

POSH AT WORK

A PRACTICAL GUIDE

Navigating Law, Governance, & Workplace Safety

Prepared By

RAJPUT JAIN & ASSOCIATES

Chartered Accountants

Office: P-6/90 (2F) Connaught Circus, Connaught Place, New Delhi – 110001, India

Contact: +91-98-11-322-785, +91-95-55-555-480

E-mail: info@carajput.com

From the Editorial Desk

Dear Readers,

Greetings to all of you!

"Strengthening POSH Mandates — Moving Beyond Paper Compliance."

The implementation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) marks a shift from historic post-facto criminal remedies toward codifying safe working environments as a fundamental human right. While the law decentralises workplace justice by establishing internal and local redressal structures, recent developments emphasise that maintaining these systems requires continuous, active compliance rather than a passive, single-instance effort.

Evolving out of the landmark 1997 Vishaka Supreme Court judgment, the Act codified statutory protections, decentralised justice mechanisms through Internal Committees (IC) and Local Committees (LC), and broadened the legal definition of a "workplace" to encompass digital, off-site, and remote environments. Under this framework, maintaining a safe working environment is not merely an HR policy perk, but an active constitutional duty for all organisations.

However, over a decade since its implementation, judicial oversight has highlighted a critical disconnect between statutory intent and practical enforcement. Recent Supreme Court directives and rulings between 2023 and 2026 demonstrate that symbolic compliance — such as maintaining non-functional, improperly constituted, or paper-only committees — will no longer survive legal scrutiny. With courts enforcing strict procedural standards, strict filing timelines, broad jurisdictional reach for complainants, and state-wide verification surveys, the legal landscape has rendered active institutional oversight mandatory.

Ultimately, the POSH Act's success relies on moving beyond minimal administrative compliance toward embedding real dignity, safety, and equality within corporate culture. Organisations must view compliance not as a periodic regulatory burden, but as an ongoing ethical obligation enforced through continuous awareness, transparent reporting mechanisms like SHe-Box, and rigorous, evidence-based inquiry processes. Moving forward, establishing safe, transparent, and responsive workplaces will remain the key benchmark for organisational credibility and legal integrity.

We wish you a good read. Feedback on this write-up can be sent to info@carajput.com.

Best Regards,

Rajput Jain & Associates

www.carajput.com

The POSH Act, 2013: Quick Handbook

Introduction

The enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) marked a pivotal milestone in India's labour law and gender jurisprudence. Passed sixteen years after the Supreme Court's landmark judgment in *Vishaka v. State of Rajasthan* (1997), the Act sought to codify judicial directives into comprehensive statutory protection for women in the workplace.

However, evaluating the POSH Act through a human rights framework reveals a complex duality: while it established unprecedented institutional accountability and broadened the legal definition of a "workplace," significant structural gaps persist between legislative intent and practical enforcement.

Evolutionary Context: From Criminal Law to a Human Rights Mandate

Historically, workplace sexual harassment in India was treated primarily as a post-facto criminal offence under the Indian Penal Code (IPC), 1860 — specifically Sections 354 (outraging modesty) and 509 (insulting modesty). These provisions failed to establish workplace preventive norms, address institutional power dynamics, or guarantee civil remedies.

The paradigm shifted with the *Vishaka* (1997) judgment, which emerged following the violent retaliation against social worker Bhanwari Devi. In the absence of a legislative statute, the Supreme Court relied directly on:

- Constitutional Rights: Article 14 (Equality before Law), Article 19(1)(g) (Right to Practice any Profession), and Article 21 (Right to Life and Personal Dignity).
- International Conventions: Article 11 and General Recommendation 19 of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), ratified by India in 1993.

The POSH Act of 2013 formalised these principles into law, framing workplace safety not merely as an employment benefit, but as an enforceable fundamental human right.

Statutory Architecture and Institutional Mechanisms

The Statutory Architecture and Institutional Mechanisms of the POSH Act establish a multi-tiered framework designed to decentralise workplace justice. By moving away from exclusive reliance on public courts, the statute shifts the primary burden of prevention, inquiry, and resolution onto institutional structures.

1. Internal Committees (IC): Mandated for all establishments with 10 or more employees. The IC must be headed by a senior female employee, maintain at least 50% female representation, and include an independent external member (from an NGO or legal background) to prevent corporate bias.
2. Local Committees (LC): Constituted at the district level to receive complaints from unorganised sectors, small establishments (fewer than 10 employees), or cases where the allegation is against the employer directly.
3. Expansive Definition of "Workplace": Section 2(o) of the Act goes beyond traditional office spaces to cover transit, client locations, social events, and remote/work-from-home arrangements.
4. Dual Spectrum of Harassment: The law explicitly penalises both *Quid Pro Quo* harassment (demanding sexual favours in exchange for employment benefits) and Hostile Work Environment harassment (intimidating or offensive workplace conduct).

The POSH Act, 2013 — At a Glance

The POSH Act, 2013 was introduced to provide protection against sexual harassment of women at the workplace and for the prevention and redressal of related complaints. The Act came into force on 9th December 2013 and applies to every workplace in India across all sectors, including private companies, startups, government departments, NGOs, hospitals, educational institutions, and domestic workplaces.

The POSH Act stipulates that a woman shall not be subjected to sexual harassment at her workplace. Accordingly, it may be noted that for a woman to claim protection under the Act, the incident of sexual harassment should have taken place at the "workplace."

The POSH Act defines 'sexual harassment' in line with the Supreme Court's definition in the Vishaka Judgment. As per the Act, 'sexual harassment' includes unwelcome sexually tinted behaviour, whether directly or by implication, such as:

- Physical contact and advances;
- Demand or request for sexual favours;
- Making sexually coloured remarks;
- Showing pornography; or
- Any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature.

The definition of 'sexual harassment' under Section 2(n) of the Act is wide enough to cover both direct and implied sexual conduct, whether physical, verbal, or written. The Act covers both quid pro quo harassment (where compliance is linked to employment benefits or threats) and hostile work environment harassment (where behaviour creates an intimidating, offensive, or humiliating atmosphere). A single incident can constitute harassment if it meets the statutory threshold.

The POSH Act mandates that all companies with more than 10 employees:

- Constitute the Internal Committee (IC); and
- Conduct POSH awareness among employees through training and by displaying posters on POSH, etc.

Governing Laws & Rules

- The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013 ("POSH Act") was notified on 23rd April 2013.
- The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Rules, 2013 were notified on 9th December 2013.

The Act has three stated objectives — prevention, prohibition, and redressal. Prevention means stopping harassment before it occurs through awareness, policy, and training. Prohibition means enforcing zero tolerance, backed by defined consequences. Redressal means giving employees access to a fair, time-bound complaint mechanism.

Applicability of the POSH Act

The Act applies broadly across:

- Private companies, startups, and multinational corporations;
- Central and state government departments and public sector undertakings;
- NGOs, hospitals, schools, and universities;
- Unorganised sector establishments; and
- Domestic workplaces employing domestic workers.

Courts have consistently confirmed a broad interpretation of "workplace," extending it to client sites, off-site events, field visits, and digital spaces such as official e-mail, messaging apps, and video calls.

Compliance Requirements Under the POSH Act, 2013 — In Brief

1. Constituting an Internal Complaints Committee (ICC) & Local Complaints Committee (LCC)

Every employer with 10 or more employees must constitute an Internal Complaints Committee (ICC) within the organisation to handle complaints of sexual harassment. A Local Complaints Committee (LCC) is set up in each district to hear complaints from institutions with fewer than ten employees, or where the complaint is against the employer himself.

The POSH Act mandates a minimum of four members for every IC, structured to prevent internal bias, corporate cover-ups, and power imbalances:

Role	Statutory Requirement	Qualifications & Background
Presiding Officer	1 Senior Female Employee	Must be a woman employed at a senior level at the workplace. If unavailable locally, she may be nominated from another office, division, or organisation of the same employer.
Employee Members	Minimum 2 Employees	Nominated from within the organisation, preferably with experience in social work, legal knowledge, or a demonstrated commitment to women's causes.
External Member	1 Independent Outside Expert	Nominated from an NGO/association committed to women's rights, a legal practitioner, or a qualified specialist familiar with POSH legal frameworks.

2. Sexual Harassment Policy

The employer needs to prudently draft a sexual harassment policy and secure its approval from the Board of the Company. Basic details required to be captured while drafting a POSH policy include:

- ICC composition: names, designation, and contact details of the ICC members;
- Acts which constitute sexual harassment; and
- The process for resolution, settlement, prosecution, enquiry, and trial procedure.

3. Committee Meetings

Convening meetings of the Internal Complaints Committee as and when required.

4. Creating Awareness

Briefing employees (both male and female) about the sexual harassment Act, policy, and consequences thereof via orientation sessions or seminars.

5. Filing of Annual Report Under the Act

The Internal/Local Committee, as the case may be, shall prepare an annual report in each calendar year and submit it to the employer and the District Officer.

6. Complaints Reporting in the Annual Report

Disclosures regarding compliance with POSH laws are required, along with reporting the number of sexual harassment complaints received in a year, the number disposed of during the year, and cases pending for more than 90 days.

7. Investigation of Complaints

Investigation of complaints made to the Committee, and submission of a report thereto.

8. Assistance by the Company

Assistance to the complainant in filing an FIR or complaint with the police, if required.

9. Periodic Monitoring

Periodic monitoring of the performance and functioning of the IC.

10. Sensitisation Workshops and Seminars

Sensitisation workshops and seminars must be organised periodically to inform employees about their rights.

The main objective of the POSH Act, 2013 is to provide a safe and secure environment to every woman, regardless of her age, designation, religion, or employment status, and to make the employer accountable for any complaint or grievance. By combining universal protection with strict institutional accountability, the POSH Act ensures that safe working conditions are treated not as a workplace perk, but as a fundamental, legally protected human right.

Complaint Redressal Mechanisms

A. Where to File

5. Internal Complaints Committee (ICC): Mandatory for any workplace/branch with 10 or more employees. Composition — headed by a senior woman employee, 2+ other employees, and 1 third-party member (e.g., from an NGO), with at least 50% female representation.
6. Local Complaints Committee (LCC): Set up by the district administration for establishments with fewer than 10 employees, or complaints directed against the employer/owner directly.

B. Procedure & Timelines

- Filing Window: Must be filed in writing within 3 months of the incident (or the last incident in a series). Extensions are permitted for justified delays.
- Criminal Remedy: An aggrieved woman can file both a POSH complaint with the committee and an FIR with the police simultaneously.

Resolution Options

7. Conciliation (Informal): Requested by the woman before an inquiry begins; results in a mutually signed Settlement Agreement. Note — no monetary compensation can be agreed upon during conciliation.
8. Formal Inquiry: Conducted if conciliation is not opted for or fails. Must be completed within 90 days. A standard of fairness applies — both parties get a hearing and can submit evidence. If the committee senses a severe criminal offence at the outset, it must forward the complaint to the police within 7 days.

Powers of the Internal Committee (IC) & Local Committee (LC)

Under the POSH Act, 2013, the Internal Committee (IC) and Local Committee (LC) are vested with the powers of a Civil Court under the Code of Civil Procedure, 1908 while conducting an inquiry into a complaint of workplace sexual harassment. These judicial powers specifically include:

- Summoning & Attendance: Issuing summons to compel the attendance of any person and examining them under oath.
- Discovery of Evidence: Requiring the production and disclosure of relevant documents, records, or digital evidence.
- Prescribed Legal Matters: Exercising authority over any other legal or procedural matters as prescribed under the POSH Rules.

Punishment and Compensation Under the POSH Act, 2013

1. Actions & Penalties Against the Perpetrator

Upon a finding of sexual harassment, the employer may impose penalties on the respondent based on the Internal Committee's (IC) recommendations:

- Under Service Rules: Penalties as defined by the organisation's existing service rules or disciplinary policy.
- Where No Service Rules Exist: Disciplinary measures including written apology, warning, reprimand, or censure; withholding of promotion, pay rises, or increments; termination from service; or mandatory counselling sessions or community service.
- Financial Deductions: Direct deduction of the compensation amount awarded to the aggrieved woman from the respondent's salary/wages.

2. Determination of Compensation

The Act provides for monetary compensation to the aggrieved woman. The IC determines the amount by evaluating:

- Distress & Trauma: Mental trauma, pain, suffering, and emotional distress endured.
- Career Impact: Loss of career or advancement opportunities resulting from the incident.
- Medical Expenses: Expenses incurred for physical or psychiatric treatment.
- Financial Capacity: Income and organisational status of the respondent.
- Payment Terms: Feasibility of payment via lump sum or structured instalments.

3. Recovery Mechanism

If the respondent fails or refuses to pay the determined compensation, the IC can forward the recovery order to the concerned District Officer to recover the amount as an arrear of land revenue.

Other Statutes in India Pertaining to Workplace Sexual Harassment

Beyond the POSH Act, 2013, several other statutes in India address sexual harassment and related offences in workplace or professional contexts:

1. The Bharatiya Nyaya Sanhita, 2023 (BNS) — Replaced the Indian Penal Code, 1860

- Section 74: Outrages the modesty of a woman using assault or criminal force.
- Section 75: Explicitly criminalises sexual harassment, including unwelcome physical contact, demands for sexual favours, showing pornography against a woman's will, or making sexually coloured remarks.
- Section 78: Penalises stalking, including electronic/cyberstalking via e-mail, messaging apps, or social media.
- Section 79: Penalises acts, words, or gestures intended to insult the modesty of a woman.

2. The Information Technology Act, 2000 (IT Act)

Covers digital misconduct occurring over corporate e-mails, workplace communication tools (Slack, Teams, WhatsApp), or video calls:

- Section 66E: Violation of privacy (capturing or transmitting private images without consent).
- Sections 67 & 67A: Publishing or transmitting obscene or sexually explicit material in electronic form.

3. Industrial Employment (Standing Orders) Act, 1946

- Mandates that certified Standing Orders in industrial establishments define sexual harassment as a specific form of misconduct.
- Empowers management to initiate formal disciplinary proceedings and termination under service rules.

4. Code on Occupational Safety, Health and Working Conditions, 2020 (OSH Code)

- Mandates safe working environments for all employees, with specific provisions for women working night shifts (e.g., safe transportation, secure premises, and active POSH compliance).

5. State-Specific Shops and Establishments Acts

- Various state legislations (e.g., Maharashtra, Karnataka, Delhi) mandate that commercial establishments ensure safety and protection against sexual harassment for female employees, particularly during late-night hours.

6. Tort Law & Civil Remedies

- Victims may file civil suits claiming damages for emotional distress, loss of reputation, or wrongful termination arising from workplace harassment and employer negligence.

Confidentiality in POSH Complaints: Best Practices

A. Operational Safeguards

- **Strict Need-to-Know:** Limit data access exclusively to authorised inquiry personnel.
- **Labelling & Documentation:** Mark all e-mails and files as "Strictly Confidential"; mandate signed NDAs for all participants.
- **Physical & Digital Security:** Conduct proceedings in private rooms, store physical files in locked cabinets/secure rooms, and enforce clean-desk rules.
- **Sensitive Counselling:** Advise complainants and respondents against public or open discussions regarding the inquiry.
- **Offboarding Protocol:** Retrieve all case files during exit interviews and re-emphasise ongoing non-disclosure obligations.

B. Virtual & Data Protection

- **Secure Access:** Avoid public Wi-Fi; encrypt electronic files and secure them with complex, periodically updated passwords.
- **Screen & Device Hygiene:** Lock unattended devices, use privacy screen filters, and refrain from working on case documents in public spaces.
- **Safe Disposal:** Wipe and physically destroy storage drives before retiring old hardware.

C. Policy & Awareness

- **Policy Alignment:** Incorporate explicit confidentiality clauses and breach penalties into the organisation's POSH policy.
- **Training:** Regularly train IC members and handlers on proper protocols for managing sensitive data.

Why POSH Act Compliance Matters

The POSH Act legally obligates employers in India to establish robust mechanisms to prevent, address, and redress workplace sexual harassment. Non-compliance carries severe legal risks, operational disruptions, financial penalties, and potential cancellation of business licences.

Beyond basic regulatory compliance, an effective POSH training programme:

- **Promotes workplace safety:** Establishes a zero-tolerance culture for inappropriate behaviour.
- **Encourages speak-up habits:** Provides clear, safe, and confidential reporting channels.
- **Mitigates organisational risk:** Educates employees and management on legal protections and corporate liability.

Prevention of Sexual Harassment at the Workplace: Beyond Compliance Towards a Culture of Dignity and Respect

Introduction

The workplace has undergone a remarkable transformation over the past few decades. It is no longer merely a place where individuals earn a livelihood; it has evolved into a space where ideas are exchanged, careers are built, and professional relationships are nurtured. For an organisation to truly flourish, it must ensure that every employee works in an environment free from fear, discrimination, and harassment.

Sexual harassment at the workplace strikes at the very foundation of an individual's dignity and equality. It affects not only the physical and emotional well-being of the aggrieved person but also erodes trust, lowers productivity, and adversely impacts organisational culture. Recognising the need to address this issue comprehensively, Parliament enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("POSH Act"), thereby creating a robust legal framework for ensuring safer and more inclusive workplaces.

The legislation signifies a paradigm shift in the approach to workplace governance by placing equal emphasis on prevention, prohibition, and redressal. It seeks to ensure that organisations do not merely react to incidents of harassment but proactively create an environment founded on respect and equality.

Evolution of the Law: From Vishaka Guidelines to the POSH Act

The origins of the POSH Act can be traced to the landmark judgment of the Supreme Court in *Vishaka & Others v. State of Rajasthan* (1997). In the absence of any specific legislation addressing sexual harassment at the workplace, the Supreme Court laid down comprehensive guidelines to protect women against such conduct and imposed obligations upon employers to provide safe working conditions.

For more than fifteen years, the Vishaka Guidelines served as the governing framework until the enactment of the POSH Act in 2013. The legislation codified the principles laid down by the Supreme Court and provided statutory backing to the rights and protections available to women at the workplace.

Understanding Sexual Harassment

The POSH Act defines sexual harassment broadly to include any unwelcome act or behaviour of a sexual nature, whether directly or by implication. Such conduct may include:

- Physical contact and advances;
- Demands or requests for sexual favours;
- Sexually coloured remarks;
- Showing pornography;
- Any unwelcome verbal, non-verbal, or physical conduct of a sexual nature.

The law also recognises that sexual harassment often manifests in subtle forms. A hostile work environment, repeated inappropriate comments, suggestive messages, intimidation, or abuse of authority can be equally detrimental and may constitute sexual harassment. Similarly, situations involving a promise of preferential treatment in employment, a threat of adverse consequences, interference with work performance, humiliating treatment affecting health or safety, or the creation of an offensive or intimidating work environment may amount to sexual harassment under the Act.

Scope and Applicability of the POSH Act

The scope of the legislation is intentionally broad. The term "workplace" extends far beyond the traditional office setting and includes branch offices and administrative units, manufacturing facilities and factories, hospitals and educational institutions, client locations, transportation provided by the employer, work-related travel and events, and virtual workplaces and digital interactions arising out of employment.

Similarly, the term "employee" encompasses permanent employees, temporary employees, consultants, trainees, interns, probationers, and contractual personnel. The Act, therefore, recognises that workplace interactions are no longer confined within physical boundaries and extends protection to all forms of professional engagement.

Employer's Responsibilities Under the POSH Act

The responsibility of creating a safe workplace rests primarily with the employer. The employer is required to:

- Formulate and communicate a policy against sexual harassment;
- Constitute an Internal Committee;
- Conduct awareness and sensitisation programmes;
- Display information relating to POSH at conspicuous places;
- Provide assistance during inquiries;
- Maintain confidentiality;
- Treat sexual harassment as misconduct under service rules; and
- Submit annual reports and disclosures in accordance with law.

The obligations of an employer extend beyond procedural compliance and require a genuine commitment towards creating a culture of mutual respect and inclusion.

Constitution of the Internal Committee: The Cornerstone of the POSH Framework

Perhaps the most significant feature of the POSH Act is the requirement to establish an Internal Committee ("IC"). Every organisation employing ten or more employees is mandated to constitute an Internal Committee at each office or administrative unit. The Committee acts as an independent body responsible for receiving complaints, conducting inquiries, and recommending appropriate action.

Composition of the Internal Committee

Presiding Officer: The Committee must be headed by a senior-level woman employee employed at the workplace. The rationale behind this requirement is to ensure sensitivity and inspire confidence in the complainant.

Employee Members: The Committee must include at least two employees who are committed to the cause of women, possess experience in social work, have knowledge of legal matters, or have experience in employee welfare or human resources. These members contribute to a balanced and informed decision-making process.

External Member: One of the most distinctive aspects of the POSH framework is the mandatory inclusion of an external member — a representative from a non-governmental organisation committed to the cause of women, or a person familiar with issues relating to sexual harassment. The inclusion of an external member ensures independence and objectivity, brings specialised knowledge and experience, reduces organisational bias, and enhances confidence in the inquiry process.

Gender Composition and Tenure

The law mandates that at least one-half of the members of the Internal Committee shall be women, reflecting the legislative intent of ensuring adequate representation and creating an environment conducive to addressing sensitive issues with empathy and understanding. The Presiding Officer and every member of the Committee hold office for a period not exceeding three years from the date of nomination. At the end of the tenure, the Committee must be reconstituted by the employer.

Powers and Functions of the Internal Committee

The Internal Committee possesses powers similar to those of a civil court while conducting an inquiry. It may summon witnesses, call for documents and records, examine evidence, conduct interviews, recommend interim relief, and submit inquiry reports and recommendations. Beyond adjudicating complaints, the Committee also plays a proactive role in conducting awareness programmes, promoting gender sensitisation, advising management on preventive measures, and strengthening workplace policies.

Complaint and Inquiry Procedure

A complaint may ordinarily be filed within three months from the date of the incident. Upon receipt of the complaint, the Committee may facilitate conciliation if requested by the complainant; however, monetary settlement cannot form the basis of conciliation. Where conciliation is not sought, the Committee proceeds with a formal inquiry in accordance with the principles of natural justice. The inquiry should ordinarily be completed within ninety days, and the employer is required to act upon the recommendations of the Committee within sixty days.

Confidentiality: The Foundation of Trust

One of the most critical safeguards under the POSH Act is confidentiality. The identity of the complainant, respondent, witnesses, and the contents of the proceedings cannot be disclosed to the public or media. The confidentiality provisions encourage reporting and protect the dignity and reputation of all parties involved.

Consequences of Non-Compliance

Failure to comply with the provisions of the POSH Act can expose an organisation to monetary penalties, cancellation or non-renewal of business licences, reputational damage, employee dissatisfaction and attrition, and increased legal and regulatory scrutiny. In today's environment, non-compliance with workplace safety norms can significantly affect stakeholder confidence and organisational credibility.

Building a Culture Beyond Compliance

The true spirit of the POSH Act lies not in the mere constitution of committees or implementation of policies. Its success depends upon the creation of workplaces where dignity, equality, and respect are embedded into everyday interactions. Organisations that invest in awareness programmes, encourage open dialogue, and empower their Internal Committees are better positioned to create environments where employees feel secure and valued. A workplace free from harassment is not merely a legal requirement — it is a reflection of an organisation's values and its commitment towards fostering an inclusive and equitable future.

The Supreme Court's Wake-Up Call: POSH Compliance Is No Longer Optional

Over a decade after the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 came into force, the Supreme Court of India has sent an unambiguous message to employers across the country: compliance with the POSH Act is a binding statutory obligation — and the judiciary is watching.

A series of landmark rulings and directives between 2024 and 2026 have fundamentally shifted the compliance landscape. For HR leaders, legal teams, and Internal Committee (IC) members, understanding these developments is no longer optional.

From Checkbox to Constitutional Duty

For years, many organisations treated POSH compliance as a paperwork exercise — draft a policy, form a committee on paper, and file an annual report. Courts are now dismantling that approach.

In *Aureliano Fernandes v. State of Goa* (2023, with further directions in 2025), the Supreme Court went beyond the facts of the case to issue detailed directions on IC constitution, member training, procedural rigour, and adherence to the principles of natural justice. Building on this, in August 2025, the Court reiterated that implementation of the POSH Act "cannot remain a formality" — it is a statutory duty enforceable through structured oversight. Labour authorities across states were directed to actively verify whether ICs have been constituted and are functioning, with a structured reporting chain running from District Labour Officers to State Chief Secretaries.

The signal is clear: POSH compliance is now public law compliance under judicial supervision.

Key Rulings Every Employer Must Know

1. IC Jurisdiction: The Complainant's Workplace Prevails

Dr. Sohail Malik v. Union of India (December 2025) — one of the most consequential rulings of recent years — settled a question that had created significant confusion in cross-departmental and multi-organisation workplaces.

The Supreme Court held that an aggrieved woman has the right to approach the Internal Committee at her own workplace, even when the respondent belongs to a different department, office, or organisation entirely. The IC of the complainant's organisation is competent to conduct the inquiry; its findings are then transmitted to the respondent's employer for disciplinary action. The Court reinforced that "workplace" must be interpreted broadly — covering physical offices, field sites, client premises, digital platforms, and any location visited in the course of employment. Jurisdictional arguments cannot be used to deny or delay a woman's access to redress.

What this means for employers: ICs must not reject complaints on the ground that the respondent works elsewhere. Review your internal procedures and train IC members accordingly.

2. Strict Timelines: Delays Can Be Fatal

Vaneeta Patnaik v. Dr. Nirmal Kanti Chakraborti (September 2025) — the Supreme Court upheld mandatory statutory timelines for filing sexual harassment complaints and introduced a Direct Nexus Test to determine whether subsequent administrative actions constitute an extension of past harassment.

The Court's message on timelines was firm: delays in filing can be fatal to a complaint. While third-party complaints under Section 9(2) are not bound by the same limitation, complainants filing directly must act within prescribed timeframes. Notably, the Court also withdrew certain reputational directions it had initially

issued against the respondent, clarifying that POSH proceedings must remain within the statutory remedies prescribed under the Act — courts will not impose penalties beyond what the law contemplates.

What this means for employers: Awareness sessions must emphasise filing timelines. Employees must know their rights — and their windows for action.

3. District-Wide Compliance Surveys: No Organisation Is Invisible

By a Supreme Court order dated August 2025, all States and Union Territories were directed to conduct district-wise surveys within six weeks to verify whether employers have constituted valid ICs, maintained anti-harassment policies, and ensured trained committee members. Non-compliance carries consequences including potential regulatory action and refusal of licence renewals.

Separately, on 7 January 2026, the Court sought structured updates on POSH implementation across courts and tribunals, calling attention to statutory appointments such as District Officers and Nodal Authorities — roles that many states had left unfilled.

What this means for employers: An IC's existence on paper is no longer sufficient. Whether the committee is properly constituted, active, and trained will be the benchmark.

4. IC Reports Must Withstand External Scrutiny

CDR Yogesh Mahla v. Union of India (January 2026) — the Supreme Court observed that an IC report under the POSH Act could be challenged before external forums, including the Armed Forces Tribunal, depending on jurisdictional circumstances. This affirms a broader principle: IC findings do not stay within the organisation — they can travel to tribunals and constitutional courts.

Conclusory findings without reasoning are increasingly vulnerable. IC inquiry reports must be evidence-based, reasoned, and reflective of natural justice principles.

What this means for IC members: Every inquiry report must be written with the rigour of a document that may be reviewed by a court. Quality of documentation is not an administrative detail — it is a legal safeguard.

The SHe-Box: Centralised Oversight

Complaints filed through the SHe-Box portal — the government's centralised complaint routing and monitoring system — enter a traceable ecosystem beyond internal HR channels. Recent parliamentary data indicates that 254 workplace sexual harassment complaints were filed on SHe-Box in 2025, and 296 complaints were received since the portal's revamp in August 2024. With state governments such as Rajasthan and Delhi mandating SHe-Box registration for all establishments with 10 or more employees, the era of self-reporting in isolation is over.

Organisations must be prepared to respond to complaints routed through official systems with documented timelines, structured acknowledgements, and complete inquiry records.

The Most Common Compliance Failure — and the Costliest

Courts and compliance experts consistently flag the same critical gap: the IC exists on paper but is not properly constituted. An expired term, a missing external member, or a Presiding Officer who has left the organisation can render an entire inquiry legally invalid.

Before anything else, employers should verify:

- Is the IC properly constituted with a valid Presiding Officer and an external member?
- Are all members within their three-year term?

- Has annual training been conducted?
- Has the annual report been filed with the District Officer?
- Is the organisation registered on SHe-Box?

National Conference on Workplace Safety and SHe-Box (14 February 2026)

At the National Conference on Safety of Women at Workplace held on 14 February 2026, the government highlighted the importance of making it easier for employees to report workplace sexual harassment and ensuring that complaints are handled fairly and effectively under the POSH law. The discussions suggested a stronger focus on centralised monitoring, better reporting practices, and greater accountability from organisations in addressing complaints and achieving meaningful outcomes.

For employers, the message is clear: POSH compliance is not a one-time requirement. Organisations should regularly review and strengthen their policies, processes, and governance systems to keep pace with evolving expectations and regulatory priorities.

Closing Thought

The Supreme Court's interventions over the past two years have reinforced that the POSH Act is a remedial and protective legislation designed to safeguard women in the workplace. Procedural evasion, jurisdictional deflection, and paper-only compliance will no longer pass judicial scrutiny.

For organisations, this is not merely a compliance alert — it is an opportunity to build workplaces that genuinely protect dignity and access to justice. The institutions that rise to this standard will not merely avoid liability; they will earn the trust of the people who work within them.

Illustrative Examples of Conduct Amounting to Sexual Harassment

The following list is indicative and dependent on specific facts and circumstances:

- Unwanted sexual advances or propositions;
- Pestering for dates or receiving unwelcome sexual suggestions or invitations;
- Offering employment benefits in exchange for sexual favours;
- Leering;
- Making sexual gestures;
- Displaying sexually suggestive objects, pictures, cartoons, calendars, or posters;
- Making derogatory comments about body or dress, slurs, epithets, or sexually suggestive jokes;
- Written sexual communications (hard copy or via computer network), suggestive/obscene letters, notes, or invitations;
- Physical conduct — unwanted touching, assault, or impeding/blocking movements;
- Being forcibly kissed or hugged;
- Exposure of private parts, or repeatedly staring at a woman's body making her uncomfortable;
- Retaliation or threats after a negative response to advances, or for reporting/threatening to report harassment;
- Eve-teasing;
- Sexually tinted remarks, whistling, staring, sexually slanted or obscene jokes, or embarrassing jokes;
- Subtle innuendos or open taunting about physical appearance, body, or shape;
- Gender-based insults and/or sexist remarks;

- Displaying pornographic or other sexually offensive/derogatory material;
- Forcible invitations for dates;
- Forcible physical touch, physical assault, or molestation;
- Suggesting negative consequences for promotion/evaluation if a date or sexual favours are refused.

Disclaimer: The content of this document is intended to provide a general guide to the subject matter. Every effort has been made to keep the information cited error-free. The contents are for information purposes only and do not constitute advice or a legal opinion; they reflect the understanding of Rajput Jain & Associates of the law and provisions prevailing as on the date of preparation and may vary according to one's interpretation of the law. This should not be relied upon as the sole basis for any decision which may affect you or your business. For specific guidance, please consult us directly.

RAJPUT JAIN & ASSOCIATES

Chartered Accountants

P-6/90 (2F) Connaught Circus, Connaught Place, New Delhi – 110001, India

Contact: +91-98-11-322-785, +91-95-55-555-480

E-mail: info@carajput.com

www.carajput.com