

Legal Implementation and Organizational Transformation under the PoSH Act (2013)

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I. INTRODUCTION

The latest Supreme Court verdict (September 2025) held that political parties are not covered under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Supreme Court, 2025). The Court stated that political parties do not constitute "workplaces" under the statute, as membership is typically voluntary and unpaid, meaning there is no employer-employee relationship. Therefore, political parties are not legally obligated to constitute Internal Complaints Committees (ICC) for sexual harassment complaints under the POSH Act. The judges further remarked that expanding the Act to include political parties could result in misuse and "open a Pandora's box to blackmail members." This judgment upholds the Kerala High Court's 2022 decision on the same issue. Key points from the verdict are (i) political parties are not "workplaces" under the POSH Act; (ii) no requirement to set up Internal Complaints Committees in political parties; (iii) no employer-employee relationship for party members; (iv) the apex court also warned against possible misuse or blackmail if extended to parties.

The POSH Act (2013) defines sexual harassment as any unwanted behaviour of a sexual nature that makes someone feel offended, humiliated, or intimidated. It is determined by how the action is received, not how it was intended (Tanwar 2018). Workplace sexual harassment in India before 2013 was largely unaddressed by dedicated legal frameworks. It was due to a pervasive vulnerability and inadequate protection for women across sectors. Most cases were dealt with under the general provisions of the Indian Penal Code. Unfortunately, it was and is devoid of mechanisms specifically designed for workplace environments, and therefore, did not provide an

institutional way out for redressal. Social stigma, fear of retaliation, and deeply patriarchal norms further worsened the under-reporting and normalization of harassment in offices, factories, educational institutions, and informal workplaces. Indeed, a turning point came in the early 1990s when Bhanwari Devi, a Dalit social worker from Rajasthan, was gang raped in retaliation for her campaign against child marriage. Her case brought the pervasive dangers faced by working women and the gap in statutory protection to new light. This led women's groups to petition the Supreme Court. The result was the landmark Vishaka v. State of Rajasthan judgment (1997), which declared workplace sexual harassment a violation of women's fundamental rights to equality and dignity under the Indian Constitution. The Vishaka Guidelines established the first formal definitions of workplace sexual harassment and mandated employer responsibility for prevention, remediation, and sensitization until a comprehensive law could be enacted. Parallel to judicial advocacy, India's commitments to international treaties like CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women) demanded stronger measures against gender-based violence and discrimination in occupational settings. Despite the Vishaka Guidelines, however, many workplaces failed to adopt systematic processes, and employees were and still are without reliable recourse (Emerton et al., 2016; West & Bowman, 2019).

To address the issue, the first step is to get familiar with the genesis and passage of the PoSH Act. After years of lobbying and several high-profile cases (including the Nirbhaya case), a stronger indicator of inadequacies in existing laws, Parliament passed the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act in 2013. The PoSH Act built upon and codified the Vishaka

Guidelines. These guidelines require employers to create Internal Complaints Committees (ICCs), expand definitions of workplace and aggrieved women, and institute clear redressal procedures, mandatory training, and awareness-building measures. The Act sought to formalize workplace safety as a legal right and placed the onus squarely on employers and institutions to make environments free from harassment. This legislative shift is undoubtedly a watershed moment in the protection of women's rights at work as it responds to decades of activism, legal advocacy, and international commitments.

The primary aim of this study is to figure out how organizational policies and structures have undergone transmutation since the enactment of the POSH Act (2013). The achievements and challenges in creating safer, unbiased workplaces for women across India are carefully taken into account. The focus lies on the implementation of statutory obligations, on cultural and procedural shifts, and on identifying persistent gaps in compliance and effectiveness.

II. SCOPE OF ASSESSMENT

Chawla (2024) points out that while “the number of cases reported by companies in their annual reports has increased over the years,” transparency and accessibility in redressal mechanisms remain uneven; fewer companies systematically resolve complaints, with pending cases increasing from 29 in 2013–14 to over 200 by 2022–23. Structural reforms have also included the absorption of gender sensitivity into HR functions and raising leadership accountability, though lapses are evident, evidenced by repeated Supreme Court interventions demanding strict compliance surveys and warning of regulatory consequences for non-compliance. The impact on workplace culture and employee experience is complex. Organizations that report cases and actively resolve complaints show more awareness and support for survivors; however, numerous entities merely feign compliance, sometimes reporting zero complaints yearly, indicating persistent under-reporting and a lack of sincere involvement.

Larger companies have led the way, reporting almost all known cases, but small and mid-range firms, as well as public institutions and informal sectors, struggle most with implementation due to resource

constraints and lower visibility. As Indulekha Aravind notes, “Implementing the POSH Act in letter and spirit is critical to enabling women's participation in organisations, and also in cultivating safe and healthy workplaces and work cultures” (The Economic Times, 2024). Finally, under-reporting, tokenism in compliance, and resistance to deeper cultural change are the major hurdles that necessitate actionable recommendations such as transparent data collection, sector-specific interventions, and holistic sensitization efforts aimed not just at legal compliance but long-lasting organizational and cultural transformation.

III. LEGAL FRAMEWORK AND EVOLUTION

As mentioned before, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) defines sexual harassment broadly to include unwelcome physical contact or advances, demands for sexual favors, sexually colored remarks, showing pornography, or any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature that creates an intimidating or hostile work environment (Sheriff, 2024). In this context, Rafeeqe specifies a key provision that mandates that every workplace with ten or more employees must constitute an Internal Complaints Committee (ICC), tasked with receiving complaints, conducting inquiries, and recommending action. The ICC possesses the powers of a civil court for gathering evidence, ensuring thorough and impartial investigations.

Further, the Act places explicit duties on employers to create a safe working environment through proactive measures such as displaying information about the POSH Act, conducting regular awareness and sensitization programs, and ensuring confidentiality and protection against retaliation for complainants. The complaint process is designed to be accessible and fair, permitting not only the aggrieved woman but also any person on her behalf to file complaints. Upon inquiry, the ICC can recommend a range of corrective actions, including reprimand, transfer, suspension, or termination of the accused, along with the option to file criminal complaints. Non-compliance with the Act's provisions can attract penalties, including fines and cancellation of business licenses. This reflects the Act's firm stance on preventing workplace sexual

harassment and shielding women's fundamental rights to equality and dignity. Together, these legal provisions aim to institutionalize prevention, prohibition, and redress mechanisms that transform Indian workplaces into safe, equitable spaces for women employees (Shete, 2024).

The expansion of India's legal structure focusing on workplace sexual harassment began with the landmark Supreme Court judgment in the Vishaka case in 1997, which laid down the Vishaka Guidelines to fill the legislative vacuum on this critical issue. The case originated from the brutal gang rape of Bhanwari Devi, a social worker in Rajasthan who was targeted in retaliation for opposing child marriage as part of her official duties. The absence of any specific legal remedy for workplace sexual harassment prompted the Supreme Court to intervene, emphasizing that sexual harassment violated women's fundamental rights guaranteed under Articles 14, 15, and 21 of the Indian Constitution, namely the right to equality, non-discrimination, and life with dignity (Singh, 2017). Drawing on international conventions such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Court framed the Vishaka Guidelines as "binding and enforceable in law until suitable legislation is enacted" (Cook, 2023) to prevent and redress sexual harassment at workplaces across public and private sectors.

The Vishaka Guidelines comprehensively defined sexual harassment to include unwelcome physical contact, advances, sexual demands, sexually colored remarks, and other verbal or non-verbal conduct that creates a hostile or humiliating work environment. Crucially, the guidelines placed the duty on employers to create safe workplaces by instituting complaint mechanisms, specifically requiring Internal Complaints Committees (ICCs) with a majority of women members and inclusion of a social worker or NGO representative specializing in women's rights. Employers were mandated to take preventive steps such as conducting awareness programs, sensitizing employees, and displaying the guidelines prominently. The Court recognized the challenges victims face in reporting harassment and underscored the need for time-bound inquiry processes and safeguarding confidentiality to encourage reporting.

Despite their ground-breaking nature, the Vishaka Guidelines lacked statutory backing, which resulted in inconsistent implementation and limited enforcement. Many workplaces failed to establish complaint committees or maintain transparency in handling complaints. Certain sectors, such as educational institutions and informal workplaces, also remained outside their purview. This gap in formal legislation became more apparent with various high-profile incidents and rising awareness of women's rights. After sustained advocacy and in response to the 2012 Delhi gang rape case, Parliament enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act in 2013, which codified and extended the Vishaka principles into statutory law. The PoSH Act expanded definitions, mandated ICCs in workplaces with ten or more employees, prescribed detailed complaint and inquiry procedures, and introduced penalties for non-compliance, thereby institutionalizing a more robust and enforceable legal regime against workplace sexual harassment in India. This legal evolution reflects a shift from judicial activism filling legislative voids to comprehensive statutory protection, reinforcing women's constitutional rights in the workplace.

IV. ORGANIZATIONAL RESPONSES AND COMPLIANCE

Since the enactment of the POSH Act in 2013, as Deepa Rafeeqe (2024) says, there has been a significant change in HR and employer obligations from a predominantly reactive approach to a more proactive, preventive stance on workplace sexual harassment. Employers are no longer merely tasked with responding to complaints but are mandated to create a safe and respectful work culture through comprehensive preventive measures. Legally, any organization with ten or more employees must constitute an Internal Complaints Committee (ICC) responsible for addressing complaints and ensuring impartial inquiries. This shift enforces employer responsibility to conduct regular sensitization and awareness training for all employees, including ICC members, emphasizing prevention, early intervention, and fostering mutual respect (Malik, 2024).

In recent years, regulatory amendments have intensified these obligations. For instance, the Companies (Accounts) Second Amendment Rules

2025 require companies to publicly disclose their POSH Act compliance details, such as the number of harassment complaints received, “disposed off”, or pending within their annual Board Reports, thus increasing transparency and accountability. These provisions shall further reinforce the obligation of proactive compliance: organizations that fail to report or neglect proper implementation face penalties ranging from fines to license cancellation. Employers must instill gender sensitivity in HR policies and establish mechanisms to prevent retaliation. A safe workplace directly correlates with employee morale, productivity, and organizational reputation (Ministry of Corporate Affairs, 2025). This forward-looking approach is more than just following the law; it also means changing the culture of the workplace, where prevention is more important than reaction. To reduce persecution, leaders must be fully on board; we need ongoing training; gender equity must be central to every institution’s values. The time has come to move away from post-complaint. The Supreme Court has mandated district-wise audits and strict, time-bound enforcement of anti-harassment laws, declaring that preventing workplace harassment is a real accountability, not a procedural formality.

The implementation of the POSH Act across different sectoral contexts in India has yielded varied successes and challenges. Within the corporate sector, larger organizations have generally shown a higher degree of compliance through the establishment of Internal Complaints Committees (ICCs), regular training programs, and transparent reporting mechanisms. According to a 2025 study, many corporations have increased reporting of harassment cases. Data from top Indian companies showed a 6% rise in sexual harassment complaints from FY24 to FY25 (Economic Times, 2025). This surge marks a rising awareness and improved complaint systems; however, the rate of resolution has not consistently kept pace with injustices. Some procedural bottlenecks are still there. Government institutions, though legally bound by the Act, often face inertia and resource constraints. It leads to uneven implementation and sometimes superficial adherence, with a lack of proactive application and delayed inquiry processes marking the situation. Despite their crucial roles in society, educational institutions and NGOs often struggle with fragmented compliance. Many educational settings

continue to face gaps in establishing Internal Complaints Committees (ICC) and in raising awareness among students and staff. Even after a decade since the enactment of the POSH Act, the implementation of ICCs remains patchy and inadequate across institutions. In May 2023, the Supreme Court expressed concern over the “serious lapses” in enforcement and, calling the *état des choses* “disquieting”, ordered immediate compliance across both public and private sectors (Aureliano Fernandes v. State of Goa and Others, 2023). Although ICCs exist in some places, they often lack training, maintain no confidentiality, and fail to address workplace power imbalances, thus becoming ineffective.

There is a lack of coordination between ministries, with the Women and Child Development Ministry overseeing the Act, while the actual employers fall under the Labour and Industries Ministries. This disconnect has resulted in little to no monitoring or analysis of the law’s functioning. A ‘black hole’ is in the process of making in accountability and data. Take the recent Balasore case as an example. Internal Complaints Committees (ICCs), weakened by poor structure and enforcement, have become symbolic rather than functional bodies. Simultaneously, NGOs frequently face challenges due to limited resources and constrained organizational capacity.

High-profile Supreme Court directives in 2023 and 2024 emphasize the urgent need for uniform and rigorous enforcement, mandating district-wise compliance surveys and digital complaint portals such as the ‘SheBox’ to enhance accessibility and accountability. Nonetheless, critical challenges persist, such as insufficient training of ICC members, potential conflicts of interest when senior management is involved, confidentiality breaches, and legal complexities in evidence handling. Smaller firms and informal sector employers especially grapple with awareness deficits and infrastructural limitations, which hinder full compliance and reporting. These sectoral disparities underscore the complexity of translating the POSH Act’s legal provisions into meaningful workplace safety across India, calling for tailored interventions, strengthened oversight, and capacity-building to ensure all workplaces uphold the Act’s intended protections.

The role of Internal Complaints Committees (ICCs) under the POSH Act is pivotal in addressing workplace sexual harassment through complaint redressal and preventive measures. Case studies illustrate both the potential and the procedural challenges ICCs face in fulfilling their mandate. For instance, tricky cases often arise when victims hesitate to file formal complaints due to fear of retaliation or job loss. One such scenario involved a female employee harassed by her supervisor but reluctant to file a complaint; anonymous reporting, which ICCs cannot act upon without formal complaints, placed them in a difficult position balancing legal constraints and moral responsibility to prevent harassment. Furthermore, courts have emphasized strict adherence to procedural fairness in ICC inquiries, underscoring that complaint investigations are not preliminary but constitute substantive proceedings. The Madras High Court mandated the appointment of a senior woman officer as the ICC presiding officer and the need for natural justice principles to be followed rigorously, including providing opportunities for both the complainant and accused to be heard and submit evidence.

Best practices observed through case reviews include proactive ICC engagement in awareness and sensitization programs, timely and impartial inquiry conduct, and strict confidentiality maintenance to protect complainants and witnesses. Landmark judicial decisions have reinforced the binding nature of ICC reports on employers for action and upheld dismissals where harassment charges were proven, signaling robust institutional backing for ICCs. Conversely, common pitfalls include inadequate training of ICC members, conflicts of interest when senior officials serve on committees, procedural delays, and breaches of confidentiality that undermine trust in the process. These challenges suggest that while ICCs form the backbone of the POSH Act's redressal mechanism, ongoing capacity-building, oversight, and institutional support are essential to enhance their effectiveness and foster safer workplace environments.

V. MONITORING, REPORTING, AND LEGAL ENFORCEMENT

Monitoring, reporting, and legal enforcement under the POSH Act are critical to ensuring effective prevention and redressal of workplace sexual

harassment. Reporting mechanisms require employers with ten or more employees to maintain comprehensive records of complaints received, inquiries conducted, and outcomes achieved, ensuring confidentiality and protection for complainants throughout the process. The Act mandates that Internal Complaints Committees (ICCs) complete investigations within 90 days, after which recommended actions must be implemented promptly to preserve employees' trust and uphold justice. Recently, amendments to the Companies (Accounts) Rules, effective July 14, 2025, have significantly enhanced corporate accountability by requiring detailed disclosures in annual Board Reports. These must include the number of complaints received, resolved, and those pending for over 90 days, alongside workforce gender composition, thereby increasing transparency and stakeholder oversight.

The Ministry of Corporate Affairs (MCA) now actively monitors compliance through digital filings integrated with statutory corporate disclosures, signaling a shift towards more rigorous enforcement. Failure to comply with reporting obligations may attract steep penalties, including fines up to INR 3,00,000 and potential cancellation of business licenses. Supreme Court directives have further intensified governmental surveillance by mandating district-wise compliance surveys, underscoring systemic enforcement gaps, especially in smaller firms and informal sectors where under-reporting and lack of awareness persist. Despite these developments, challenges remain in assuring that reported data accurately reflects ground realities due to inconsistencies in ICC functioning, fear of retaliation, and cultural stigmas. Thus, legal enforcement necessitates sustained oversight, capacity building, and integration of transparent reporting with organizational accountability to realize the full intent of the POSH Act in transforming workplace dynamics across India.

VI. BARRIERS AND RECOMMENDATIONS

Despite the transformative promise of the POSH Act, several persistent barriers continue to impede its full realization in Indian workplaces. Under-reporting remains a chronic challenge, often fueled by social stigma, fear of retaliation, and skepticism about the effectiveness of complaint mechanisms. Employer

resistance, whether due to apprehensions about reputational damage, bureaucratic burden, or entrenched gender biases, further exacerbates non-compliance, with many organizations relegating the establishment and functioning of Internal Complaints Committees (ICCs) to mere formalities rather than sincere efforts to curb harassment. Additionally, resource limitations hamper small and mid-sized enterprises and government bodies, where a lack of trained ICC members, insufficient awareness programs, and inadequate infrastructural support hinder proper implementation and redressal. Complexities in understanding procedural requirements also contribute—judicial rulings have underscored the necessity for procedural fairness, including cross-examination rights, but organizations often struggle to align internal inquiries with these standards.

To overcome these barriers, recommendations emphasize strengthening institutional frameworks and regulatory oversight. Key measures include enhancing the training and capacity-building of ICC members to conduct impartial, legally sound investigations; mandating periodic, transparent reporting to supervisory authorities; and imposing stricter penalties for non-compliance to deter superficial adherence. The Supreme Court's 2025 directives mandating the appointment of District Officers and the constitution of Local Committees at the district level seek to decentralize enforcement and improve accessibility, addressing lacunae in grievance redressal at the grassroots. Further, fostering organizational cultures of gender sensitivity through sustained awareness and leadership engagement is critical to dismantle resistance and extending proactive compliance. Equally important is the consolidation of national-level data repositories to track trends, gaps, and impact, ensuring data-driven policy refinement. Collectively, these approaches aim not only at bridging implementation gaps but also at embedding the ethos of dignity, respect, and equality in workplaces across India.

VII. CONCLUSION

The Prevention of Sexual Harassment (POSH) Act of 2013 stands as a landmark legislation that has significantly advanced the cause of workplace safety and gender justice in India. Its achievements include

creating legally mandated structures like Internal Complaints Committees (ICCs) across both public and private sectors, and instituting formal procedures for complaint redressal that prioritize confidentiality and timely resolution. Recent judicial pronouncements, such as the Madras High Court's 2025 victim-centric ruling, where the perception of the complainant rather than the intent of the accused governs the determination of sexual harassment, reflect the Act's evolution toward a more empathetic, survivor-sensitive framework. Additionally, the Supreme Court mandates directing comprehensive district-wise compliance surveys, underscoring increasing governmental vigilance and commitment to enforce the law robustly across diverse workplaces. The establishment of platforms like the She-Box portal and increased transparency through mandatory disclosures in annual reports further enhance accountability and trust.

However, despite these gains, significant limitations persist. Under-reporting remains a critical challenge due to persistent stigma, fear of retaliation, and lack of awareness, especially in smaller firms and informal sectors. Implementation gaps arise from uneven enforcement, resource constraints, and organizational reluctance, leading to superficial compliance rather than genuine cultural change. While the Act legally mandates preventive training and sensitization, the depth and frequency of such initiatives vary widely, impacting their transformative potential. The tension between legal compliance as a procedural formality versus a driver of workplace culture reform remains unresolved in many contexts.

Looking forward, the future trajectory for legal reform and implementation of workplace harassment laws in India must focus on deepening institutional capacities, broadening the scope beyond formal sectors, and embedding gender equity norms into the very fabric of organizational culture. Recommendations include enhanced training for ICC members, integration of intersectional perspectives to address diverse experiences, strengthening of monitoring frameworks with real-time data analytics, and fostering leadership accountability as a catalyst for change. The movement from compliance to culture, where prevention is internalized and upheld by all members of the workplace community, will define the next phase of

legal reform. Through collaborative engagement across the judiciary, government, civil society, and industry, the POSH Act can realize its promise of safe, inclusive, and dignified workplaces for all individuals in India.

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