGGESTIONS

The below mentioned suggestions are must be helpful for the effective implementation of POSH Act:-

In the present digital era, every organization should conduct mandatory online and offline POSH training sessions at regular intervals. This should include awareness regarding cyber harassment, inappropriate messages, virtual meeting misconduct, and social media-based workplace harassment.

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<sup>22</sup> *Id.*

<sup>23</sup> *Id.*



Since work-from-home and hybrid models have become common, organizations must update their POSH policies to explicitly include harassment occurring through emails, video calls, messaging platforms, and other digital communication tools.

Every organization must ensure proper constitution of the Internal Committee with trained members, while district authorities should actively strengthen Local Committees for unorganized sectors, domestic workers, and small establishments.

Modern workplaces should introduce secure digital complaint portals, mobile applications, and anonymous reporting systems to encourage victims to report incidents without fear of exposure or retaliation.

In the current era, there should be annual compliance audits and strict monitoring by government authorities to ensure that organizations are genuinely implementing the Act and not merely following it as a formality.

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