

Implementation and Challenges of the POSH Law in Corporate India

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Abstract—The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) is a landmark legislation aimed at ensuring a safe and dignified work environment for women in India. Emerging from judicial intervention in *Vishaka v. State of Rajasthan*, the Act mandates preventive and redressal mechanisms such as Internal Complaints Committees (ICC) and awareness programs.

Despite its comprehensive framework, effective implementation remains a challenge in corporate India due to factors such as lack of awareness, underreporting, organizational bias, and inadequate training. This article critically examines the implementation of the POSH Act, identifies key challenges, and suggests measures to strengthen compliance and workplace safety.

I. INTRODUCTION

The increasing participation of women in the workforce has made workplace safety and dignity a critical concern. Sexual harassment not only violates fundamental rights but also affects productivity, mental well-being, and professional growth.

Before 2013, India lacked a specific statutory framework addressing workplace sexual harassment. The Supreme Court, in *Vishaka v. State of Rajasthan*, recognized such harassment as a violation of Articles 14, 15, and 21 and laid down the Vishaka Guidelines. These guidelines formed the basis of the POSH Act.

The Act aims to prevent, prohibit, and redress workplace sexual harassment by imposing duties on employers and establishing structured complaint mechanisms. However, practical implementation continues to face significant challenges in corporate environments.

II. LEGAL FRAMEWORK AND OBJECTIVES

The POSH Act provides a comprehensive framework to:

- Prevent workplace sexual harassment
- Prohibit inappropriate conduct
- Ensure effective grievance redressal

It mandates the constitution of Internal Complaints Committees (ICC), awareness programs, and employer accountability.

The primary objectives include:

- Safeguarding dignity and equality of women
- Ensuring a safe working environment
- Promoting organizational accountability

III. MEANING AND SCOPE OF SEXUAL HARASSMENT

Sexual harassment refers to any unwelcome conduct of a sexual nature that creates a hostile, intimidating, or offensive work environment.

It includes:

- Physical contact and advances
- Demand for sexual favours
- Sexually coloured remarks
- Display of pornography
- Any unwelcome verbal or non-verbal conduct

The defining element is that the behavior must be unwelcome, emphasizing the victim's perception.

The Act has wide applicability:

- Covers public and private sectors
- Includes organized and unorganized sectors
- Extends to interns, freelancers, and trainees
- Applies to remote work and work-related travel

IV. INSTITUTIONAL MECHANISM: INTERNAL COMPLAINTS COMMITTEE (ICC)

The ICC is the cornerstone of the POSH framework.

Composition

- Presiding Officer (senior woman employee)
- At least two employee members
- One external member
- At least 50% women

Functions

- Receive complaints
- Conduct fair inquiries
- Recommend action
- Maintain confidentiality

A properly functioning ICC ensures timely and unbiased resolution of complaints and promotes accountability within organizations.

V. COMPLAINT REDRESSAL PROCEDURE

The POSH Act provides a structured and time-bound mechanism:

1. Complaint to be filed within 3 months
2. Optional conciliation (without monetary settlement)
3. Inquiry conducted within 90 days
4. Interim relief (transfer, leave, etc.)
5. Report submitted within 10 days
6. Employer to act within 60 days
7. Provision for appeal

This process ensures fairness, confidentiality, and adherence to natural justice.

VI. DUTIES AND RESPONSIBILITIES OF EMPLOYERS

Employers play a central role in implementation. Their responsibilities include:

- Providing a safe working environment
- Constituting ICCs
- Conducting awareness and training programs
- Assisting in inquiry processes
- Ensuring confidentiality
- Implementing ICC recommendations
- Submitting annual compliance reports

Beyond legal compliance, employers must foster a culture of respect and equality.

VII. PENALTIES FOR NON-COMPLIANCE

The Act prescribes strict penalties to ensure compliance:

- Fine up to ₹50,000
- Increased penalties for repeat violations
- Cancellation or suspension of business license
- Penalties for breach of confidentiality

Non-compliance also results in reputational damage and loss of employee trust.

VIII. JUDICIAL DEVELOPMENTS

Judicial decisions have strengthened the framework:

- Vishaka v. State of Rajasthan: Recognized sexual harassment as a violation of fundamental rights and laid down preventive guidelines.
- Apparel Export Promotion Council v. A.K. Chopra: Held that physical contact is not necessary; any act affecting dignity constitutes harassment.

These cases emphasize dignity, equality, and employer responsibility.

IX. CHALLENGES IN IMPLEMENTATION

Despite a strong legal framework, several challenges persist:

1. Lack of Awareness

Many employees remain unaware of their rights and complaint mechanisms.

2. Underreporting

Fear of retaliation, stigma, and career impact discourages reporting.

3. Ineffective ICC Functioning

Improper constitution and lack of training affect fairness.

4. Organizational Bias

Influence of senior management may compromise neutrality.

5. Inadequate Training

POSH training is often treated as a formality.

6. Confidentiality Issues

Leakage of information discourages victims from coming forward.

7. Compliance as Formality
Policies exist on paper but lack practical enforcement.

8. Remote Work Challenges
Digital harassment is harder to monitor and regulate.

9. Weak Monitoring
Limited oversight by authorities reduces accountability.

X. RECOMMENDATIONS FOR EFFECTIVE IMPLEMENTATION

To strengthen the effectiveness of the POSH Act:

- Conduct regular awareness and sensitization programs
- Ensure proper constitution and training of ICC members
- Develop clear and accessible POSH policies
- Introduce anonymous and digital reporting systems
- Conduct periodic compliance audits
- Ensure strong leadership commitment
- Establish clear guidelines for remote work harassment
- Collaborate with legal experts and NGOs
- Promote a gender-sensitive workplace culture

Advanced measures may include:

- Third-party audits
- Certification of ICC members
- Real-time complaint tracking systems
- Linking compliance with performance evaluation

XI. CONCLUSION

The POSH Act represents a significant step toward ensuring workplace safety and gender equality. However, its success depends not only on legal provisions but also on effective implementation and organizational commitment.

Challenges such as underreporting, lack of awareness, and weak enforcement highlight the need for a proactive approach. Organizations must move beyond mere compliance and foster a culture of dignity, respect, and accountability.

Ultimately, the effective implementation of the POSH Act is both a legal obligation and a moral

responsibility, essential for creating inclusive and safe workplaces in corporate India.

XII. RECOMMENDATIONS

1. Mandatory POSH Compliance Audits by External Authorities

Companies should undergo annual third-party POSH audits to verify:

- Proper constitution of ICC
- Case handling procedures
- Training effectiveness

2. Digital Complaint & Anonymous Reporting Systems

Organizations must introduce:

- Secure online POSH portals
- Anonymous reporting tools
- Whistleblower integration

3. Certification & Training of ICC Members

ICC members should be:

- Legally trained & certified
- Given periodic refresher courses

4. Strict Accountability of Management

Introduce:

- Personal liability for senior management
- POSH compliance linked with performance appraisal

5. Time-Bound Monitoring Dashboard

Companies should maintain:

- Real-time complaint tracking system
- HR + Legal oversight dashboards

6. Strengthening Role of Local Complaints Committee (LCC)

Government must:

- Improve accessibility of LCC
- Ensure awareness in SMEs and unorganized sector

7. Inclusion of Gender-Neutral Framework (Progressive Reform)

Although POSH focuses on women:

- Companies can adopt gender-neutral policies internally

8. Remote Work Harassment Guidelines

National Commission for Women (NCW) Reports

Introduce:

- Clear rules for Zoom / Teams / WhatsApp misconduct
- Recording policies & digital evidence standards

9. Strict Penalty for False Handling (Not False Complaints)

Focus should be on:

- Penalizing biased or negligent ICC inquiries
- Not discouraging genuine complaints

10. Culture-Based Approach

Workplace culture transformation”

Include:

- Leadership messaging
- Zero tolerance culture
- Behavioural training

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