

The PoSH Act, 2013

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*"Compliance can be implemented.
A safe workplace is built through everyday actions."*



PoSH ADVISORY
SAFER WORKPLACES,
BETTER INDIA

Introduction

The Prevention of Sexual Harassment (PoSH) Act, 2013 is one of the most important pieces of workplace legislation in India. Yet in many organisations, it remains misunderstood, poorly implemented, or treated as a compliance checkbox rather than a genuine commitment to workplace safety.

This guide is written in plain language — not legal jargon. It is designed to help employees, managers, HR professionals, and organisational leaders understand what the PoSH Act says, what it requires, and what it means for your workplace.

Why This Law Exists

Women's organisations and individuals across India spent decades advocating for legislation that could protect women's rights at the workplace. In a society where unequal power dynamics — both hierarchical and gender-based — continue to shape workplace interactions, women have historically faced the burden of choosing between filing a complaint and keeping their job.

The turning point came in 1992, with the Bhanwari Devi case. Bhanwari Devi was a social worker employed by the Rajasthan government, engaged in preventing child marriage, when she was gang-raped by members of a dominant community. The acquittal of the accused by the lower court sparked national outrage. In response, several NGOs filed a writ petition in the Supreme Court in 1997, specifically addressing sexual harassment of women at the workplace.

The Supreme Court, noting the absence of domestic law on the matter, issued the landmark Vishaka Guidelines — a framework for addressing workplace sexual harassment — to fill the legal vacuum until formal legislation was enacted. It took sixteen years for Parliament to translate those guidelines into law. The result was the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 — commonly known as the PoSH Act.

What is the PoSH Act?

The PoSH Act is a law enacted to protect women from sexual harassment at the workplace. It applies to all workplaces in India — private and public sector, organised and unorganised — where ten or more employees are employed.

It is important to understand that sexual harassment is not always about sexual desire. It can equally be an assertion of power — used to intimidate, control, or undermine. The impact on a woman's emotional health, professional growth, and personal wellbeing can be severe and lasting.

Who Does It Protect?

The PoSH Act protects any woman at a workplace — whether employed as a regular employee, contractual staff, temporary worker, trainee, intern, or apprentice. It also extends protection to women who visit a workplace in any capacity, including clients, customers, and vendors. The Act applies regardless of designation, seniority, or nature of employment.

What Counts as Sexual Harassment?

Under Section 2(n) of the Act, sexual harassment includes any unwelcome act or behaviour of a sexual nature — whether verbal, physical, or visual — including:

- Physical contact or advances
- A demand or request for sexual favours
- A promise of preferential treatment in exchange for sexual favours
- A threat of reprisal for refusing to submit to sexual advances
- Making sexually coloured remarks
- Showing pornography
- Any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature

Section 3(2) further recognises circumstances that may constitute sexual harassment when connected to any such act or behaviour, including implied or express threats about employment status, interference with work, and conduct that creates an intimidating, offensive, or hostile work environment — or humiliating treatment likely to affect a woman's health or safety.

What Are an Organisation's Obligations?

Every organisation with ten or more employees is legally required to:

Constitute an Internal Committee (IC)

Under Section 4, an Internal Committee must be formed at every office or administrative unit with ten or more employees. The IC is responsible for receiving, inquiring into, and recommending action on complaints of sexual harassment.

Display Information

Every organisation must display the penal consequences of sexual harassment and the details of the Internal Committee at a conspicuous place in the workplace.

Organise Awareness Programs

Organisations are required to conduct regular awareness programs and sensitization sessions for employees on the provisions of the PoSH Act.

Submit an Annual Report

Under Section 21, the Internal Committee must prepare an annual report and submit it to the employer and the District Officer each year.

Include PoSH in Service Rules

Organisations must treat sexual harassment as misconduct and include provisions for its prohibition, prevention, and redressal in their service rules or policies.

The Internal Committee

The Internal Committee is the cornerstone of PoSH compliance. It is the body responsible for receiving and inquiring into complaints of sexual harassment within the organisation.

Composition of the IC:

- A Presiding Officer — a senior woman employee

- At least two employee members — committed to the cause of women or with experience in social work or legal knowledge
- One external member — from an NGO, association, or other body committed to the cause of women

At least half of the total members of the IC must be women. The tenure of nominated members is three years. Any member found to be a violator of the law, or against whom an inquiry is pending, must be removed from the committee.

For organisations with fewer than ten employees, Section 6 requires the District Officer to constitute a Local Committee to receive complaints — including complaints against the employer.

Key Responsibilities of the IC:

- Receive written complaints from aggrieved women
- Conduct a fair and time-bound inquiry
- Recommend appropriate action to the employer
- Maintain confidentiality throughout the process
- Submit an annual report to the employer

The Complaint Process

Step 1 — Filing a Complaint

Under Section 9, an aggrieved woman must file a written complaint with the IC within three months of the incident — or the last incident in a series. The IC may extend this by a further three months if sufficient cause is shown. If the woman is unable to file a written complaint herself, the Presiding Officer or any IC member must render all reasonable support to help her do so.

Step 2 — Interim Relief

Under Section 12, while the inquiry is ongoing, the IC may recommend — if the aggrieved woman requests in writing — that she or the respondent be transferred to another workplace, or that she be granted leave of up to three months.

Step 3 — Conciliation

Before initiating a formal inquiry, the IC may, at the request of the aggrieved woman, attempt to settle the matter through conciliation. No monetary settlement shall be made the basis of conciliation.

Step 4 — Inquiry

Under Section 11, the IC conducts a formal inquiry with the powers of a civil court — including summoning witnesses, examining persons on oath, and requiring production of documents. The inquiry must be completed within ninety days. Both parties must be heard and given a copy of the findings, in keeping with the principles of natural justice.

Step 5 — Recommendation

On completion of the inquiry, the IC submits its report to the employer within ten days. Under Section 13(3), if the allegation is proven, the IC recommends appropriate action — including disciplinary action, deduction from salary to be paid to the aggrieved woman, or both.

Step 6 — Implementation

The employer and the District Officer are given sixty days to implement the IC's recommendations. Under Section 18, if either party is dissatisfied with the recommendations or they are not implemented, an appeal may be made to the appropriate court or tribunal.

Penalties for Non-Compliance

Under Section 26, an employer who fails to comply with the PoSH Act is liable for a fine of up to Rs. 50,000. Repeat offenders face more severe punishment and potential cancellation, withdrawal, or disapproval of their business licence or registration.

The Reality of Implementation

Despite the comprehensive framework the PoSH Act provides, implementation across India remains inconsistent. A survey cited by the Supreme Court of India found that sixteen out of thirty national sports federations had not constituted an IC. Where ICs had been formed, many did not meet the required composition under the Act.

The culture of silence that has long conditioned women to accept harassment without speaking up continues to result in significant underreporting. Many women fear losing their jobs, being blamed, or facing retaliation — particularly when the power dynamics of a hierarchical workplace are compounded by broader gender inequalities.

Legislation alone is not the complete solution. Genuine PoSH compliance requires sustained investment in awareness, sensitization, and education — at every level of the organisation.

Common Misconceptions

"It only applies to large companies."

The Act applies to all organisations with ten or more employees — including startups, NGOs, and small businesses.

"It only covers incidents at the office."

The Act covers any place visited by an employee during the course of employment — including client sites, travel, and work-related social events.

"Only permanent employees are covered."

The Act protects all women at the workplace — including interns, contractual staff, and visitors.

"A verbal complaint is enough."

Complaints must be in writing. The IC must assist a complainant in reducing a verbal complaint to writing if needed.

"Short dresses or late nights invite harassment."

No conduct, appearance, or lifestyle choice constitutes consent or justification for sexual harassment. This is precisely why sensitization and awareness training matters.

What a Truly Safe Workplace Looks Like

A genuinely PoSH-compliant workplace goes far beyond having a policy on paper. It is a workplace where:

- Every employee — at every level — understands their rights and responsibilities
- The Internal Committee is properly constituted, well-trained, and fully functional
- Complaints are handled with confidentiality, fairness, and urgency

- Leadership actively models respectful and dignified behaviour
- Awareness and sensitization are ongoing commitments — not one-time exercises
- The culture makes it safe for women to speak up without fear of retaliation

***"The PoSH Act exists because every woman has the right
to work in dignity and safety."***

Understanding the law is the first step toward honouring that right — but understanding alone is not enough. It must be followed by action, awareness, and a genuine commitment to building workplaces where equality is practised every day.

If your organisation needs support with PoSH training, IC constitution, policy design, or ongoing advisory, **PoSH ADVISORY** is here to help.

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