

THE POSH ACT

SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013



A workplace should be a space of respect, safety, and equal opportunity. Yet, for years, the absence of a clear legal framework left many women unsure of where to turn when faced with inappropriate behaviour or uncomfortable situations.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

brought clarity and structure-ensuring every woman has the right to work with dignity, free from harassment or fear.

EDITORIAL

Employees of both genders are more aware of POSH and ICC in their offices given the mandate under the POSH Act, 2013. POSH plus policies which include men in their ambit are also becoming prevalent. Companies in India are required to include detailed **POSH (Prevention of Sexual Harassment)** disclosures in their Board's Report effective from July 14, 2025, following the Companies (Accounts) Second Amendment Rules, 2025.



A report from the Nifty 100 companies in FY 23 declares that nearly 1000 complaints have been disposed of. Despite such improving trends there are more cases that go unreported due to issues like lack of awareness as well as taboos and red tapism attached to such complaints. In **Medha Kotwal Lele Vs Union of India [(2013) 1 SCC 297]**, the Supreme Court noticed the disappointing ground level implementation of the Vishaka Guidelines.

Employers still are at crossroads as to the misuse of such laws.

The deterrent element may be misused by an irate women employee and the institution might be penalised is their argument. The greater wisdom will be to balance punishing the perpetrator without denying the remedy available to the victim and punishing every false complainant as harshly as possible. **It is vital as law students and lawyers to understand the changing nature of POSH as it is implemented so as to advise clients better to handle such sensitive issues.**



HISTORY OF THE ACT

Before 2013, Indian workplaces had no specific legislation to address sexual harassment. Women faced stigma, lack of support, and no proper redressal.

♥ The POSH Act filled this vacuum, creating a safe and inclusive workplace framework.

1992

Bhanwari Devi case
exposed systemic failure

1997

The Supreme Court, framed **Vishaka guidelines** following the Bhanwari Devi incident

1999

Apparel Export Promotion Council v. A.K. Chopra
[AIR 1999 SC 625]
The SC expanded **definition of harassment** beyond physical contact.

2013

The Parliament enacted the **POSH Act**.

2015

Ministry of Women and Child Development (MWCD) issued an **official Handbook** on the **POSH Act, 2013**, to aid awareness and compliance.

2017

The **SHe-Box portal**, launched in 2017 for government employees, was revamped in 2024 to include private sector workers.

KEY PROVISIONS OF THE ACT

Who can file a **complaint**?

Any “**aggrieved woman**” subjected to an **act of sexual harassment** by a person at the workplace [**Section 2(a)**]
If she **cannot** file herself: **Legal heir** or **another person** can file



So, what counts as “**Sexual Harrasment**”?

“Sexual Harassment” includes **physical contact** and advances, demands or requests for sexual favours, making sexually coloured remarks, showing pornography, or any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature [**Section 2(n)**].

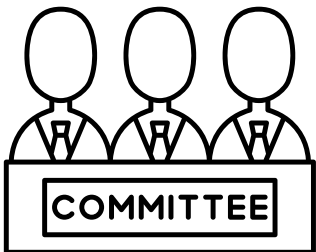
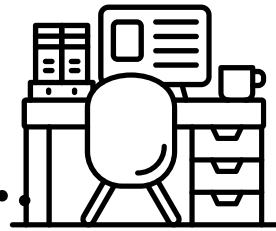
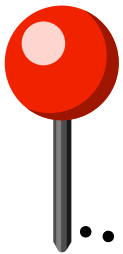
No woman shall be subjected to sexual harassment [**Section 3**].





Where does the protection apply?

At “**Workplace**” includes **government and private organisations, hospitals, educational institutions, sports complexes, places visited during employment (including employer-provided transport), and even dwelling places or houses [Section 2(o)].**



Internal Complaints

Committee (ICC) – Section 4

Mandatory for workplaces with **10+ employees**

Members:

Presiding Officer - Senior woman employee

2 members- Committed to women's cause, social work, or legal knowledge

1 NGO/association nominee/Knowledgeable on sexual harassment issues

Term: Up to 3 years

Removal: Breach of confidentiality, conviction, disciplinary issues

Local Complaints Committee (LCC) – Section 6

For workplaces with **less than 10 employees** or complaints against employer

Members:

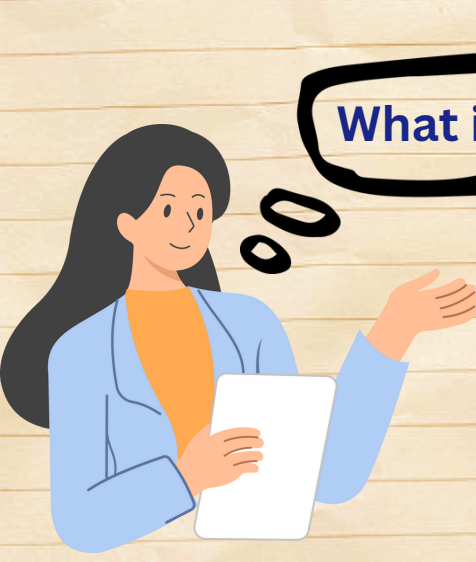
Chairperson – Eminent woman in social work

1 woman from block/taluka/municipality

2 NGO/association nominees (1 woman, 1 SC/ST/OBC/minority)

Ex-officio-Officer in Social Welfare or Women & Child Development

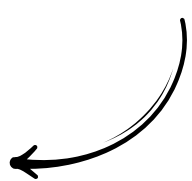




What is the process?

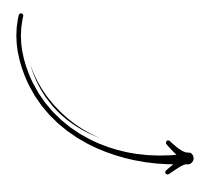
Conciliation-Section 10

- Can settle matters amicably at request of aggrieved woman
- No monetary settlement allowed
- Once settled, no inquiry is conducted



Inquiry - Section 11

- ICC/LCC has powers like a civil court:
 - Summon, enforce attendance, examine under oath, document discovery
- **Domestic workers:** Complaints forwarded to police within 7 days
- Timeframe: Inquiry completed within 90 days
- During Inquiry – Section 12
- **Interim relief:** Transfer, leave up to 3 months, or other measures
- **Purpose:** Protect the aggrieved woman during inquiry



Inquiry Report - Section 13

Report shared within 10 days
Employer/District Officer acts within 60 days

Recommended actions:

- Treat harassment as misconduct
- Deduct salary to compensate aggrieved woman
- Recovery via District Officer if respondent is absent



REPORT



EMPLOYER DUTIES- SECTION 19



- IC/LC must **prepare and submit annual reports** to the employer/ district officer [Section 21].
- Employers include the **number of cases filed** and their **disposal** in their annual filings [Section 22].
- The appropriate **government** must maintain data on the number of cases filed and disposed of [Section 23].
- The government can authorise **inspections of records/workplaces** relating to sexual harassment [Section 25].



Non-compliance with the Act may result in a fine of up to **Rs. 50,000**, and repeated offences can lead to **double punishment** and **cancellation of the business license** [Section 26].

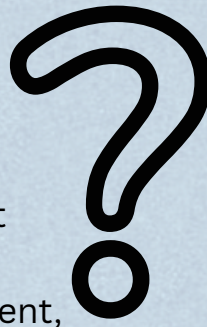
Can the Complaint be filed at a Police Station?

POSH Act **does not bar** criminal complaint

Applicable offences: Assault, sexual harassment, outraging modesty

Report via **police station**, **National Women Helpline (181)**, or **Cybercrime Helpline (1930)**

POSH inquiry and criminal investigation can run simultaneously



Complaint via SHe-Box



Launched: July 24, 2017

Who can use: Any working woman (organized/unorganized, public/private, domestic)

How it works: Complaints resolved within 90 days

Supreme Court: Victims should be guided to SHe-Box-
Aureliano Fernandes v. State of Goa
[(2024) 1 SCC 632]





HOW THE COURTS HAVE INTERPRETED & ADJUDICATED?

1. Case insight: Framing of workplace sexual harassment guidelines in the absence of legislation.

Case Title: *Vishaka and Ors. vs. State of Rajasthan and Ors. [AIR 1997 SC 3011]*

Relevant Provisions: Articles 14, 15, 19(1)(g), 21, 32, 42, 51A and 253 of the Constitution of India.

Legal Question: Whether the Supreme Court, under Article 32, can issue guidelines to protect working women from sexual harassment in the absence of specific legislation, thereby upholding their rights under Articles 14, 19, and 21 of the Constitution?

Context:

The writ petition was brought as a class action by social activists and NGOs seeking the enforcement of fundamental rights for working women due to the prevalent violation of these rights. The immediate impetus for the petition was an alleged brutal gang rape of a social worker in Rajasthan, which highlighted the hazards to which working women are exposed and the necessity for safeguards in the absence of legislative measures. The petitioners sought a writ of mandamus to prevent the recurring phenomenon of sexual harassment and ensure a safe working environment.

Final Verdict:

The Supreme Court directed that the formulated guidelines and norms (the Vishaka Guidelines) must be strictly observed in all workplaces for the preservation and enforcement of the right to gender equality of working women. The Court held that these directions were issued in exercise of the power under Article 32 for the enforcement of fundamental rights and are to be treated as the law declared by this Court under Article 141 of the Constitution. The rationale rests on the principle that international conventions and norms (like CEDAW), which acknowledge the right to work with dignity, must be read into the constitutional guarantee of gender equality (Articles 14, 15, 19(1)(g), 21) where a void exists in domestic law. The twelve primary guidelines/norms prescribed are:

- **Duty of the Employer:** The employer must prevent sexual harassment and provide procedures for resolution, settlement, or prosecution.
- **Definition:** Sexual harassment includes unwelcome sexually determined behaviour like physical contact/advances, demands for sexual favours, sexually colored remarks, showing pornography, or any other unwelcome conduct of a sexual nature.
- **Preventive Steps:** Employers must expressly prohibit sexual harassment and notify, publish, and circulate this prohibition; include prohibition rules in conduct/discipline codes (Government/Public Sector); include prohibitions in standing orders (Private Sector); and provide work conditions ensuring no hostile environment.
- **Criminal Proceedings:** Where the conduct amounts to a specific offence, the employer must initiate legal action by filing a complaint. Victims/witnesses must not be victimised, and victims should have the option to seek transfer of the perpetrator or themselves.
- **Disciplinary Action:** Where conduct constitutes misconduct, appropriate disciplinary action must be initiated per service rules.
- **Complaint Mechanism:** An appropriate, time-bound complaint mechanism for redress must be created, regardless of whether the conduct constitutes a formal offence or breach of service rules.
- **Complaints Committee:** The mechanism should include a Complaints Committee, headed by a woman, with not less than half its members being women, and involving a third party (NGO or similar body) familiar with sexual harassment issues to prevent undue pressure. The Committee must file annual reports.
- **Workers' Initiative:** Sexual harassment issues should be allowed to be raised at worker meetings and discussed in Employer-Employee Meetings.
- **Awareness:** Guidelines must be prominently notified to create awareness of the rights of female employees.
- **Third Party Harassment:** Where harassment occurs due to a third party/outsider, the employer must take all necessary and reasonable steps to assist the affected person (support/preventive action).
- **Government Measures:** Central/State Governments are requested to consider suitable measures, including legislation, to ensure that the guidelines are observed by private sector employers.
- **Protection of Human Rights Act:** These guidelines do not prejudice any existing rights available under the Protection of Human Rights Act, 1993.

These guidelines are binding and enforceable until suitable legislation is enacted. This ruling became the foundation for the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act).

2.Case insight: Delayed administrative actions cannot extend the limitation period under the POSH Act unless directly connected to the act of sexual harassment.

Case Title: *Vaneeta Patnaik vs. Nirmal Kanti Chakrabarti & Ors., [2025 SCC OnLine SC 1964]*

Relevant Provisions: Sections 2(n), 3, 9 of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("POSH Act")

Legal Question: Whether the Division Bench of the High Court was justified in dismissing the appellant's complaint on the sole ground that it was barred by the prescribed period of limitation?

Context:

The Appellant, Ms Vaneeta Patnaik, a faculty member of NUJS, lodged a formal complaint of sexual harassment against the Vice-Chancellor (Respondent No. 1) on 26.12.2023. The last alleged incident of sexual harassment occurred in April 2023. The Local Complaint Committee (LCC) rejected the complaint as time-barred. The Single Judge directed a rehearing, holding that subsequent alleged threats and the creation of a hostile work environment extended the limitation period. The Division Bench overturned the Single Judge, finding that post-April 2023 administrative actions (like removal from the Director post) were collective decisions of the Executive Council and not sexual harassment.

Final Verdict:

The Supreme Court dismissed the appeal and upheld the decision of the Division Bench, confirming that the complaint was barred by limitation. The Court held that the last incident of sexual harassment occurred in April 2023. The subsequent administrative measures (August 2023 removal, institution of inquiry) were found to be independent actions resulting from reports by an independent body (NFCG) and collective decisions of the Executive Council. These administrative acts did not have a "direct link" ("in relation to" or "connected with") to the earlier acts of sexual harassment, and thus did not constitute a "continuing wrong". The complaint, filed eight months after the last connected incident, exceeded the maximum period of six months mandated by Section 9 of the POSH Act. The Court further directed that the incidents of alleged sexual harassment, though not investigated due to technical grounds, should be made part of Respondent No. 1's resume.

3. Case insight: Victims should be guided to the SHe-Box Portal, and employers must promptly form Internal Committees for effective POSH Act compliance.

Case Title: *Aureliano Fernandes vs. The State of Goa & Ors [(2024) 1 SCC 632]*

Relevant Provision: Section 9 of the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act)** and the **Principle of Access to Justice**.

Legal Question: Whether the Supreme Court must issue mandatory directions to Legal Services Authorities and government departments to ensure effective access to the SHe-Box Portal under the POSH Act, thereby upholding the constitutional right to access justice?

Context:

The matter came before the Court through Miscellaneous Applications for clarification/direction. The Union of India, through the Additional Solicitor General, submitted a Note detailing the revamped SHe-Box Portal - a centralised electronic platform providing a single window for women to register and track sexual harassment complaints across all sectors (organised/unorganised, private/public). Concerns were subsequently raised regarding the practical difficulties a victim might face in directly accessing this electronic portal.

Final Verdict:

The Supreme Court issued mandatory directions for compliance and implementation of the POSH Act. The Court directed the National Legal Services Authority (NALSA), State Legal Services Authorities, and District/Taluka authorities to take note of this order and facilitate any lady who has suffered sexual harassment at the workplace to register her complaint effectively before the Internal Committee (IC) or assist the victim in accordance with law. The Court emphasised that access to justice is as important as the rendering of justice. It is the obligation and duty of all concerned under the Act, and particularly the employers (governmental, public, or private sector), to ensure that Internal Complaints Committees are constituted forthwith wherever they have not been constituted. Furthermore, the Ministry of Labour (Union) and the respective State Labour Departments were directed to ensure the effective implementation of the Act, including committee constitution, training, and creating awareness about women's rights in workplaces.



4. Case insight: Sexual Harassment can occur without physical contact through repeated unwelcome advances or immoral behaviour.

Case Title: *Apparel Export Promotion Council vs. A.K. Chopra [(1999) 1 SCC 759]*

Relevant Provision: Articles 14, 15, 21, and 309 of the Constitution of India.

Legal Question: Whether the Delhi High Court, while exercising judicial review, was justified in holding that repeated unwelcome sexual advances and objectionable conduct by a superior officer without physical contact did not amount to sexual harassment or warrant the penalty of removal from service?

Context:

The Respondent, a Private Secretary, was charged after a subordinate female employee (Miss X) complained that he insisted she accompany him to an isolated hotel Business Centre and, taking advantage of the position, repeatedly made unwelcome sexual advances, tried to sit too close, and attempted to touch her, despite her protests. The Disciplinary Authority removed him from service, which the Delhi High Court overturned, reasoning that since he had only "tried to molest" and failed to achieve "physical contact," the dismissal was disproportionate.

Final Verdict:

The Supreme Court set aside the judgment of the Delhi High Court and upheld and restored the penalty of removal from service imposed by the departmental authorities. The Court held that the Delhi High Court erred by substituting its own findings and by re-appreciating evidence, which is outside the scope of judicial review. The SC emphasised that sexual harassment includes any unwelcome sexually determined behaviour, direct or implied, that is against moral sanctions, decency, or creates a hostile working environment. The lack of "actual physical contact" does not negate the charge, as the respondent's conduct clearly established unwelcome sexual advances, which violated Miss X's Fundamental Right to Dignity and Gender Equality. The Supreme Court stressed that sympathy is uncalled for in such cases, as lenient action would demoralise working women.



5. Case insight: Service rules should be amended immediately, and decentralised Complaints Committees must be formed, with their reports treated as final in disciplinary inquiries.

Case Title: Medha Kotwal Lele and Others Vs. Union of India and Others, [(2013) 1 SCC 297]

Relevant Provision: Article 141 of the Constitution of India, Central Civil Services (Conduct) Rules, 1964 and Industrial Employment (Standing Orders) Act, 1946.

Legal Question: Whether the Supreme Court has inherent power to direct all States, Union Territories, and statutory bodies to implement the Vishaka guidelines and treat the Complaints Committee report as the final inquiry report in disciplinary proceedings to ensure justice for working women?

Context:

This case involves a series of Public Interest Litigations filed in the Supreme Court, highlighting that women employees continue to face sexual harassment at workplaces due to failure by State authorities and employers to properly implement the Vishaka guidelines. Affidavits from various States revealed widespread non-compliance, including a lack of amendments to Civil Services Conduct Rules, failure to update Standing Orders, and constituting only one Complaints Committee for the entire State, which undermined the guideline's objective.

Final Verdict:

The Supreme Court disposed of the petitions by issuing further mandatory directions necessary until appropriate legislative enactment is in place, emphasising that implementation must be in "substance and spirit". The Court directed all States and Union Territories (UTs) to amend their respective Civil Services Conduct Rules and the Industrial Employment (Standing Orders) Rules within two months. Critically, the Court ruled that the report of the Complaints Committee shall be deemed to be an inquiry report in a disciplinary action and must be acted upon accordingly, ruling out treatment as a mere preliminary investigation. States/UTs were also directed to form adequate Complaints Committees at the taluka, district, and state levels, headed by a woman, with an independent member associated. Statutory bodies (like the Bar Council of India and Medical Council of India) were also mandated to ensure their affiliated organisations follow these guidelines.



Case Title & Citation	Legal Question	Context	Final Verdict	Relevant Provisions
Vishaka and Ors. vs. State of Rajasthan and Ors. [AIR 1997 SC 3011]	Whether the Supreme Court, under Article 32, can issue guidelines to protect working women from sexual harassment in the absence of specific legislation, thereby upholding their rights under Articles 14, 19, and 21?	Filed as a class action by social activists and NGOs after the gang rape of a social worker in Rajasthan, highlighting the absence of safeguards for working women and the need for preventive measures.	The Supreme Court framed the Vishaka Guidelines , holding that international conventions (like CEDAW) must be read into constitutional guarantees (Articles 14, 15, 19(1)(g), 21) where no domestic law exists. These were binding until Parliament enacted legislation.	Articles 14, 15, 19(1)(g), 21, 32, 42, 51A, 253 of the Constitution of India
Vaneeta Patnaik vs. Nirmal Kanti Chakrabarti & Ors. [2025 SCC OnLine SC 1964]	Whether the High Court was justified in dismissing the appellant’s complaint as time-barred under Section 9 of the POSH Act?	The appellant, a faculty member at NUJS, filed a sexual harassment complaint eight months after the last incident, alleging later administrative actions as continuing harassment. The LCC and Division Bench rejected it as time-barred.	The Supreme Court upheld the dismissal, ruling that subsequent administrative decisions were independent and not directly connected to sexual harassment incidents. Complaints beyond six months are barred under Section 9 unless connected acts form a continuing wrong.	Sections 2(n), 3, 9 of the POSH Act, 2013
Aureliano Fernandes vs. The State of Goa & Ors. [(2024) 1 SCC 632]	Whether the Supreme Court must issue directions to ensure effective access to the SHe-Box Portal and proper constitution of Internal Committees?	Through Miscellaneous Applications, concerns were raised about victims’ difficulties in using the revamped SHe-Box Portal for filing sexual harassment complaints.	The Supreme Court directed NALSA, SLSAs, and Labour Departments to assist victims in registering complaints via SHe-Box and ensure IC constitution and awareness across all sectors. Access to justice was reinforced as a core right.	Section 9 of POSH Act, 2013; Principle of Access to Justice
Apparel Export Promotion Council vs. A.K. Chopra [(1999) 1 SCC 759]	Whether repeated unwelcome advances without physical contact constitute sexual harassment under constitutional and service law principles?	A senior officer made repeated advances towards a subordinate female employee without physical contact. The Disciplinary Authority dismissed him, but the Delhi HC reinstated him, holding lack of physical contact meant no harassment.	The Supreme Court restored dismissal, ruling that physical contact is not essential for sexual harassment. Any unwelcome sexually determined behaviour violates Articles 14, 15, and 21. Sympathy in such cases would undermine workplace dignity.	Articles 14, 15, 21, and 309 of the Constitution of India
Medha Kotwal Lele and Others vs. Union of India and Others [(2013) 1 SCC 297]	Whether the Supreme Court can direct States, UTs, and statutory bodies to treat Complaints Committee reports as final inquiry reports and ensure full compliance with Vishaka Guidelines?	Multiple PILs highlighted non-implementation of the Vishaka Guidelines — lack of committees, unamended service rules, and centralised complaint mechanisms.	The Supreme Court directed all States/UTs to amend service and standing orders, form decentralised committees, and treat Complaints Committee reports as final inquiry reports in disciplinary actions.	Article 141 of the Constitution of India; CCS (Conduct) Rules, 1964; Industrial Employment (Standing Orders) Act, 1946

LAWBY WRITES

Have Suggestions or Questions?

We value your input! Feel free to contact us at support@lawby26.com with any questions, topic suggestions, or feedback.
Your insights help us enhance **LAWBY 26** to serve you better.

DISCLAIMER

The content in this newsletter is intended for informational purposes only and should not be considered legal advice.
For any legal concerns, please consult a qualified legal professional.

VISIT US: [**https://lawby26.com/**](https://lawby26.com/)

MEET THE TEAM



P. Arun Sugavaneshvar
Founder



Murshida Banu T
Legal Consultant



Seethala B
Legal Consultant



Kalisdharani P
Legal Consultant



Swetha S
Legal Consultant
