

## **A New Path for Women's Justice at Workplace - ICC and LCC in Organized and Unorganized Sector under POSH Act 2013**

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### **Abstract**

This paper explores the establishment and effectiveness of the Internal Complaints Committee (ICC) and the Local Complaints Committee (LCC) under the Prevention of Sexual Harassment (POSH) Act of 2013. The focus is on their roles in both organized and unorganized sectors, assessing their impact on fostering a safer workplace for women. The study analyzes challenges, successes, and areas for improvement in implementing these mechanisms to ensure justice for women in the workplace.

### **Introduction**

The Prevention of Sexual Harassment at Workplace Act, 2013 (POSH Act) marks a significant milestone in addressing workplace harassment in India. This paper examines the functionality of the ICC and LCC, mandated by the POSH Act, in delivering justice and creating a safe working environment for women. It highlights the differences in their implementation across organized and unorganized sectors, providing insights into their effectiveness and challenges.

### **LEGAL JOURNEY OF POSH ACT 2013**

#### **THE POSH ACT 2013**

The POSH Act was enacted following the **Vishaka Guidelines in Bhanwari Devi Case** laid down by the Supreme Court of India in 1997. It aims to provide protection against sexual harassment of women at the workplace and for the prevention and redressal of complaints. In 1997, a group of women's rights activists, known as Vishaka, filed a Public Interest Litigation (PIL) following the brutal gang rape of Bhanwari Devi, a member of the Bhatari village in Rajasthan, worked as a saathin (a grassroots worker) for the Women's Development Project run

by the Government of Rajasthan. Her role involved raising awareness about social issues such as child marriage, dowry, and women's rights. In 1992, she was assigned to prevent a child marriage in a local Gurjar community family a social worker in Rajasthan, who was trying to prevent a child marriage. On September 22, 1992, in retaliation for her activism, Bhanwari Devi was brutally gang-raped by five men from the community, including the family members whose child marriage she had tried to stop. Her husband, who tried to protect her, was beaten up. After the assault, Bhanwari Devi faced tremendous difficulty in getting medical attention and filing a police report. She faced systemic apathy and social ostracism. The trial court in Rajasthan acquitted the accused in 1995, citing lack of evidence and questioning the credibility of Bhanwari Devi's testimony. The judgment was a severe blow to Bhanwari Devi and women's rights activists across India, who saw it as a gross miscarriage of justice.

The Supreme Court recognized the absence of any domestic law addressing sexual harassment at the workplace and issued detailed guidelines to be followed by employers until a proper legislation was enacted. The story of Bhanwari Devi and the subsequent Vishaka judgment were pivotal in highlighting the urgent need for legal protection against sexual harassment in India.

The POSH Act of 2013 is a crucial legislative milestone in India, aimed at ensuring a safe and dignified working environment for women by providing a robust mechanism for the prevention, prohibition, and redressal of sexual harassment at the workplace.

Another landmark judgment that significantly elaborated on and supported the principles of the POSH Act, 2013, is the case of **Medha Kotwal Lele & Ors vs. Union of India & Ors**, decided by the Supreme Court of India in 2012. This case is crucial because it addressed the implementation of the Vishaka Guidelines and highlighted the need for stricter enforcement and compliance, eventually leading to the enactment of the POSH Act. Medha Kotwal Lele, a social activist, along with other petitioners, filed a Public Interest Litigation (PIL) in the Supreme Court of India, seeking effective implementation of the Vishaka Guidelines across various sectors. The petitioners argued that despite the Vishaka Guidelines being in place since 1997, there was widespread non-compliance, and incidents of sexual harassment at the workplace continued unabated. They contended that both private and public sector employers were failing to adhere to the mandated preventive and redressal measures, resulting in inadequate protection for women at the workplace. By addressing the issues of non-compliance, lack of awareness, and inadequate

redressal mechanisms, the Supreme Court's directives reinforced the need for a comprehensive legal framework. The POSH Act, with its detailed provisions and emphasis on preventive and redressal measures, stands as a testament to the impact of this landmark judgment, ensuring better protection for women in the workplace and promoting a culture of safety and respect. The POSH Act, 2013 mandates the establishment of Internal Complaints Committees (ICCs) and Local Complaints Committees (LCCs) to ensure a robust mechanism for addressing sexual harassment complaints.

### **Internal Complaints Committee (ICC)**

Every organization with ten or more employees is required to constitute an ICC to handle complaints of sexual harassment. A senior woman employee as the chairperson, at least two members committed to women's causes or with legal knowledge, and one external member from an NGO or similar organization. Employers are responsible for appointing ICC members for a three-year term, ensuring diversity and impartiality. The ICC's role includes receiving complaints, conducting inquiries, recommending actions, maintaining confidentiality, and submitting annual reports.

### **Structure and Functioning of ICC**

The ICC is composed of a presiding officer, two employee members familiar with the issues of sexual harassment, and an external member from an NGO or association committed to the cause of women.

### **Case Studies and Analysis**

Analyzing cases from corporate offices, educational institutions, and healthcare facilities, this section evaluates the effectiveness of ICCs in handling complaints. The analysis includes success stories and areas needing improvement, such as awareness, training, and confidentiality issues.

**Dr. Punita K. Sodhi v. Union of India & Ors (2010):** In this case, the Delhi High Court reinforced the importance of having a functional ICC and adherence to the principles of natural justice during inquiries. The court emphasized that inquiries into complaints of sexual

harassment must be conducted in a fair and unbiased manner, upholding the rights of both the complainant and the respondent.

**Farha Haneef v. State of Maharashtra & Ors (2016):** This case involved the Maharashtra State Commission for Women's intervention, which underscored the importance of timely and effective redressal mechanisms. The court criticized the organization for delay and inaction in addressing the complaint, reiterating the necessity for prompt and efficient handling of sexual harassment cases.

### **Local Complaints Committee (LCC)**

For workplaces with fewer than ten employees and in cases where the complaint is against the employer, the Act mandates the formation of an LCC at the district level. The LCC is chaired by an eminent woman in social work, includes women from local governance, and experts in sexual harassment issues, with the District Officer or their nominee as an ex-officio member. The District Officer appoints LCC members for a three-year term. The LCC handles complaints, conducts inquiries, recommends actions, ensures compliance, and submits annual reports. Employers and District Officers must conduct regular training programs for committee members, develop detailed anti-harassment policies, monitor committee effectiveness, and provide necessary resources for inquiries.

### **Role and Challenges of LCC**

The LCC's role becomes crucial in the unorganized sector, where there is no formal structure to address grievances. This section examines the composition of LCCs, their accessibility, and the awareness among workers in sectors like domestic work, agriculture, and small-scale industries.

### **Case Studies and Analysis**

Real-world examples highlight the struggles and triumphs of LCCs. This includes how they navigate cultural and social barriers to provide justice and the unique challenges they face in diverse and decentralized work environments. Judgments in cases like Saurabh Kumar Mallick, Ramakrishna Mission, and Tamil Nadu Domestic Workers' Welfare Trust emphasize the

necessity of structured grievance redressal mechanisms and state intervention to protect workers in informal settings.

**In Saurabh Kumar Mallick v. Comptroller and Auditor General of India (2008) case** , The Delhi High Court emphasized the importance of having a Complaints Committee and conducting impartial inquiries into sexual harassment complaints.

**Indian Woman says gang-raped on orders of Village Court published in Business and Financial News dated 23.01.2014** - In this case Supreme Court took suo motu cognizance of a newspaper report about a gang rape in West Bengal ordered by a village court Indian Woman says gang-raped on orders of Village Court published in Business and Financial News dated 23.01.2014 -. Although this case was not directly about workplace harassment, it highlighted the vulnerability of women in rural and unorganized settings.

**In Ramakrishna Mission and Another v. Kago Kunya and Others (2019)** the Supreme Court discussed the applicability of the POSH Act to a non-governmental organization (NGO). The Court emphasized that the POSH Act applies to every workplace, irrespective of whether it is a formal office setup or an informal organization

**In Tamil Nadu Domestic Workers' Welfare Trust v. Government of Tamil Nadu (2010)** case involved a public interest litigation (PIL) seeking the implementation of welfare measures for domestic workers in Tamil Nadu. The Madras High Court directed the state government to establish welfare boards and ensure the protection of domestic workers' rights, including protection from sexual harassment.

### **Scope of The Study**

Through legal efforts, judgments and legislative evaluation and key amendments that have shaped workplace harassment policies in India. Comparative analysis with international counterparts offers insights into global best practices in preventing and addressing sexual harassment. The paper would delve into practical implementation challenges faced by organizations, such as issues with awareness campaigns, training effectiveness, and the establishment and functioning of Internal Complaints Committees (ICCs). Assessing the POSH ACT's impact on workplace culture, employee behavior, and organizational dynamics through

qualitative and quantitative data provides a critical evaluation of its effectiveness over time. Additionally, examining landmark legal cases under the Act and analyzing judicial interpretations would shed light on evolving legal precedents and their implications. Recommendations for policy improvements and future directions would aim to enhance the Act's implementation and responsiveness to contemporary workplace and societal challenges.

### **Methodology**

This paper utilizes a qualitative approach, involving the review of secondary data from legal documents, case studies, and reports. Interviews with key stakeholders in both organized and unorganized sectors provide additional insights into the practical challenges and successes of the ICC and LCC.

### **Comparative Analysis**

This section compares the effectiveness of ICCs and LCCs, highlighting the differences in their operations, the nature of complaints, and the outcomes achieved. It also discusses the challenges common to both committees, such as lack of awareness, training, and resources. In XYZ Corporation a Female employee working in the marketing department. She tolerate Multiple instances of inappropriate comments and unwelcome physical advances during office hours and at corporate events given by senior manager in the same department. Complaint filed with the ICC. An inquiry was conducted, including interviews with the complainant, accused, and witnesses. The ICC found the allegations to be substantiated. The senior manager was given a written warning, mandatory counseling, and was demoted. The company also implemented additional sensitivity training for all employees.

### **Limitation of The Study**

Studying the Prevention of Sexual Harassment (POSH) Act, 2013 reveals several limitations. It primarily applies to formal workplaces, excluding other settings like public spaces. Implementation varies widely, with many organizations lacking resources for training and forming Internal Complaints Committees (ICCs). Enforcement and monitoring are inconsistent, and cultural barriers often deter reporting. Legal ambiguities and procedural complexities also

hinder effective implementation, while insufficient data on incidents and underreporting obscure the Act's true impact. Addressing these challenges requires improving awareness, strengthening enforcement, and fostering a supportive reporting environment

### **Conclusion**

The POSH Act, with its provisions for ICC and LCC, has laid the groundwork for a safer workplace for women. However, the effectiveness of these mechanisms varies significantly across the organized and unorganized sectors. While ICCs in the organized sector have shown considerable progress, LCCs in the unorganized sector face more profound challenges. Continuous efforts in training, awareness, and resource allocation are essential to ensure justice for women in all workplaces.

### **References**

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