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POSH AT WORK

A Practical Guide

Navigating Law, Governance & Workplace Safety



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From the Editorial Desk



*Dear Readers,
Greetings to all of you!*

“Strengthening POSH Mandates — Moving Beyond Paper Compliance.”

- The POSH Act, 2013 marks a shift from post-facto criminal remedies toward codifying safe working environments as a fundamental human right — decentralising justice through Internal and Local Committees.
- Broadened out of the 1997 Vishaka judgment, the definition of “workplace” now spans digital, off-site, and remote environments — making compliance an active constitutional duty, not an HR perk.
- Supreme Court directives between 2023–2026 confirm that non-functional, improperly constituted, or paper-only committees will no longer survive legal scrutiny.
- Success depends on moving beyond minimal compliance toward embedding dignity, safety and equality — through continuous awareness, transparent reporting via SHe-Box, and rigorous, evidence-based inquiries.

From Vishaka Guidelines to the POSH Act

The evolution of workplace sexual-harassment law in India



1860

IPC, 1860

Sections 354 & 509 treated harassment as a post-facto criminal offence — no preventive workplace norms or civil remedies.



1997

Vishaka Judgment

Supreme Court guidelines after the Bhanwari Devi case, grounded in Articles 14, 19(1)(g), 21 and CEDAW.



2013

POSH Act Enacted

Notified 23 Apr 2013; Rules notified 9 Dec 2013. Codifies Vishaka into statutory protection nationwide.



2023-26

Judicial Enforcement

Supreme Court rulings shift POSH from paperwork exercise to strictly enforced constitutional duty.

Statutory Architecture & Institutional Mechanisms



Internal Committee (IC)

Mandatory for establishments with 10+ employees. Headed by a senior female employee, ≥50% women, plus an independent external member.



Local Committee (LC)

Constituted at district level for unorganised sectors, small establishments (<10 employees), or complaints against the employer.



“Workplace” Redefined

Section 2(o) extends beyond offices to transit, client locations, social events and remote/work-from-home arrangements.



Dual Spectrum of Harassment

Covers both Quid Pro Quo (favours for benefits) and Hostile Work Environment (intimidating/offensive conduct).

The POSH Act, 2013 — At a Glance

In force since 9 December 2013 — applies to every workplace in India across all sectors: private companies, startups, government departments, NGOs, hospitals, educational institutions and domestic workplaces.

‘Sexual Harassment’ Includes

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

Mandatory for 10+ Employees

- Constitute the Internal Committee (IC)
- Conduct POSH awareness training for all employees
- Display POSH posters at conspicuous places
- Three stated objectives: Prevention – stop harassment through awareness & training; Prohibition – zero tolerance with defined consequences; Redressal – fair, time-bound complaint mechanism

10-Point Compliance Checklist

- | | | | |
|---|--|----|--|
| 1 | Constitute the ICC / LCC | 6 | Report complaint numbers in the Annual Report |
| 2 | Draft & board-approve a Sexual Harassment Policy | 7 | Investigate complaints & submit findings |
| 3 | Convene Committee meetings as required | 8 | Assist complainants in filing an FIR if needed |
| 4 | Create awareness via orientation & seminars | 9 | Periodically monitor IC performance |
| 5 | File the Annual Report each calendar year | 10 | Hold sensitisation workshops & seminars |

Composition of the Internal Committee

Minimum four members, structured to prevent internal bias and power imbalances

Role	Statutory Requirement	Qualifications & Background
Presiding Officer	1 Senior Female Employee	A woman employed at a senior level; may be nominated from another office if unavailable locally.
Employee Members	Minimum 2 Employees	Preferably with social-work experience, legal knowledge, or commitment to women’s causes.
External Member	1 Independent Outside Expert	From an NGO/association for women’s rights, a legal practitioner, or a POSH specialist.



Gender Composition & Tenure

At least one-half of IC members must be women. The Presiding Officer and every member hold office for a period not exceeding three years, after which the Committee must be reconstituted.

Complaint Redressal Mechanism



Where to File

ICC — Workplaces with 10+ employees. Headed by a senior woman, ≥50% female representation, 1 external member.

LCC — District-level, for establishments with <10 employees, or complaints against the employer directly.



Procedure & Timelines

Filing Window — Within 3 months of the incident (extensions permitted for justified delays).

Criminal Remedy — A woman may file a POSH complaint and an FIR simultaneously.



Resolution Options

Conciliation — Informal, before inquiry begins; ends in a signed Settlement. No monetary compensation permitted.

Formal Inquiry — Completed within 90 days; both parties heard. Severe criminal matters forwarded to police within 7 days.

Powers, Punishment & Compensation



Powers of a Civil Court

- **Summon & compel attendance; examine persons under oath**
- **Require production & disclosure of documents, records, digital evidence**
- **Exercise authority over matters prescribed under the POSH Rules**



Compensation Factors

- **Mental trauma, pain, suffering & emotional distress**
- **Loss of career or advancement opportunities**
- **Medical / psychiatric treatment expenses**
- **Income & organisational status of the respondent**
- **Feasibility of lump-sum vs instalment payment**
- **Unpaid compensation is recoverable as an arrear of land revenue**

Other Statutes Addressing Workplace Harassment



BNS, 2023

Sections 74, 75, 78 & 79 criminalise assault, harassment, stalking & insulting modesty.



IT Act, 2000

Sections 66E, 67 & 67A cover digital misconduct — privacy violation, obscene content.



Standing Orders Act, 1946

Certified Standing Orders must define harassment as misconduct; enables disciplinary action.



OSH Code, 2020

Mandates safe environments for women on night shifts — transport, secure premises.



State Shops & Establishments Acts

State laws (Maharashtra, Karnataka, Delhi) mandate safety, esp. late-night hours.



Tort Law & Civil Remedies

Civil suits for damages — emotional distress, reputational loss, wrongful termination.

Confidentiality: Best Practices



Operational Safeguards

- **Strict need-to-know data access**
- **Label files “Strictly Confidential”; signed NDAs**
- **Private rooms; locked cabinets; clean-desk rules**
- **Retrieve case files during offboarding**



Virtual & Data Protection

- **Avoid public Wi-Fi; encrypt electronic files**
- **Lock devices; use privacy screen filters**
- **Wipe & destroy storage drives before disposal**



Policy & Awareness

- **Confidentiality clauses & breach penalties in policy**
- **Regular training for IC members & handlers**

The Supreme Court's Wake-Up Call

POSH compliance is a binding statutory obligation — and the judiciary is watching



IC Jurisdiction Prevails

Dr. Sohail Malik v. Union of India (Dec 2025)

A woman may approach the IC at her own workplace even if the respondent belongs elsewhere; jurisdiction cannot delay redress.



Strict Timelines

Vaneeta Patnaik v. Dr. N. K. Chakraborti (Sep 2025)

Filing delays can be fatal to a complaint; a Direct Nexus Test governs related administrative actions.



District-Wide Surveys

SC Order, Aug 2025

States must verify IC constitution, policies & training; non-compliance risks licence renewal.



Reports Face External Scrutiny

CDR Yogesh Mahla v. Union of India (Jan 2026)

IC reports can be challenged before tribunals — reports must be evidence-based and reasoned.

SHe-Box: Centralised Oversight

254

complaints filed on
SHe-Box in 2025

296

complaints since
the Aug 2024
portal revamp



National
Conference, 14 Feb
2026

Government emphasised easier reporting, fair handling of complaints, centralised monitoring and greater organisational accountability. Rajasthan and Delhi now mandate SHe-Box registration for establishments with 10+ employees.



Before Anything
Else — Verify

- ✓ Is the IC properly constituted with a valid Presiding Officer and 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?



Closing Thought

Procedural evasion, jurisdictional deflection, and paper-only compliance will no longer pass judicial scrutiny. This is an opportunity to build workplaces that genuinely protect dignity and access to justice — the institutions that rise to this standard will earn the trust of the people who work within them.

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