

Workplace Harassment POSH Act 2013: Implementation Challenges and Legal Gaps

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ABSTRACT:

In India, workplace harassment of women is a widespread major concern that affect women in all industries and serious impact on women's mental health and career health. Women faces substantial harassment at workplace. Workplace harassment may appear in diverse forms, such as psychological abuse, sexual intimidation, emotional abuse, sex based hostility. It can negatively affect women career paths and workplace development. In India, harassment of women at work is a serious problem that stems from patriarchal practices and violates their fundamental rights to equality & dignity (Article 14, Article 15 & Article 21) While legislative safeguards like the POSH ACT 2013, drawn from the Vishaka Guidelines of 1997, which require all companies to have internal complaint committees (ICCs) as a means of redress. A lot of women are still in danger because of flaws in office culture, knowledge and execution. An integrated framework must be developed to find a solution, one that incorporates preventative organizational policies, efficient grievance redressal processes and workplace culture that promote equality and respect.

KEYWORDS: Workplace Harassment, Mental health, Workplace, Employer, Internal Complaint Committee, Psychological abuse, Women Employee.

INTRODUCTION:

In India's hectic offices, corporate skyscrapers, and factory floors, the hustle and bustle of work and ambition can occasionally mask a hidden crisis of workplace harassment of women. It frequently shows itself in subtle ways that undermine a women's self-esteem and confidence, such as unwanted remarks, biased judgment, intimidation, psychological manipulation. According to a significant 2025 poll, the National Commission for women's National Annual Report and Index on Women's Safety (NARI), 40 % of Indian women report feeling unsafe in their cities, although only 1 in 3 report experiencing harassment. In August 2025, the Supreme Court also ordered firms to do 6-week POSH Act compliance study.

HISTORY:

Women's workplace harassment in India is a result of long standing cultural views that have frequently neglected their dignity and safety in public and professional settings. For decades, India's workplace lacked clear legal protections against sexual harassment, leading many women to suffer in silence while incidences went unreported and unresolved.

Vishaka and Others V. State of Rajasthan, a major Supreme Court decision from 1997, was a watershed moment in this conflict. Prior this case, India has no specific law to address sexual harassment at work, victims were frequently forced to file complaints under general criminal provision such as Section 354 - outraging a women's modesty and Section 09 - insulting a women's modesty, which were insufficiently applied in workplace contexts.

Women's rights activists in Vishaka filed a Public Interest Litigation following the violent gang rape of Bhanwari Devi, a social worker in Rajasthan. The case highlighted institutional failure to safeguard women and provide justice. In response, the Supreme Court declared that sexual harassment at work violated basic rights guaranteed by Article 14- Equality, Article 15- Non discrimination, Article 19(1)(g)- Right to work, and Article 21- Life and personal liberty of the Indian Constitution.

It created the "Vishaka Guidelines", which are legally enforceable rules requiring companies to stop and address sexual harassment until official laws can be passed. These rules were the first to legally recognize that, even in the absence of physical contact, a hostile or prejudiced workplace constituted harassment.

Strengthening women's right to a secure workplace, the supreme court further stated in Apparel Export Promotion Council v. A.K. Chopra (1999) that attempted wrongdoing without physical contact also qualifies as sexual harassment and can support disciplinary punishment.

The Sexual Harassment of Women at Workplace (Prevention, prohibition and Redressal) Act, 2013 (POSH Act) was not passed by parliament until 16 years after Vishaka, despite these legal actions.

DEFINITION:

Sexual Harassment: Any unwanted sexual act or behavior, whether verbal, nonverbal, or physical, that takes place at work or during work related activities is referred to as sexual harassment. Examples of such behaviors include, makes the workplace unpleasant, objectionable, or hinders a women's ability to function at work, or impacts her professional dignity.

Workplace: Any department, organization, undertaking, establishment, enterprise, institution, office, branch, unit or private sector company or training center, employer provided transportation, any place visited during employment - related travel or activity.

Employer: Employer refers to the individual in charge of overseeing, managing and controlling the workplace, or to a person who has been given this power.

Research Objectives:

1. To examine the POSH Act 2013's legal structure and its application in stopping and addressing workplace harassment of women in India.
 2. To examine the main organizational, structural, and procedural barriers that employers and complaint committees must overcome in order to execute the POSH Act.
 3. To determine how well informed employees women in particular are about their rights under the POSH Act.
 4. To research how employers, organizational culture, and compliance procedures contribute to the establishment of respectful, safe and inclusive workplaces under the POSH regime.
- 1] To assess the efficacy and judicial interpretation of the remedies offered by courts in situations involving workplace harassment, including case laws influencing the implementation of POSH Act.

2] To Examine statistical information on reporting, case result and compliance levels from National Crime Records Bureau , NARI Reports , or Supreme Court Survey Data.

Research Hypotheses:

H1: Compared to employees without formal POSH training, those who have received it report having a better awareness of their rights and reporting procedures.

H2: Employee awareness varies depending on whether POSH training is required and uniform across firms.

H3: Even in cases when internal complaint procedures are in place, victims' propensity to disclose workplace harassment is adversely affected by their fear of reprisals.

H4: Report of harassment are more common in workplace with anonymous reporting systems than in those that only use direct disclosure.

H5: Compared to bigger firms, smaller organizations exhibit lesser compliance with POSH implementation requirements.

H6: The results of investigations vary greatly throughout Compliance Committees due to the lack of uniform procedural rules.

H7: Female Employees are more aware of the POSH Act than male employees, they nonetheless exhibit less faith in internal process to bring about justice.

H8: Compared to unregulated sectors like construction and hospitality, regulated business like banking, IT have greater level of compliance with the POSH Act's rules.

H9: Because of bureaucratic monitoring, POSH adopting is more organized in public sector enterprises than in private sector counterparts.

H10: Workers from underrepresented socioeconomic groups are less satisfied with POSH procedures and report more incidents of harassment at work.

Research Methodology:

The research approach used in this study is a combination of :

Doctrine Research focuses on statutory analysis of the POSH Rules and Act, 2013.

Provision of the Constitution Article 14, 15, 19(1)(g), and 21 (equality, dignity, Right to work, Life and personal liberty).

Ruling from the Supreme Court and the Vishaka Guidelines.

Decisions & Directive case law, Supreme Court compliance orders and the Vishaka Guidelines (Pre-POSH).

Main Body:

The Vision Of The POSH Act:

Three specific goals guided the creation of the POSH Act:

1. Stopping Harassment
2. Prohibiting improper behaviour
3. Addressing grievances

Employer duties, formal inquiry processes, Local Committees for the unorganized sector, and Internal Complaints Committees (ICCs) were all implemented.

The Act guaranteed security, justice, and dignity on paper.

Despite legal protections, workplace harassment still threatens women's equality and dignity in India. In order to guarantee a secure and courteous workplace for women, the sexual harassment of women at workplace (Prevention, prohibition and redressal) Act, 2013 also known as the POSH Act, 2013 was passed. The act obliges employers to raise awareness and address complaints, establishes Internal Complaints Committee (ICCs) in organizations, and define sexual harassment precisely. But more than 10 years after the law's passage, its application has been patchy and inadequate in many areas.

In 2025, The Supreme Court Of India made a historical step in addressing this compliance shortfall by directing a statewide, district-by-district compliance study under the POSH Act. On 12 August 2025, the Supreme Court ordered that a comprehensive survey be carried out within 6 weeks. Completing data collection and uploading information to the "SHe-Box Portal" the official online platform for POSH complaints and compliance data was mandatory court hearings were planned for the case, including one on 14 October 2025, to examine compliance and progress report.

There are three primary goals for the survey:

Verify compliance : Determine if companies with ten or more workers have Internal Complaints Committees (ICCs) that are in compliance with the law.

Accurate Data Collection: Establish a trustworthy national database of workplaces that are either in compliance or not.

Facilitate Enforcement: Make certain that employers and labor authorities take remedial action in cases of noncompliance, including potential legal sanctions under Section 26 of the POSH Act.

The Reality Of Workplace Harassment:

A job is frequently thought of as a place of stability, progress and opportunity. However, it quietly turns into a site of vulnerability, dread, and discomfort for many women.

Sexual harassment sometimes manifested as subtle remarks, inappropriate gestures, and misuse of power rather than loud instances. In addition to impairing one's sense of self worth, these situation limit a woman's fundamental rights to equality and career autonomy.

Acknowledging this profound societal problem, India made history by enacting laws and taking legal action to combat workplace harassment.

Vishaka to POSH -The Legal Awakening:

The historic case of Vishaka v State of Rajasthan (1997) marked the start of the adventure. The Indian Constitution's Article 14, 15, and 21 are violated when sexual harassment occurs at work, according to the Supreme Court.

With the introduction of the Vishaka Guidelines, companies were held accountable for creating a safe Workplace. Year later, these recommendations were formalized into the POSH Act, 2013, which gave workplace safety and accountability legal standing.

The Gap Between Law And Reality:

Despite being a progressive law designed to shield women from sexual harassment in the workplace, the POSH Act, 2013 has a number of legal loopholes that reduce its practical efficacy.

However, there is a concerning discrepancy between what the legislation claims and what women really

encounter in the real world of Indian workplaces.

Internal Complaints Committees (ICCs) are frequently not adequately constituted, which is one of the most obvious examples of this gap.

Many companies either do not create an ICC at all or just create committees to demonstrate formal compliance, despite the fact that Section 4 of the Act requires all organizations with ten or more workers to organize an ICC.

In many Cases, ICC are merely fictitious organizations with no independent or trained members.

As a result, the redressal mechanism is diminished from an efficient platform for justice to just symbolic one.

Even in cases when ICCs are present, their operations frequently fall short of the requirement of the law. Members usually lack procedural undertaking, gender sensitivity, and legal training, which results in delayed investigations, skewed ruling, or improper complaint processing.

Some ICCs become into threatening places for complainants instead of supportive ones, which discourages reporting and instead reinforces silence.

Fear is another important factor that contributes to the gap between reality and the law. because they fear reprisals, job uncertainty, harm to their professional image, and workplace animosity, many women decide not to register complaints.

Many workplaces are hierarchical, which deters people from reporting harassment, particularly when the harasser is in a position of power. Therefore, harassment frequently goes unreported and handled even when there is legal protection.

The Act does not provide a robust monitoring or inspection authority to guarantee compliance, even though Section 26 stipulates sanctions for non-compliance. Internal Complaints Committees (ICCs) are not required to have an audit mechanism in place to confirm its establishment and operation. Because of this, a lot of companies disregards their responsibilities without suffering repercussions.

Only women are acknowledged under the Act as victims of sexual harassment at work. Employees who are male or transgender are not covered by it. This narrow focus disregards the fact that harassment can impact people of all genders and is in violation of Article 14's guarantee of equality.

Misuse and Fear of Section 14 (False Complaints):

Action against malicious or false accusations is permitted under Section 14. Despite being designed to stop abuse, it is frequently misunderstood to scare complainants. Since many women are afraid of penalty for not proving a complaint, they are discouraged from reporting honestly.

Procedural Delays:

Inquiries frequently take far longer than the allotted period, which upsets complainants' mental health and erodes their trust in the legal system.

Although the POSH Act of 2013 is a significant step in the direction of workplace safety, it falls short of its full potential due to legislative flaws, particularly in the areas of enforcement, inclusion, and institutional responsibility.

Reforms must prioritize professional training, stringent compliance monitoring, gender neutral protection, and more robust enforcement measures if the law is to be genuinely successful.

Implementation Challenges:

Failure to constitute Internal Complaints Committee (ICCs).

The failure to organize ICCs as mandated by Section 4 is one of the most frequent infractions of the POSH Act.

Many organizations either established ICCS just as a formalities or do not established them at all.

Committees are frequently miss organized, lacking outside participants or qualified staff, which compromises their legitimacy and independence.

Lack Of Training And Sensitization:

According to the Act, companies must run awareness campaigns and make sure ICCs are operating competently.

In reality, the majority of employers do not regularly offer training on gender sensitivity , legal procedures , or inquiry process.

Because of this, ICC members frequently handle complaints improperly, postpone investigations, or produce biased results.

Organizational Resistance and Toke Compliance:

Instead of seeing POSH compliance as a social obligation, some companies see it as a legal burden As a result, there is little dedication to occupational safety, inactive ICCs , and shallow policies.

Case Law:**Vishaka v. State of Rajasthan (1997)**

As part of her professional responsibilities, Rajasthani social worker Bhanwari Devi tried to prevent a child marriage and was gang-raped for it.

In India at the time, there was no particular legislation addressing workplace sexual harassment of women.

A PIL was brought before the Supreme Court by a number of women's rights organizations to safeguard working women from sexual harassment.

Does workplace sexual harassment violate women's basic rights?

Is it possible for the Supreme Courts to establish rules without legislation?

The Supreme Court rules that sexual harassment in the workplace is against Indian Constitutional Articles 14, 15, 19(1)(g), and 21.

Guidelines for Vishaka:

All employers were instructed by the court to stop harassing.

Create complaint committee with female leader.

Incorporate outside participants.

Run awareness raising campaigns.

Assure a secure workplace until legislative was passed by parliament, these rules were to be followed as law.

The POSH Act of 2013 was made possible by the Vishaka Case, which changes workplace safety from a moral requirement to a constitutional one.

Apparel Export Promotion Council v. A.K. Chopra (1999)

A female employee was allegedly sexually harassed by a senior officer of the Apparel Export Promotion Council (AEPC) who tried to molest her in his office.

He was fired from his position after a department investigation revealed that he had engaged in misbehavior.

But because there was no physical touch, the High Court overturned the punishment.

The Supreme Court heard an appeal from AEPC.

Can sexual harassment occur in the absence of physical contact?

Was the dismissal appropriate?

Was the dismissal justified?

The Court clarified that harassment encompasses more than just physical touch; it also involves dignity.

Aureliano Fernandes v. State of Goa & Others (2023)

The lawsuit started because Aureliano Fernandes at Goa University was accused of sexual harassment.

The case eventually made its way to the Supreme Court, which considered structural problems with the POSH Act, 2013's application throughout India in addition to the appropriateness of the investigation in that particular instance.

The Court discovered significant shortcomings in the implementation of the statutory safeguards and procedures mandated by the Act while examining compliance.

If the POSH Act's investigation was carried out with appropriate consideration for natural justice considerations.

If the POSH Act was being applied successfully across the country, particularly in terms of creating Internal Complaints Committees (ICCs) and carrying out awareness and reporting campaigns.

What actions are required to guarantee that statutory compliance is enforceable rather than just symbolic?

The Supreme Court ruled that:

The POSH Act's implementation cannot be left as a formality; it is a statutory obligation that needs to be observed and upheld in both public and private workplaces.

The Court emphasized that workplace definitions under Section 2(o) are broad, encompassing all locations frequented by employees while they are employed, and that

ICCs under Section 4 of the Act must be established and operational wherever relevant.

A number of compliance directions were issued by the Court, including:

Chief Labor Commissioners and District Officers are appointed to help oversee compliance. Survey data must be reported to the Court and posted to the SHe-Box portal. The broad definition of "workplace" guarantees enforcement in institutional, private, informal, and governmental settings.

This lawsuit involves more than just one person's grievance. It acts as a court confirmation that the POSH Act's enforcement must be continuous, quantifiable, and auditable—rather than merely symbolic.

It aims to address systemic implementation shortcomings that have long plagued the statute and fortifies accountability procedures for government authorities and employers.

Conclusion

In India's legal quest to protect women from sexual harassment at work, the POSH Act, 2013 is a significant milestone. The Act creates a thorough framework for the prevention, prohibition, and remedy of workplace harassment. It is based on the constitutional principles of equality, dignity, and the right to a profession and was influenced by the Vishaka Guidelines.

In theory, it provides robust protections through mechanisms for the unorganized sector, employer duties, sanctions for non-compliance, and Internal Complaints Committees.

However, numerous operational issues and legislative deficiencies severely reduce the law's effectiveness. The Act's goal is still being undermined by the ICCs' poor structure and operation, employees' ignorance, their fear of reprisals, the authorities' lax enforcement, and the Act's narrow reach in the unorganized sector.

The gap between legal intent and working reality is further widened by legislative flaws such as the lack of gender-neutral protection, the requirement that committee members get training, and inadequate monitoring methods.

Legal actions, such as the Supreme Court's stringent guidelines for POSH compliance and national surveys, emphasize how vital it is to shift from token compliance to actual accountability.

These changes show an understanding that strict laws by themselves cannot affect social change unless they are backed by vigorous enforcement, institutional dedication, and workplace culture change.

Although the POSH Act of 2013 is an effective legal weapon to combat workplace harassment, its effectiveness hinges on closing the gap between the law and practice. Important reforms include guaranteeing professional training, promoting diversity, raising awareness, and enforcing severe sanctions for non-compliance. The promise of secure, respectable, and harassment-free workplaces for women can only be fully achieved by the combined efforts of employers, government officials, the judiciary, and the general public.

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