

# Prevention of Sexual Harassment



## The Sexual Harassment of Women at Workplace [Prevention, Prohibition and Redressal] Act, 2013

A law that aims to protect women against Sexual Harassment at their workplace and to provide a safe and respectful working environment.

**Why was POSH needed?** - Before 2013, there was no specific law in India dealing with sexual harassment at workplace. Women often faced harassment but had no clear legal remedy or defined procedure to make a complaint.

Thus, the need arose to:

- Protect women's right to equality (Article 14), Right to work with dignity (Article 15) and Right to life and liberty (Article 21).
- Create a safe, gender-neutral workplace where women can work without fear or distress.

### Background Incident - The Bhanuvasi Devi case

Bhanuvasi Devi was a social worker employed by Women's Development Programme of Govt of Rajasthan. Her job was to create awareness about issues like child marriage, education and women's right in villages.

In 1992, she tried to stop the marriage of one-year old girl. This angered the local upper caste men and as a revenge, she was gang raped by group of men.

She sought justice, but court acquitted all accused.

This incident received national outrage and exposed how vulnerable working women were.

### Vishakha Guidelines

Following the Bhanuvasi Devi case, a NGO, led by Vishakha, filed a Public Interest Litigation (PIL) in the Supreme Court. The Supreme Court in the historic judgement, laid down the "Vishakha Guidelines" - which acted as a temporary law until Parliament enacted proper legislation.

After the Vishakha Guidelines, there was still no formal law for nearly 16 years. Finally, the govt. enacted POSH Act in 2013 to give statutory force to Vishakha principles.

### Applicability of Act

Act applies to both sector - Organised and unorganised, including:

- Government Bodies or Non government Organisation
- Private and Public Sector Organisation
- Commercial, Educational, Vocational Institute
- Entertainment industry
- Hospital and Nursing homes
- Sports Institution

**Dwelling Place (Residential House)**

### What does Sexual Harassment mean?

Act defines, any unwelcome act or behaviour, including

- Physical contact and advances
- Demand (Request) for sexual favours
- Sexually coloured remarks
- Showing pornography
- Other unwelcome physical, verbal or non verbal conduct of a sexual nature

Note: Experience is subjective, meaning if women feels harassed, it qualifies.

Intent is not important, Impact matters.

Physical contact is not required, if behaviour creates hostile or humiliating work environment it qualifies.

It involves Quid Pro Quo (this for that)

Who is Aggrieved women?

A Women of any age, employed or not, who alleges sexual harassment and includes

- Women in any workplace
- Women working in house / dwelling place

It covers all women working or visiting workplace, including

- Regular, temporary, adhoc, daily wage workers
- Contract worker, Probationers, trainees, Apprentices
- Women working voluntarily or for remuneration
- Women engaged directly or through contractors

What is considered as Workplace?

Workplace includes

- Government and Private sector office
- NGO, Trust, Societies
- Educational institutes, hospitals, financial institutions
- Sports complex, stadium
- Place visited during work (Trip, transport, meeting)
- Residence if work related (domestic help, mess, etc)

In case of *Saurabh Kumar Malick vs CAG, Delhi HC* ruled that places like official messes (official residential facility) shall be considered as workplace.

Factors for considering place as workplace

- Proximity (Nearness) to the place
- Employer's control over location
- Whether location is extension of workplace

Modern Interpretation: With remote work and digital meeting, a CEO harassing an employee from home still constitutes workplace harassment.

Complaint Committee Under POHS Act