



**NATIONAL
LEGAL
SERVICES
AUTHORITY**

**MODULE FOR
CONDUCT OF LEGAL
AWARENESS ACTIVITIES
ON**

Sexual Harassment of Women at Workplace

**(Prevention,
Prohibition
& Redressal)
Act, 2013**





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

NATIONAL LEGAL SERVICES AUTHORITY

JAISALMER HOUSE, NEW DELHI

*The time for change is now,
and it begins with each and every one of us.
Together, we can reimagine and reshape the
workplace,
making it a sanctuary of
dignity, equality, and empowerment.*

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ABOUT THE MODULE

In recent years, the global conversation surrounding gender equality and women's rights has gained significant momentum. A crucial aspect of this discourse is the recognition and prevention of sexual harassment of women in the workplace. Recognizing the imperative need to address this pressing issue, and pursuant to the directives issued by the Hon'ble Supreme Court of India in '*Aureliano Fernandes v. State of Goa*', **Civil Appeal No. 2482 of 2014**, the National Legal Services Authority (NALSA) has prepared this comprehensive '*Module for Conduct of Legal Awareness Camps & Training Workshops on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*'.

In a world striving for progress, inclusion and the empowerment of women, it is disheartening to acknowledge that sexual harassment of women at workplaces remains a pervasive issue, inflicting great suffering on countless women who step out of their homes to work, study or engage in activities contributing to national progress. As news reports of sexual harassment of women at workplaces keep streaming in with increasing frequency, it becomes clear that this issue has grave consequences. It penetrates the very fabric of workplaces, leaving victims emotionally scarred and violating their right to live with dignity. Its consequences ripple through both individuals and organizations, thereby diminishing productivity, fostering anxiety, and eroding trust.

Despite the complexity of the problem, for almost five decades since Independence, India lacked any legal framework to address sexual harassment of women at workplace, leaving victims without a redressal mechanism. The harrowing story of social worker Bhanwari Devi, who was gang raped while on duty, served as a wake-up call to fill up this void. In 1997, the Supreme Court of India recognised this legislative vacuum and issued the Vishaka Guidelines to counter the problem of sexual harassment of women in workplace. These guidelines remained in force until the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) was enacted.

The POSH Act, 2013 was a monumental step towards ensuring a safe and respectful work environment for all women. However, even though a decade has passed since the legislation was enforced, many cases of sexual harassment still go unreported due to many factors, such as, the lack of public awareness about the legal framework; the normalization of sexual harassment; fear of reprisals; ineffective redress or reporting mechanisms; stereotypes blaming the victim instead of the perpetrator; and other evidentiary challenges.

The effectiveness of POSH Act hinges on comprehensive awareness and implementation. With this objective in mind, NALSA has developed this Module for Conduct of Awareness Camps & Training Workshops for Legal Services Institutions (LSIs) to educate the masses about sexual harassment of women at the workplace and the existing legal framework to counter the same.

This Module will serve as a vital tool for creating awareness and fostering dialogue on the issue of sexual harassment of women at the workplace. Through educational materials, case studies, and best practices, we seek to challenge prevailing attitudes and norms that perpetuate harassment. Only by promoting a culture of respect, equality, and zero tolerance towards harassment, one can endeavour to create safer and more inclusive work environments.

The Module also contains relevant reading material that can be used while conducting the awareness initiatives. The reading material can also be disseminated among employers, employees and all stakeholders involved in the implementation of the POSH Act. By providing a clear understanding of the legal framework, definitions, and procedures outlined in the POSH Act, we hope to empower organisations to create robust systems for preventing and addressing instances of sexual harassment at the workplace.

This resource underscores NALSA's commitment to upholding the rights and dignity of every individual in the workplace. We believe that by equipping organisations and individuals with the knowledge and tools necessary to combat sexual harassment, we can contribute to building a society where every woman can work and thrive without fear or discrimination.

PART A:

MODULE FOR CONDUCT OF LEGAL AWARENESS

ACTIVITIES ON SEXUAL HARASSMENT OF WOMEN AT

THE WORKPLACE

1. INTRODUCTION:

Access to justice is a cornerstone of the rule of law. It empowers individuals, including women in the workforce, to have their voices heard, exercise their rights, and challenge any form of discrimination or harassment. Access to justice is not limited to court-based legal remedies. It extends to raising awareness and educating both employees and employers about their entitlements and responsibilities under various laws, including the POSH Act.

It is a key mandate of Legal Services Institutions under the Legal Services Authorities Act 1987 to take appropriate measures for spreading legal literacy and legal awareness amongst the people and, in particular, to educate weaker sections of the society about their rights, benefits and privileges guaranteed by social welfare legislations and other enactments as well as administrative programmes and measures. Although several awareness programs have been conducted by State Legal Services Authorities (SLSAs) to inform women of their legal rights, there is a need for more targeted and focused awareness campaigns. This has become especially critical considering the judgment of Hon'ble Supreme Court in "*Aureliano Fernandes v. State of Goa and others*", wherein the Court identified serious lapses in the enforcement of the POSH Act. The Hon'ble Supreme Court issued the following direction for NALSA:

"The National Legal Services Authority (NALSA) and the State Legal Services Authorities (SLSAs) shall develop modules to conduct workshops and organize awareness programmes to sensitize authorities / managements / employers, employees and adolescent groups with the provisions of the Act, which shall be included in their annual calendar."

It is essential to now establish more focused awareness campaigns specifically addressing the rights of women at the workplace, particularly as outlined under the POSH Act. This approach will better

safeguard the universal right of women to be free from sexual harassment and uphold their right to work with dignity, as enshrined in the Preamble of the Act and reinforced by International Conventions, such as the Convention on the Elimination of All Forms of Discrimination Against Women.

This document is, therefore, intended to serve as a reference for DLSAs and SLSAs for conducting legal awareness activities. The content provided in Part B of this Module contains relevant and pertinent information regarding Sexual Harassment at the Workplace and this content may be referred to or may be reproduced by LSIs while conducting legal awareness activities. Reading material on the following aspects has been annexed with this Module:

1. Reading Material 01: Understanding Sexual Harassment at the Workplace
2. Reading Material 02: Genesis of the POSH Act and the years since its enactment- Litigative as well as Legislative
3. Reading Material 03: Impact of Sexual Harassment
4. Reading Material 04: Motives and Reasons behind Sexual Harassment of Women in the Workplace
5. Reading Material 05: Deconstruction of Myths About Sexual Harassment
6. Reading Material 06: FAQs On Sexual Harassment at Workplace- Victims, Avenues and Key Ingredients
7. Reading Material 07: Case Studies/ Self-Test Questions for Identifying and Responding to Sexual Harassment at Workplace.

2. STRUCTURING OF LEGAL AWARENESS ACTIVITIES:

Legal Services Institutions have the following objectives while organizing legal awareness and outreach programmes:

- i. To spread awareness about welfare legislations and schemes, and to strengthen the community's access to the Schemes being implemented by the Legal Services Institutions and other departments of the Government.
- ii. To identify and connect people to welfare schemes to ensure that fruits of welfare schemes are passed on to eligible people.
- iii. To understand legal needs of people and address legal problems of people by giving appropriate legal advice and taking other necessary steps.

Legal Services Institutions should refer to ***Part J: Legal Awareness and Outreach Programmes of the NALSA's Manual for District Legal Services Authorities, 2023*** while structuring their legal awareness activities.

To spread awareness about Sexual Harassment of Women at the Workplace, the LSIs can conduct a number of legal awareness activities including:

- i. Legal Awareness Camps and Legal Awareness Talks on Addressing Sexual Harassment of Women at the Workplace;
- ii. Media and publicity campaigns on raising awareness on Sexual Harassment of Women at the Workplace;
- iii. Training workshops for various stakeholders including working women, members of the Internal Complaints Committees, lawyers, paralegal volunteers etc.

The SLSAs/DLSAs may prepare an annual calendar that includes awareness programmes on Sexual Harassment of Women at the Workplace and the POSH Act. They should ensure that awareness programmes are held at least once in every quarter, to ensure consistent outreach and engagement.

3. CONDUCT OF LEGAL AWARENESS CAMPS

There are three aspects of conducting a Legal Awareness Camps- Pre-Camp Preparation Stage, Activities during the Camp and Post-Camp Activities. All

the three parts are inter- related and integral to success of Legal Services Camp. The fruitful organization of Legal Services Camp depends upon the successful completion of all the three parts.

i. **Pre-Camp Preparation:**

- **Step 1:- Identification of target population:** DLSA shall identify the target population and the area where the camp/outreach programme is to be organized on Tackling Sexual Harassment of Women at the Workplace. DLSAs may identify clusters in specific districts where workplaces are concentrated. Following this, official communication should be sent to relevant authorities/ managements/ employers, requesting them to direct their employees to mandatorily attend the legal awareness program. This will ensure that the message reaches the intended working population, who are the primary stakeholders.
- **Step 2:- Formation of team for connecting with the intended beneficiaries:** DLSAs shall formulate teams of Panel Lawyers and Para Legal Volunteers. They shall also identify credible NGOs working in the field of the core theme and other experts having expertise in the subject and connect them with the teams.
- **Step 3:- Holding of pre-camp/programme preparatory meetings with stakeholders:** DLSA shall conduct workshops for the teams before the camp/programme to make them aware about the camp design and POSH Act. They be apprised about the objectives of the legal services camp, pre-camp steps and activities during camp etc.
- **Step 4:- Identification of venue for the camp:** DLSA shall identify the venue where the legal services camp/outreach programme can be held.
- **Step 5:- Field visits by outreach teams in the district/adjoining areas:** DLSA shall ensure field visits of teams in association with

NGOs, if any, to identify women who come within the ambit of the POSH Act. Field visits must start at least fifteen days prior to holding of camp/programme. Teams must interact with women in the workplace and disseminate information about camp/programme such as its importance/objectives and relevance to their lives to let people know about the importance of camp.

- **Step 6:- Publicizing the organisation of legal services camp:** In addition to focusing on the working population, the general public should also be encouraged to attend the awareness camps. To achieve this, following measures may be adopted:
 - *Community Mobilization:* Engage communities through meetings and door-to-door visits by field teams to disseminate camp details.
 - *Public Announcements:* Spread information via loudspeakers, community radio, and other local means.
 - *Hoardings and Posters:* Place hoardings and posters in public spaces, providing information about the camp's venue, date, and purpose.
 - *Digital Outreach:* Where feasible, promote the camp through social media platforms and local online networks.

ii. Steps to be taken during the Camp:

- **Real time registration of attendees:** A separate registration desk shall be managed by the concerned DLSA to collect and maintain necessary details of the attendees, such as, names, contact information, place of employment, if any, etc.
- **Short presentation by the Resource Personnel:** Resource personnel shall deliver a concise and engaging presentation in the local language to ensure accessibility and understanding. The presentation will cover:

- *Overview of the Act:* Key provisions, objectives, and protections offered under the Act.
 - *Applicability of the Act:* Explaining who is covered by the Act and the scope of its implementation.
 - *Roles and Responsibilities of Stakeholders:* A detailed explanation of the duties of employers, Internal Complaints Committees (ICCs), Local Complaints Committees (LCCs), and District Officers in ensuring compliance and providing redress.
 - *Redressal Mechanism:* Step-by-step guidance on how an aggrieved woman can file a complaint, what actions must be taken by the employer, and the legal processes that follow.
- This presentation may be visually supported, where possible, and interactive, encouraging questions and clarifying doubts from the audience to ensure comprehensive understanding.

iii. After Camp Activity:

- DLSAs shall send periodic reports to the SLSAs as per prescribed formats.

iv. Miscellaneous:

- The duration of the camp/ program shall preferably be of 1-2 hours.
- The time for opening Legal Services Camp be decided keeping in view weather condition, convenience of employers and employees, and any other local conditions.
- The primary focus should be on effectively communicating with the participants, making the provisions of the POSH Act understandable to them as laypersons.
- Arrangements be also made for cord-less mics and standing mics.

- Help Desks be also set up to help people during the camp to guide them.
- Adequate number of Registration Stalls be put up so that long queues are not formed and delay is avoided in registration of the participant.

4. Media and publicity campaigns on raising awareness on sexual harassment at the workplace

Media plays an essential role in reaching out to a large section of the population living in both urban and rural areas, especially the remote and far-flung areas. Print media such as newspapers, magazines, flyers and handouts etc. are the traditional and reliable modes of outreach. However, new age modes of electronic media including social media platforms are increasingly becoming powerful tools for Outreach and Awareness.

Legal Services Institutions should refer to ***Part N: Media and Communication of the NALSA's Manual for District Legal Services Authorities, 2023*** while structuring their media and publicity campaigns on raising awareness on sexual harassment at the workplace.

The following modes of publicity may be used while devising media campaigns on sexual harassment at the workplace:

- i. **Print Media:** Print media such as newspapers, magazines, flyers and handouts etc are the most traditional mode of outreach and reporting available to LSIs. Given the digital divide in India, there are several pockets of the population who have only access to print media, and are yet to be exposed to electronic or social media.
- ii. **Electronic Media:** Pertinent information on sexual harassment at the workplace can be provided through radio and TV, through talk shows and documentaries, on topics related to sexual harassment, remedies to address such instances, duties and responsibilities of employers in relation to securing the workplace etc. The optimum time for airing such

shows would be early morning or late evening, i.e. beyond office hours, so that these awareness activities reach the target population.

- iii. **Social media:** Social media platforms hold a great potential for LSIs to reach out to the masses as well as target beneficiaries. A great benefit that social media holds over its electronic and print counterparts is the ability to micro-target. LSIs should explore posting of information on sexual harassment at the workplace for specific groups of audiences with different interests through social media.

5. Training workshops for various stakeholders including working women, members of the Internal Complaints Committees, lawyers, para legal volunteers etc.

- i. LSIs may conceptualise Training Workshops on Sexual Harassment at the Workplace for various stakeholders including,
 - a. All Staff Members and employees, especially women;
 - b. Members of the Internal Complaints Committee (ICC) constituted as per the POSH Act;
 - c. Employers;
 - d. Panel lawyers and paralegal volunteers;
 - e. Any others, as deemed appropriate.

PART B:
READING MATERIAL ON SEXUAL HARASSMENT AT THE
WORKPLACE

READING MATERIAL 01-

UNDERSTANDING SEXUAL HARASSMENT AT THE WORKPLACE

Before the 1970s, the term “sexual harassment” would have been met with a blank look. Sexual overtures and disparaging remarks about workers’ competence based on their gender were widely considered acceptable behavior. In 1974, a US District Court Judge found that a woman whose job was terminated in retaliation for refusing her supervisor’s sexual advances was not protected under employment law, but was instead facing the personal consequences of such refusal.¹

Catharine MacKinnon argued that sexual harassment at the workplace is sex discrimination under Title VII of the Civil Rights Act of 1964.² Her influential work led to the origin and recognition of sexual harassment as an illegal workplace behavior in the USA.

Thereafter, in 1980, the US Equal Employment Opportunity Commission (EEOC) issued guidelines defining workplace sexual harassment. Many countries quickly followed the US’s lead in recognizing sexual harassment as an illegal form of workplace behavior. Sexual harassment at the workplace came to be condemned internationally as a form of sex discrimination and a violation of human rights.

Until the late 1990’s the term ‘Sexual Harassment’, was still new to many in India and was often referred to as “eve-teasing”. Sexual harassment in India was deeply rooted in patriarchy, and the prevailing perception had been that men were superior to women, with certain forms of violence against women being considered acceptable. Additionally, sexual harassment was often viewed as harmless or trivial, frequently dismissed as ‘natural’ male behaviour or ‘harmless flirtation’ that women

¹ Barnes v. Costle, 561 F.2d 983 (D.C. Cir. 1977). The court held that the complainant’s refusal to have sexual relations with her supervisor, and the resulting termination from her job, was not discrimination. Rather it was due to “the subtleties of an inharmonious personal relationship”.

² Catharine A. MacKinnon, *Sexual Harassment of Working Women* (Yale University Press London 1979). MacKinnon defines sexual harassment as “the unwanted imposition of sexual requirements in the context of a relationship of unequal power.” She argues that the problem is not the result of excessive sexual attraction of men to women; rather, sexual harassment; like rape, is “dominance eroticized.” It is the sexual expression of the economic dominance men have over women in the workplace, equivalent to the sexual and economic dominance she believes men have in the home. As MacKinnon puts it, “[e]conomic power is to sexual harassment as physical force is to rape”.

were supposed to enjoy. Contrary to these misconceptions, sexual harassment can cause serious harm to victims and is a significant manifestation of gender-based discrimination in the workplace. It not only infringes upon a woman's fundamental rights but also contravenes the rights guaranteed under Article 19(1)(g) of the Indian Constitution, which protected the right to practice any profession, trade, or business.

Sexual harassment can often lead to reduced productivity and negatively impact an individual's lives. Deeply ingrained socio-cultural behaviours, which creates a gender hierarchy and blames victims for their own harassment, exacerbates the problem. This widens the socio-economic gap between men and women. Despite the serious nature of workplace harassment, many women refrain from reporting such instances due to fears of retaliation, loss of livelihood, stigmatization, or damage to their reputation. For several years, the lack of a specific legislative framework to address workplace harassment also contributed to their reluctance.

Recognizing the need to address sexual harassment, many countries in Asia, including India, gradually introduced legislation to prohibit such conduct in the workplace. In 2013, the Indian Parliament passed the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act*. The Act was notified on April 23, 2013.

The POSH Act acknowledged that sexual harassment violated a woman's fundamental right to equality under Articles 14, 15, and 21 of the Constitution of India 1950, which guarantee equality before the law, prohibit discrimination based on religion, race, caste, sex, or place of birth, and protect life and personal liberty. It established a mechanism for preventing and addressing complaints of sexual harassment within the workplace, using the definition of sexual harassment outlined by the Supreme Court of India in the case of *Vishaka v. State of Rajasthan*³. While the Act was a significant step in tackling gender-based discrimination and violence, it still had some limitations, such as only protecting women from workplace harassment.

Additionally, the Government of India introduced the "Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules,

³ Vishaka and Ors Vs. State of Rajasthan and Ors. (JT 1997 (7) SC 384).

2013” to provide further guidelines under the POSH Act. In 2013, the Criminal Law (Amendment) Act, 2013 was also enacted, criminalizing offenses such as sexual harassment, disrobing, stalking, and voyeurism.

Although the POSH Act has been in effect since 2013, there remains a lack of clarity on various aspects, such as the definition of sexual harassment, employee obligations, available remedies, and the inquiry procedure. Many people are still unaware of the criminal implications of sexual harassment. Lewd jokes and inappropriate comments are often dismissed as normal, leading to women’s hesitation to take action due to fears of disbelief or ridicule. These ongoing challenges highlight the need for greater awareness and enforcement of the POSH Act, as the consequences of sexual harassment are far-reaching and long-lasting.

An effective implementation of the POSH Act would contribute to the realization of women’s right to gender equality, life and liberty, and equality in working conditions. A sense of security at the workplace will improve women’s participation in work, resulting in their economic empowerment and inclusive growth. Spreading awareness about this legislation among employers, managers and workers, is the first step towards ensuring effective implementation of this law. Women workers may face sexual harassment but may not be aware that it is a breach of their rights or that they can take action. Others may believe it is a personal matter that should be privately. An attitudinal shift is the need of the hour. Hence, it is important for all of us to collectively take a stand against the societal nuisance of ‘sexual harassment’ and do our part in spreading awareness about the provisions of the POSH Act.

READING MATERIAL 02

GENESIS OF THE POSH ACT AND THE YEARS SINCE ITS ENACTMENT- LITIGATIVE AS WELL AS LEGISLATIVE

The elimination of gender-based discrimination had been one of the fundamentals of the Constitutional edifice of India. The principle of gender equality was enshrined in the Indian Constitution at multiple places (in its Preamble, in the Chapters on Fundamental Rights, Fundamental Duties and Directive Principles of State Policy). However, workplace sexual harassment in India, was for the very first time recognized by the Supreme Court of India in its landmark judgment of “*Vishaka v. State of Rajasthan*”⁴.

- **The Vishaka Judgement:**

In 1992, Bhanwari Devi, a Dalit woman employed with the Rural Development Programme of the Government of Rajasthan, was brutally gang raped on account of her efforts to combat the prevalent practice of child marriage. This incident revealed the daily hazards faced by working women and underscored the urgent need for safeguards. In response, women’s rights activists and lawyers, under the banner of the NGO ‘Vishaka,’ filed a Public Interest Litigation for enforcement of fundamental rights of working women under Article 14, 19 and 21 of the Indian Constitution. in the Supreme Court of India. For the first time, the Supreme Court acknowledged the legislative inadequacy and recognized workplace sexual harassment as a human rights violation. The Supreme Court framed Vishakha guidelines for due observance at all workplaces or other institutions until a legislation is enacted for the purpose. It relied on the Convention on Elimination of All Forms of Discrimination against Women, adopted by the General Assembly of the United Nations, in 1979, which India had both signed and ratified. The Guidelines elaborated on the following points: 1. Duty of the employers or other responsible persons in workplaces and other institutions. 2. Definition of Sexual Harassment, 3. Preventive Steps, 4. Criminal Proceedings, 5.

⁴ *Supra*.

Disciplinary Action, 6. Complaints Mechanism, 7. Complaints Committee, 8. Worker's initiative, 9. Awareness, 10. Third Party Harassment.

It defined 'Sexual Harassment' as any act or conduct which included such unwelcome sexually determined behaviour (whether directly or by implication) as: a. Physical contact and advances b. A demand or request for sexual favours; c. Sexually coloured remarks; d. Showing pornography; e. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

The Guidelines stated that if any of these acts are committed in circumstances where the victim reasonably apprehends that the conduct may humiliate them in relation to their employment or work or constitute a health and safety problem, (whether she is drawing salary or honorarium or voluntary service, whether in government, public or private enterprise), it would amount to sexual harassment in the workplace.

The Apex court also ruled that such behaviour is discriminatory particularly if the victim reasonably believes that their objection could disadvantage them in their employment or work (including recruiting and promotion), or create a hostile working environment.

The guidelines also lay down that it shall be the duty of the employer or other responsible persons in workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required. The Vishaka Guidelines remained binding and enforceable in law until a legislative framework on the subject was created and enacted. This judgment sparked a nationwide discourse on workplace sexual harassment and addressed an issue that had long been ignored.

- **Post Vishaka – Some Other Landmark Judgments:**

The Indian Parliament didn't immediately introduce legislation to address the problem of sexual harassment at workplace. The POSH Act and the POSH Rules were enacted 16 years after the Vishaka Judgement.

In the interregnum, another landmark verdict was delivered by the Supreme Court in the case of “***Apparel Export Promotion Council v. A.K Chopra***”⁵. In this case, the Supreme Court reiterated the guidelines laid down in the Vishaka Judgment and upheld the dismissal of a superior officer from the Delhi- based Apparel Export Promotion Council who was found guilty of sexually harassing a subordinate female employee at the workplace. the Supreme Court expanded the definition of sexual harassment by ruling that that physical contact was not essential for an act to qualify as sexual harassment. it to amount to an act of sexual harassment. The Supreme Court stated “*sexual harassment is a form of sex discrimination projected through unwelcome sexual advances, request for sexual favours and other verbal or physical conduct with sexual overtones, whether directly or by implication, particularly when submission to or rejection of such conduct by the female employee was capable of being used for affecting the employment of the female employee and unreasonably interfering with her work performance and had the effect of creating an intimidating or hostile work environment for her.*”

The Supreme court also noted “*Any action or gesture, whether directly or by implication, aims at or has the tendency to outrage the modesty of a female employ must fall under the general concept of the definition of sexual harassment.*”

This was followed by the judgment in “***Medha Kotwal Lele & Ors. v. Union of India & Ors.***”⁶. The genesis of this case was a letter written by Dr. Medha Kotwal of Aalochana, an NGO, which highlighted several individual cases of sexual harassment and stated that the Vishaka Guidelines were not being effectively implemented. Treating the letter as a Writ Petition, the Supreme Court took cognizance and undertook monitoring of implementation of the Vishaka Guidelines across the country by directing State Governments to file affidavits specifying the steps they had taken to implement the Vishaka Guidelines. In this judgment, the Supreme Court observed that “*the implementation of the Vishaka Guidelines has to be not only in form but also in substance and spirit so as to make available safe and secure environment for women at workplace in every aspect and thereby enabling*

⁵ Apparel Export Promotion Council v. A.K Chopra, (1999) 1 SCT 642.

⁶ Medha Kotwal Lele & Ors. v. Union of India & Ors, AIRONLINE 2012 SC 632.

working women to work with dignity, decency and due respect.” Not being satisfied with the implementation of the Vishaka Guidelines, the Supreme Court directed the States to establish sufficient mechanisms to ensure effective implementation of the Vishaka Guidelines. Finally, the Supreme Court asserted that in case of a non-compliance or non-adherence of the Vishaka Guidelines, aggrieved persons could approach the respective High Courts for redressal of their grievances.

It was after these landmark judgments that the Parliament finally enacted the POSH Act and POSH Rules in 2013. A decade later, the Supreme Court delivered a landmark judgement in the case “*Aureliano Fernandes v. State of Goa and others*”⁷, wherein it took serious note of the glaring lacunae between the prescribed processes in the POSH Act, and their actual fragmented application, highlighting the need for immediate optimization. The Supreme Court observed that a lack of confidence in the process and outcomes, insufficient awareness of the complaint and redressal procedures, overall non-compliance with the enforcement regime, and other practical challenges were deterring the success of the POSH Act. To help fulfil the fundamental objective of the POSH Act and to ensure its effective execution, the Supreme Court issued certain directions regarding the implementation and enforcement of the law. The Supreme Court reiterated the obligation of all organizations to strictly adhere to and implement the provisions of the POSH Act, with the primary objective of making workplaces in India safe and secure for women. In this judgment, the Supreme Court directed *inter alia*:

“The Union of India, State Governments, and Union Territories to verify whether all the concerned Ministries, Departments, Government Organizations and Authorities have constituted Internal Complaints Committees/ Local Complaints Committees, whilst strictly adhering to the requirements relating to the constitution of Internal Complaints Committees/Local Complaints Committees under the POSH Act.

- i. It shall be ensured that necessary information regarding the constitution and composition of the ICCs/LCs/LCs, details of the email IDs and contact numbers of the designated person(s), the procedure prescribed for submitting an online*

⁷ Aureliano Fernandes v. State of Goa and others, Civil Appeal No. 2482 of 2014

complaint, as also the relevant rules, regulations and internal policies are made readily available on the website of the authority/functionary/organisation/institution/body concerned, as the case may be. The information furnished shall also be updated from time-to-time. Publication and updation of necessary information regarding constitution and composition of the Internal Complaints Committees/Local Complaints Committees, contact information of the designated person(s), prescribed procedure for submitting an online complaint, as well as the relevant rules, regulations and internal policies, on the website of the concerned Authority/ Organization/ Institution;

- ii. A similar exercise shall be undertaken by all the statutory bodies of professionals at the apex level and the State level (including those regulating doctors, lawyers, architects, chartered accountants, cost accountants, engineers, bankers and other professionals), by universities, colleges, training centres and educational institutions and by government and private hospitals/nursing homes. All the statutory bodies of professionals at the apex level and the state level (including those regulating doctors, lawyers, and other professionals), universities, colleges, other educational institutions, and Government/private hospitals/nursing homes are required to carry out a similar exercise as mentioned above;*
- iii. Immediate and effective steps shall be taken by the authorities/ managements/employers to familiarise members of the ICCs/LCs/LCs with their duties and the manner in which an inquiry ought to be conducted on receiving a complaint of sexual harassment at the workplace, from the point when the complaint is received, till the inquiry is finally concluded and the Report submitted. Immediate steps are to be taken by the Authorities/Managements/Employers to familiarize members of their Internal Complaints Committees/ Local Complaints Committees with their duties and the manner in which an inquiry ought to be conducted on receiving a complaint of sexual harassment at the workplace;*

- iv. *The authorities/management/employers shall regularly conduct orientation programmes, workshops, seminars and awareness programmes to upskill members of the ICCs/LCs/ICs and to educate women employees and women's groups about the provisions of the Act, the Rules and relevant regulations. The Authorities/Management/Employers are required to regularly conduct orientation programmes, workshops, seminars, and awareness programmes to upskill members of the Internal Complaints Committees/Local Complaints Committees, and to educate women employees and women's groups about the provisions of the POSH Act, and rules thereunder.*
- v. *The National Legal Services Authority (NALSA) and the State Legal Services Authorities (SLSAs) shall develop modules to conduct workshops and organise awareness programmes to sensitise authorities/managements/employers, employees and adolescent groups with the provisions of the Act, which shall be included in their annual calendar.*
- vi. *The National Legal Services Authority (NALSA) and the State Legal Services Authorities (SLSAs) shall develop modules to conduct workshops and organize awareness programmes to sensitize authorities/managements/employers, employees and adolescent groups with the provisions of the Act, which shall be included in their annual calendar.*
- vii. *87.7. The National Judicial Academy and the State Judicial Academies shall include in their annual calendars, orientation programmes, seminars and workshops for capacity building of members of the ICCs/LCs/ICs established in the High Courts and District Courts and for drafting Standard Operating Procedures (SOPs) to conduct an inquiry under the Act and Rules. The National Judicial Academy and the State Judicial Academies shall include in their annual calendars, orientation programmes, seminars and workshops for capacity building of members of the Internal Complaints Committees/ Local Complaints Committees, established in the High Courts and District Courts and for drafting Standard Operating Procedures (SOPs) to conduct an inquiry under the Act and Rules.*

viii. *A copy of this judgment shall be transmitted to the Secretaries of all the Ministries, Government of India who shall ensure implementation of the directions by all the Departments, statutory authorities, institutions, organisations, etc. concerned under the control of the respective Ministries. A copy of the judgment shall also be transmitted to the Chief Secretaries of all the States and Union Territories who shall ensure strict compliance of these directions by all the Departments concerned. It shall be the responsibility of the Secretaries of the Ministries, Government of India and the Chief Secretaries of every State/Union Territory to ensure implementation of the directions issued. The Secretaries of all the Ministries, Government of India shall ensure implementation of the directions by all the concerned Departments, Statutory Authorities, Institutions, Organizations etc. under the control of the respective Ministries. The Chief Secretaries of all the States and Union Territories shall ensure strict compliance of these directions by all the concerned Departments.”*

Close on the heels of this judgment in *Aureliano Fernandes case*, in 2023 came the judgment of the Supreme Court of India in the case “***Initiatives for Inclusion Foundation vs. Union of India and Ors.***”⁸ The petition was filed by Initiatives for Inclusion Foundation, an NGO, to seek the effective implementation of the provisions of the POSH Act. The Supreme Court in its judgment noted that:

“The POSH Act is comprehensive, and a code in itself, for prevention, punishment, and redressal of sexual harassment complaints. It takes the remit of the remedy envisaged in the Vishaka Guidelines beyond the State and public functionaries, to a larger, much wider scope of ‘employee’ and ‘employer’ than any other legislation. As a result, it comes too, with its own challenges for effective implementation. Anticipating this, the Act provides for a tiered- model for its functioning, and in turn for monitoring of its implementation.”

It noted that in the meticulous crafting of law, it was crucial to remember that a law’s intent can only be fully realized with a clear process for its

⁸ Initiatives for Inclusion Foundation vs. Union of India and Ors., 2023 INSC 927.

implementation. Merely passing a law was not the endpoint but the commencement of a journey towards achieving its intended benefits. It took note of the fact that though the objectives of the POSH Act were commendable, the ambiguity around critical processes– like the filing/collecting of ACRs and monitoring compliance – blurred its efficacy. It also observed that without a structured process, it was difficult to ensure that non-compliance penalties/ monetary fines, are appropriately levied and who collects these fines, and where do they eventually land etc. The Supreme Court noted that as much as the essence of a law matters, its procedural clarity was to be the bridge that ensures its benefits reach those it aims to protect. The Supreme Court issued a slew of directions, as under, for effective implementation of the POSH Act:

- i. The Internal Complaints Committee/ Local Complaints Committee were to mandatorily submit the Annual Compliance Report to the Employer/ District Officer (such Annual Compliance Report of an Internal Complaints Committee was to be routed to the District Officer through the Employer) and the District Officer was to compile these reports and submit it to the State Government, which shall monitor the implementation of the law and maintain the data on the number of complaints filed and disposed of.
- ii. Non-Governmental Organizations working in the field of women rights etc. were asked to work closely with District Officers to ensure that even in informal work settings, individuals are aware of their rights and have a platform to report harassment without fear of retribution. District Officers were directed to identify Non-Governmental Organizations working with women and collaborate with them to create awareness within the District.
- iii. The appropriate governments were asked to designate a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer, for every District to exercise powers or discharge functions under the POSH Act. The concerned Principal Secretary of the State/UT Ministry of Women and Child (or any other

Department) was directed to personally ensure that the appointment of a District Officer in each district within their territorial jurisdiction was done within 4 weeks from the date of the judgment. The District Officers were then to appoint Nodal Officers in every Block, *Taluka*, And *Tehsil* in rural or tribal areas and Ward or Municipality in urban areas within 6 weeks from the date of the judgment. The District Officers were also asked to constitute Local Complaints Committee as per Sections 6 and 7 of the POSH Act in their respective Districts.

- iv. The District Officers were directed to ensure due compliance with Section 21(1) and (2) and Section 22 of the POSH Act (including the collection of reports from Internal Complaints Committees/employers/ Local Complaints Committees. They were directed to prepare a comprehensive report, which was to be then shared with the State Government.
- v. It was further directed that a circular containing the names of the respective District Officers and the Nodal Officers with their contact details be uploaded on the Department website. In the absence of this website, notification was to be uploaded on the State Government's website. This circular was also to be pasted at a noticeable place along with a compiled version of the Act, Rules, and simple charts/explainers on the basics of the POSH Act, within 6 weeks from the date of this judgment.
- vi. The Women and Child Development Ministry of every State/UT, through its Principal Secretary, was directed to designate a 'Nodal Person' within the Department, who was to oversee and aid in coordination as contemplated under the POSH Act, including liaising with the Union Government on matters related to this Act and its implementation.
- vii. The Union Government was directed to consider amending the POSH Rules to operationalize Section 26 of the POSH Act. This included recognizing a reporting authority and/or a fine-collecting authority to fill

the gaps in the penalty regime contemplated under the POSH Act and the POSH Rules.

- viii. State Governments were directed to organize periodic and regular training sessions at the District level. These sessions were to be attended by District Officers, members of the Local Complaints Committees, and Nodal Officers. The training will sensitize these officials to the provisions of the POSH Act and POSH Rules, emphasizing their roles and obligations.
- ix. State/UT Governments and the Union Government were directed to allocate financial resources for developing educational, communication, and training materials. These resources will be instrumental in spreading awareness about the provisions of the Act. Additionally, orientation and training programmes were to be formulated to educate the public about their rights and the available redressal mechanisms.
- x. The training module of NALSA, as directed to be prepared in the Aureliano Fernandes judgment, was also to be used for spreading awareness about the provisions of the POSH Act and Rules.

The Supreme Court's judgment in the case of *Initiatives for Inclusion Foundation* case signified a monumental leap towards a safer and more respectful workplace culture in India. By meticulously delineating detailed directives, the Supreme Court has provided a roadmap for the implementation of the POSH Act, that is both comprehensive and actionable. As these directives translate into concrete actions, India takes significant strides towards fostering a society built on equality, respect, and security, ensuring workplaces that are not only productive but also respectful and safe for all. The judgment stands as a beacon of hope, promising a future where every individual can work without fear, and where the fundamental right to dignity finds unequivocal protection.

READING MATERIAL 03

IMPACT OF SEXUAL HARASSMENT

Sexual harassment in the workplace diminishes both individual dignity and the integrity of the workplace. It affects everyone, as it creates an atmosphere that impedes employees' ability to perform. The following are some of the potential consequences of workplace sexual harassment:

On Individual Victims of Sexual Harassment:

Sexual Harassment, in its vile manifestations, is an insidious force that infiltrates every aspect of a woman's life. Its detrimental effects ripple through her personal, professional, and emotional realms, leaving no aspect of her life unscathed. It is not merely an isolated incident; it is a toxic cloud that hovers over her existence.

Impact on Personal Safety and Security:

Women who are subjected to sexual harassment carry a constant fear, while walking down streets, in public spaces, or even within the confines of their homes.⁹ This source of unrelenting anxiety leaves them on high alert, constantly assessing potential threats to her physical and emotional well-being. This burden alone is exhausting and unnerving, making such women question their own right to navigate the world without fear.¹⁰

Emotional Trauma:

Women who experience sexual harassment often suffer profound emotional trauma. The humiliation, degradation, and objectification they endure lead to feelings of shame, guilt, and sometimes self-blame. The weight of these emotions can bury itself deep within their psyche, leaving scars that may never fully heal.

⁹ V Ceccato & A Loukaitou-Sideris, 'Fear of Sexual Harassment and Its Impact on Safety Perceptions in Transit Environments: A Global Perspective' (2022) 28(1) Violence Against Women 26-48;

¹⁰ Oksan Tandogana and Bige Simsek Ilhan, 'Fear of Crime in Public Spaces: From the View of Women Living in Cities' (2016) 161 Procedia Engineering 2011, 2013.

Subsequently, it is not uncommon for survivors to develop anxiety disorders, depression, post-traumatic stress disorder (PTSD), or other mental health challenges.¹¹

Impact on Personal Growth and Development:

Beyond the immediate psychological effects, sexual harassment can drastically hinder a woman's personal growth and development. Its impact extends to her relationships, self-esteem, and overall sense of worth. When a woman is continuously belittled, harassed, or objectified based on her gender, she may internalize these messages, leading to a distorted self-perception and a diminished sense of self-worth.¹²

Workplace Environment and Career Impact:

The workplace, which should ideally be a sanctuary for personal growth and professional advancement, can quickly become an environment to be feared and avoided. The constant threat of harassment can inhibit a woman's ability to thrive and excel.¹³ Fear of retaliation or damage to their careers may prevent women from reporting incidents, compounding the suffering they endure silently. This can perpetuate a cycle where women are stripped of opportunities, promotions, and equal pay, systematically limiting their advancement within their chosen field.¹⁴ For example, a woman in tipped-wage work who does not tolerate sexual harassment by customers may receive less pay or none at all. Sometimes, harassment may push victims to reduce their working hours or leave their jobs, risking lengthy periods of unemployment or leaving the workforce entirely. For those who remain in the jobs, sexual harassment may deter them from applying for higher level (and better-paying) or more visible positions.

¹¹ Chivers-Wilson KA, 'Sexual assault and post-traumatic stress disorder: a review of the biological, psychological and sociological factors and treatments' (2006) McGill Jul 9(2) Journal of Medicine 111; RC Thurston et al., 'Association of Sexual Harassment and Sexual Assault With Midlife Women's Mental and Physical Health' (2019) 179(1) JAMA Intern Med 48.

¹² AL Brown, Testa M, and TL Messman-Moore, 'Psychological Consequences of Sexual Victimization Resulting From Force, Incapacitation, or Verbal Coercion' (2009) 15 (8) Violence Against Women 898.

¹³ G Fitong Ketchiwou and L.W. Dzansi, 'Examining the Impact of Gender Discriminatory Practices on Women's Development and Progression at Work' (2023) 3 Businesses 347.

¹⁴ Ibid.

In short, the effects of sexual harassment of women at workplace can manifest itself in the following ways:-

- i. Depression, isolation and loss of motivation;
- ii. Feelings of shame, guilt, self-blame;
- iii. Anxiety, panic attacks, sleeplessness;
- iv. Diminished concentration;
- v. Eating disorders;
- vi. Increased absenteeism and loss of motivation to work;
- vii. Retaliation from the respondent;
- viii. Being objectified;
- ix. Feelings of dissonance and distrust; and
- x. Weakened support network.

Impact on Women in General:

Sexual harassment has the potential to worsen pre-existing gender disparities in the workplace, such as the wage gap and the lower participation of women in the labour force. It also perpetuates the segregation of women into lower-paying sectors or occupations with limited advancement opportunities. Consequently, this exacerbates the unequal status of women both within the workforce and in societies globally. Workplaces dominated by individuals of one gender can be more hostile to individuals of another gender; hence, sexual harassment toward women may be more pronounced in sectors traditionally dominated by men. Also, sexual harassment may be more prevalent in highly feminized sectors where the majority of the production workforce is female but line supervisors and managers are male.

On The Workplace and On Society At Large:

Sexual harassment can undermine equality at work by calling into question the integrity, dignity and well-being of workers. It can damage an enterprise by weakening the foundations upon which work relationships are built, thereby impairing productivity. It can result in large monetary costs for governments and employers, particularly in terms of medical care and counselling, lost productivity, case settlements and monetary awards. For employers, sexual harassment can also lead to substantial reputational damage.

READING MATERIAL 04

MOTIVES AND REASONS BEHIND SEXUAL HARASSMENT OF WOMEN IN THE WORKPLACE

Sexual harassment at the workplace can stem from a variety of motives, including:

1. **Power and control:** Perpetrators may seek to assert dominance and control over their victims by engaging in sexually harassing behaviours. They can use their position of authority to exploit and manipulate others. The distribution of power between men and women in both private and public spheres, including the workplace, is a crucial aspect of gender inequality. Research indicates that men's prevalence in decision-making roles in both spheres, coupled with restrictions on women's autonomy, can contribute to instances of sexual harassment against women. Women's lower status may serve a symbolic function that communicates that women have a lower social value and are less worthy of respectful treatment. Violence may be used and accepted as a mechanism for maintaining the dynamic of male dominance and female subordination, especially when male dominance is under threat. If women's participation in formal decision-making and civic action is circumscribed, there is less opportunity for women to act collectively in the interests of preventing sexual harassment.
2. **Cultural or organizational tolerance:** In environments where sexual harassment is tolerated or overlooked, perpetrators may feel emboldened to engage in such behaviour without fear of consequences. This can create a cycle of harassment and enable its continuation in the following ways:
 - ✓ **Condonation-** When violence against women is condoned through social norms and structures that justify, excuse or trivialize such behaviour, or shift the blame from the harasser to the victim, perpetrators receive a subtle message that they can act with impunity. Also, workplace sexual harassment is often justified or excused on the basis that it was acceptable for men to behave in this way, or that the

harassers were 'from a different generation', and 'didn't know any better'.

✓ **Male peer relations that emphasizes aggression and disrespect towards women-** Male peer relations in a work context that reinforce stereotypical and aggressive forms of masculinity are also associated with higher levels of sexual harassment against women, as they can foster disrespect, objectification, or hostility towards women. Research suggests that this may occur because violence, sexual harassment, and disrespect towards women are normalized through these peer relations; men may more readily excuse their peers' disrespectful behaviour towards women; and men may be discouraged from opposing such behaviour due to fear of peer rejection. Research has found that participation in sexist jokes and commentary, forms a type of in-group bonding and reinforces stereotypical or 'traditional' masculine identities.

3. **Lack of awareness or education:** In some cases, individuals may not fully understand what constitutes sexual harassment or its impact on others. Ignorance or a lack of awareness about appropriate workplace behaviour can lead to unintentional harassment.
4. **Misguided attempts at courtship or flirting:** Some individuals may inappropriately interpret professional interactions as opportunities for romantic or sexual advances. This can lead to unwanted attention and discomfort for the recipient, resulting in sexual harassment.
5. **Sense of entitlement and intention of objectification of women:** Individuals who view others as objects for their own gratification may engage in sexual harassment to fulfil their desires without regard for the feelings or autonomy of the victim.
6. **Retaliation or punishment:** In some cases, sexual harassment may be used as a form of retaliation against individuals who resist or oppose the perpetrator's advances, refuse to comply with demands, or report previous incidents of harassment.

7. **Psychological issues:** Some perpetrators may have underlying psychological issues such as low self-esteem, insecurity, or a distorted view of interpersonal relationships, which contribute to their engaging in harassing behaviour.

It is important to recognize that sexual harassment is a complex issue influenced by various factors, and addressing it requires a multifaceted approach that includes education, policy enforcement, cultural change, and support for victims.

READING MATERIAL 05

DECONSTRUCTION OF MYTHS ABOUT SEXUAL HARASSMENT

Myth 1: Sexual Harassment Is Rare.

FACT: Sexual harassment is extremely widespread. It affects the lives of 40 to 60 percent of working women. Most victims choose to endure the harassment or resign from their positions.

Myth 2: The Seriousness of Sexual Harassment has been Exaggerated; Most So-Called Harassment is Really Trivial and Harmless Flirtation.

FACT: Sexual harassment can be devastating. Studies indicate that most harassment has nothing to do with 'flirtation' or sincere sexual or social interest. Instead, it is offensive, often frightening, and insulting to women. Victims of sexual harassment suffer from psychological symptoms such as feeling weak, self-blaming, insomnia, anger, tension and depression, as well as physical symptoms such as headache, backache, vomiting, high blood pressure, change in weight and fatigue. Worse still, they are often forced to resign. When the labor supply is in surplus, many victims cannot find new employment, jeopardizing their right to earn a living.

Myth 3: If The Harasser Does Not Do It Intentionally, Then It Does Not Constitute Sexual Harassment.

FACT: As long as the behavior goes against the will of the victim, and makes her feel offended, humiliated or intimidated, it can be deemed sexual harassment. If the victim believes that rejecting or resisting the behavior will lead to unfavourable consequences in recruitment, promotion, or create a hostile work environment, it qualifies as sexual harassment. Regardless of the harasser's motive and victim's conduct, the behaviour can still be considered sexual harassment, even if there was previous intimacy between the parties involved. The determinative factor is 'whether the behavior is unwelcome' not 'whether the victim accepts it voluntarily'. Sometimes, victims endure harassment to keep their jobs and may have difficulty proving it later.

Myth 4: Many Women Make Up And Report Stories Of Sexual Harassment To Get Back At Their Employers Or Others Who Have Angered Them.

FACT: Research shows that less than one percent of the complaints are false. In reality, women rarely file complaints even when justified due to various concerns.

Myth 5: Women Who Are Sexually Harassed Generally Provoke Harassment By The Way They Look, Dress And Behave. There's No Smoke Without Fire.

FACT: This belief stems from stereotypical and traditional views that blame women for harassment. Studies have found that victims of sexual harassment vary in physical appearance, type of dress, age, and behaviour. The only thing they have in common is that over 99% of them are female.

Myth 6: If You Ignore Harassment, It Will Go Away.

FACT: It will not. Harassers generally do not stop on their own. Ignoring such behaviour may be interpreted as agreement or encouragement.

Myth 7: Victims Of Sexual Harassment Are All Females.

FACT: Males can also be victims of sexual harassment. sexual harassment. However, given the given the patriarchal nature of Indian society, very few men report experiencing sexual harassment at workplace. Currently, Indian laws only provide protection against sexual harassment for women.

READING MATERIAL 06

FAQs ON SEXUAL HARASSMENT AT WORKPLACE- VICTIMS, AVENUES AND KEY INGREDIENTS

1. WHO IS AN AGGRIEVED WOMAN?

Sexual Harassment can happen with anyone, irrespective of gender or sexual identity. However, in Indian social context, women bear the brunt of sexual harassment, on account of the asymmetries in power at the workplace. The POSH Act is therefore, not a gender-neutral legislation and it protects only women. The safeguards under the POSH Act are not applicable to ‘men’ victims although employers may choose to extend the protection through their policy.

Every woman irrespective of her age or employment/work status will be considered as an aggrieved woman Section 2(a) of the POSH Act, 2013 provides the definition of an ‘aggrieved woman’¹⁵. It includes every woman irrespective of her age or employment/work status. as a woman who is working or visiting any workplace, whether in the capacity of a regular, temporary, *ad hoc* employee or as a daily wager. It covers all women, whether engaged directly or through an agent (including a contractor), with or without the knowledge of the principal employer. It covers all women working either for remuneration or gratuitously or otherwise. An ‘aggrieved woman’ includes a co-worker, a contract worker, a probationer, a trainee, an apprentice, an intern etc. An ‘aggrieved woman’ needn’t be one who is working in the organized, institutional setup but can include a woman who is working as a domestic help in a dwelling place or house.

It must also be remembered that sexual harassment is not limited to just co-workers. It can also occur with individuals not directly employed by an organization, such as contractors; consultants; delivery persons; vendors; customers; sales persons etc.

¹⁵ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Section 2(a).

2. WHAT IS A WORKPLACE?

The POSH Act departs from the definition adopted by the Vishakha judgment and adopts a more expansive definition of workplace. While the Vishakha Guidelines talked about the traditional office set up recognizing the fact that sexual harassment may not necessarily be limited to the primary place of employment, the Act has introduced the concept of an ‘extended workplace’.

Section 2(o) of the POSH Act defines ‘workplace’ as any place visited by the employee arising out of or during the course of employment, including transportation provided by the employer for undertaking such a journey.¹⁶

As per this definition, a ‘workplace’ covers both the organized and un-organized sectors/ formal and informal sectors. It also includes all workplaces, whether owned by an Indian or a foreign/ multinational company, having a place of work in India.

The POSH Act provides an illustrative list of places which are covered under the definition of ‘workplace’, which includes:

- Government organizations, including Government company, corporations and cooperative societies;
- Private sector organizations, venture, society, trust, NGO or service providers etc. providing services which are commercial, vocational, educational, sports, professional, entertainment, industrial, health-related or financial activities, including production, supply, sale, distribution or service;
- Hospitals/Nursing Homes;
- Sports Institutes/Facilities (Stadium/ sports complex or competition or games venue); including venues that are residential and not used for training or sports or related activity.
- Places visited by the employee (including while on travel) including transportation provided by the employer;

¹⁶ POSH Act, Section 2 (o).

- A dwelling place or house.

Section 2 (p) of the POSH Act further defines the ‘unorganized sector’ as:

- Any enterprise owned by an individual or self-employed workers engaged in the production or sale of goods or providing services of any kind;
- Any enterprise which employs less than 10 workers.

Sexual Harassment needn’t take place within the physical confines of an office. While the Vishaka Guidelines were confined to the traditional office set-up, recognizing the fact that sexual harassment may not necessarily be limited to the primary place of employment, the POSH Act has introduced the concept of an ‘extended workplace’, which includes any place visited by the employee arising out of or during the course of employment, including transportation provided by the employer for the purpose of commuting to and from the place of employment. It can thus, take place whenever and wherever employees are fulfilling their work responsibilities, including:

- At employer-sponsored events;
- At conferences;
- At Office parties;
- Dinners with clients;
- Trade shows;
- Charity events;
- Sales Calls;
- During Off-site or;
- Online; and
- While working remotely.

As flexible work options are given to employees, a whole new vista of avenues for sexual harassment at the workplace, opens. The 'workplace' may accordingly be taken to mean newer places, depending on the nature and situs of the work done.

3. WHAT IS SEXUAL HARASSMENT AT WORKPLACE? WHAT ARE ITS KEY INGREDIENTS AND MANIFESTATIONS?

Sexual harassment is a pervasive phenomenon that undermines equality at work. Section 2(n) of POSH Act defines "Sexual Harassment" as any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:

- | | |
|------------------------------------|----------------------------------|
| i. physical contact and advances; | v. any other unwelcome physical, |
| or | verbal or non-verbal conduct of |
| ii. a demand or request for sexual | sexual nature. |
| favours; or | |
| iii. making sexually coloured | |
| remarks; or | |
| iv. showing pornography; or | |

Section 3 of the POSH Act further enlists certain additional circumstances, which can be interpreted as incidents of sexual harassment, if they occur or are present in relation to or connected with any act or behaviour of sexual harassment. The circumstances are as follows:

- i. implied or explicit promise of preferential treatment in the woman's employment; or
- ii. implied or explicit threat of detrimental treatment in the woman's employment; or
- iii. implied or explicit threat about the woman's present or future employment status; or

- iv. interference with the woman's work or creating an intimidating or offensive or hostile work environment for her; or
- v. humiliating treatment likely to affect the woman's health or safety.

The definition of 'Sexual Harassment' under the POSH Act thus contains the elements of *quid pro quo* or the creation of a hostile work environment for women. It includes any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex, affecting the dignity of women, which is unwelcome, unreasonable, and offensive to the women. It also covers any conduct that creates an intimidating, hostile or humiliating working environment for the women.

The definition of 'Sexual Harassment' under the POSH Act encompasses elements of *quid pro quo* and the creation of a hostile work environment for women. It includes any unwelcome physical, verbal, or non-verbal conduct of a sexual nature that undermines women's dignity or affects their health and safety. This definition also covers any actions that create an intimidating or humiliating workplace.

Sexual Harassment based on *quid pro quo* can occur when a manager or supervisor engages in any of the following actions towards a woman, seeking her compliance with sexual demands when he seeks a woman's compliance with sexual demands by engaging in any of the following actions towards her:

- Assigning positive work assignments;
- Assigning negative work assignments;
- Threatening with or carrying out the threat of termination
- Promoting or demoting her;
- Giving positive or negative performance reviews.

Sexual Harassment that creates a hostile work environment can occur through actions by:

- Employees of the same gender;
- Employees of different genders;

- A manager harassing an employee;
- An employee harassing a manager;
- Employees of the same rank.

Sexual harassment doesn't always seek sexual cooperation. Often it manifests as insulting, degrading, or contemptuous attitudes about women, rooted in contempt and hostility. This sexist hostility can include 'woman-bashing' jokes, insults regarding women's competence, remarks about the irrelevance or sexual unattractiveness of older women, and the belief that women do not belong in certain roles. It is important to note that sexual harassment may not always target individual women, it can also involve the gratuitous sexualization of an entire workplace (such as through sexually offensive graffiti, posters, screen savers, cartoons).

Sexual harassment can include many things such as:

- i. Actual or attempted rape or sexual assault.
- ii. Unwanted pressure for sexual favors.
- iii. Unwanted deliberate touching, leaning over, cornering, or pinching.
- iv. Unwanted sexual looks or gestures.
- v. Unwanted letters, telephone calls, or materials of a sexual nature.
- vi. Unwanted pressure for dates.
- vii. Unwanted sexual teasing, jokes, remarks, or questions.
- viii. Referring to an adult as a girl, hunk, doll, babe, or honey.
- ix. Whistling at someone.
- x. Cat calls.
- xi. Passing sexual comments.
- xii. Turning work discussions to sexual topics.
- xiii. Sexual innuendos or stories.

- xiv. Asking about sexual fantasies, preferences, or history.
- xv. Personal questions about social or sexual life.
- xvi. Sexual comments about a person's clothing, anatomy, or looks.
- xvii. Kissing sounds, howling, and smacking lips.
- xviii. Telling lies or spreading rumors about a person's personal sex life.
- xix. Neck massage.
- xx. Touching an employee's clothing, hair, or body.
- xxi. Giving personal gifts.
- xxii. Hanging around a person.
- xxiii. Hugging, kissing, patting, or stroking.
- xxiv. Touching or rubbing oneself sexually around another person.
- xxv. Standing close or brushing up against a person.
- xxvi. Looking a person up and down (Checking Out/Elevator eyes).
- xxvii. Staring at someone.
- xxviii. Sexually suggestive signals.
- xxix. Making sexual gestures with hands or through body movements.

Further, there are some examples of behaviour that may indicate underlying sexual harassment at the workplace and merit inquiry:

- i. Criticizing, insulting, blaming, reprimanding, or condemning an employee in public.
- ii. Exclusion from group activities or assignments without a valid reason.
- iii. Statements damaging a person's reputation or career.
- iv. Removing areas of responsibility, unjustifiably.

- v. Inappropriately giving too little or too much work.
- vi. Constantly overruling authority without just cause.
- vii. Unjustifiably monitoring everything that is done.
- viii. Blaming an individual constantly for errors without just cause.
- ix. Repeatedly singling out an employee by assigning her with demeaning and belittling jobs that are not part of her regular duties.
- x. Insults or humiliations, repeated attempts to exclude or isolate a person.
- xi. Systematically interfering with normal work conditions, sabotaging places or instruments of work.
- xii. Humiliating a person in front of colleagues, engaging in smear campaigns.
- xiii. Arbitrarily taking disciplinary action against an employee.
- xiv. Controlling the person by withholding resources (time, budget, autonomy, and training) necessary to succeed.

It is also important to understand that there are some examples of workplace behaviours that may not constitute sexual harassment, such as:

- i. Following-up on work absences.
- ii. Requiring performance to job standards.
- iii. The normal exercise of management rights.
- iv. Work-related stress e.g. meeting deadlines or quality standards.
- v. Constructive feedback about the mistakes in the work done.

It is important to understand that quite often, such behaviour occurs in cluster. Distinguishing between these different possibilities is not an easy task and it requires a discerning eye, essential training, and skill building.

While evaluating whether a behaviour constitutes sexual harassment, it is crucial to focus on its impact on the aggrieved woman rather than the intent of the

person exhibiting this behaviour. Since sexual harassment is a subjective experience, it should be analyzed from the perspective of the aggrieved woman. This is because sexual harassment frequently stems from asymmetries in power at the workplace, which is mostly skewed against women. It is also important to remember that each case is unique and should be examined in its own context and according to the surrounding circumstances.

In legal settings, courts typically apply the “*Reasonable Person Standard*” to decide if a reasonable person would find the behavior offensive. Many unwanted and repeated sexual behaviors meet this standard. The Courts may also consider the “*Reasonable Woman’s Standard*”, acknowledging that men and women often have different thresholds for what they find offensive.

It is also important to differentiate between sexual harassment and gender stereotyping. Workplace harassment based on someone performing a job traditionally or predominantly done by individuals of a different gender constitutes sex discrimination rather than solely sexual harassment unless such conduct is accompanied by other forms of quid pro quo sexual harassment or harassment by creating a hostile work environment.

4. WHO ARE THE KEY STAKEHOLDERS IN PREVENTION OF SEXUAL HARASSMENT AT WORKPLACE?

The POSH Act recognizes different stakeholders who have been assigned specific roles for the proper implementation of the Act. Some of the key stakeholders as mentioned in the POSH Act are:

- i. The Employers;
- ii. The District Officers;
- iii. The Internal Complaints Committees;
- iv. The Local Complaints Committees; and
- v. The Appropriate Government.

5. WHO IS AN EMPLOYER?

As per Section 2(g) of the POSH Act, an ‘Employer’ refers to¹⁷:

- i. The Head of the Department, Organisation, Undertaking, Establishment, Enterprise, Institution, Office, Branch or Unit of the Appropriate Government or Local Authority or such Officer specified by the appropriate Government or the local authority in this behalf;
- ii. Any person (whether contractual or not) responsible for the management, supervision and control of a designated workplace, not covered under clause (i). Management includes the person/ board/ committee responsible or formulation and administration of policies for such organization.
- iii. In relation to a dwelling place or house, A person or a household who employs or benefits from the employment of domestic worker or women employees. Irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker.

6. WHO IS A DISTRICT OFFICER?

Section 2 (d) of the POSH Act provides that the appropriate State Governments will notify a District Magistrate/Additional District Magistrate/ Collector/ Deputy Collector as a District Officer at the local level.¹⁸ The District Officer will be responsible for carrying out the powers and functions under the POSH Act at the district levels (including every Block, *Taluka*, *Tehsil*, Ward, And Municipality).

7. WHAT IS AN INTERNAL COMPLAINTS COMMITTEE?

Section 4 of the POSH Act states that every employer of a workplace having ten or more than ten workers shall, by an order in writing, constitute an “*Internal Complaints Committee*”.¹⁹ It also provides that where the offices or administrative units of the workplace are located at different places or at divisional or

¹⁷ POSH Act, Section 2(g).

¹⁸ POSH Act, Section 2(d).

¹⁹ POSH Act, Section 4.

sub-divisional level, the Internal Complaints Committee shall be constituted at all administrative units or offices.

Section 4 of the POSH Act mandates that employers with ten or more employees must establish an “Internal Complaints Committee” through a written order. Additionally, if the workplace has offices or administrative units in multiple locations, an Internal Complaints Committee must be formed for each of these units or offices.

As per Section 4 of the POSH Act, the Internal Complaints Committees shall consist of the following members to be nominated by the employer, namely:-

- (a) A Presiding Officer who shall be a woman employed at a senior level at workplace from amongst the employees;
- (b) Not less than two Members from amongst employees preferably committed to the cause of women or who have had experience in social work or have legal knowledge;
- (c) One member from amongst Non-Governmental Organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment.

The POSH Act further stipulates that in case a senior-level woman employee is not available, the Presiding Officer shall be nominated from other offices or administrative units of the workplace. In case the other offices or administrative units of the workplace also do not have a senior-level woman employee, the Presiding Officer shall be nominated from any other workplace of the same employer or other department or organization.

According to Section 4 of the POSH Act, the Internal Complaints Committees must include the following members, nominated by the employer:

- (a) A Presiding Officer, who must be a woman employed at a senior level within the workplace;

- (b) At least two members from among the employees, preferably those committed to women's issues, or experienced in social work, or possessing legal knowledge;
- (c) One member from a non-governmental organization or association committed to women's causes, or someone familiar with the issues related to sexual harassment.

The POSH Act also specifies that if no senior-level woman employee is available, the Presiding Officer can be appointed from other offices or administrative units of the workplace. If those units also lack a senior-level woman employee, the Presiding Officer may be selected from any other workplace or department or organisation of the same employer.

Both the Presiding Officer and each member of the committee will serve a term of up to three years from the date of their nomination, as determined by the employer.

The POSH Act outlines specific disqualifying criteria for the Presiding Officer and members of the Internal Complaints Committee, including:

- a) Violating Section 16 of the POSH Act by disclosing the details of the complaint and inquiry proceedings;
- b) Being convicted of an offence or undergoing an inquiry into an offence related to any law in force;
- c) Being found guilty in any disciplinary proceedings or currently facing such proceedings;
- d) abusing one's position in a way that could harm the public interest.

The POSH Act specifies that such Presiding Officer or member of the Internal Complaints Committee will be removed from the Committee, and any resulting vacancy, including casual vacancies, will be filled through new nominations in accordance with the Act's provisions. The POSH Act further mentions certain disqualifying criteria for the Presiding Officer/ Members of the Internal Complaints Committee, such as:

- a) Contravening the provisions of Section 16 of the POSH Act by publishing or making known the contents of the complaint and inquiry proceedings; or
- b) Being convicted for an offence or facing an inquiry into an offence under any law for the time being in force; or
- c) Being found guilty in any disciplinary proceedings or facing a disciplinary proceeding; or
- d) Abusing one's position as to render continuance in office prejudicial to the public interest.

The POSH Act further prescribes that at least one-half of the total members so nominated to the Internal Complaints Committee shall be women

The POSH Act states that such Presiding Officer or Member of Internal Complaints Committee, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy, shall be filled by fresh nomination in accordance with the provisions of the Act.

8. WHAT IS A LOCAL COMPLAINTS COMMITTEE?

Section 6 of the POSH Act also provides for the constitution of a Local Complaints Committee in every district by a District Officer.²⁰ Such Local Complaints Committee shall receive complaints of sexual harassment from establishments where the Internal Complaints Committee has not been constituted (as such workplaces maybe having less than ten workers) or if the complaint is against the employer himself.

Section 6 of the POSH Act mandates the formation of a Local Complaints Committee in each district by a District Officer. This committee is responsible for handling complaints of sexual harassment from workplaces that do not have an Internal Complaints Committee, typically due to having fewer than ten employees, or when the complaint is lodged against the employer.

²⁰ POSH Act, Section 6.

The POSH Act provides that every District Officer shall designate one Nodal Officer in every Block, *Taluka* and *Tehsil*, in rural or tribal area and Ward or Municipality in the urban area, to receive complaints and forward the same to the concerned Local Complaints Committee within a period of seven days.

The POSH Act stipulates that each District Officer must appoint one Nodal Officer in every Block, Taluka, and Tehsil in rural or tribal areas, as well as in Wards or Municipalities in urban areas. This Nodal Officer is responsible for receiving complaints and forwarding them to the appropriate Local Complaints Committee within seven days.

The jurisdiction of the Local Committee shall extend to the areas of the district where it is constituted.

The Local Complaints Committee shall consist of the following members to be nominated by the District Officer, namely: —

- (a) A Chairperson to be nominated from amongst the eminent women in the field of social work and committed to the cause of women;
- (b) One Member to be nominated from amongst the women working in block, *Taluka* or *Tehsil* or Ward or Municipality in the district;
- (c) Two Members, of whom at least one shall be a woman, to be nominated from amongst such Non-Governmental Organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment, which may be prescribed.

The POSH Act further stipulates that at least one of the nominees should, preferably, have a background in law or legal knowledge.

The Local Complaints Committee will be comprised of the following members, nominated by the District Officer:

- (a) A Chairperson, chosen from among eminent women in social work who are committed to women's issues;

(b) One member from the women working in the Block, *Taluka*, *Tehsil*, Ward, or Municipality within the district;

(c) Two members, with at least one being a woman, selected from Non-Governmental Organizations or associations focused on women's causes, or individuals familiar with sexual harassment issues, as may be prescribed.

Additionally, the POSH Act specifies that at least one of the nominees should ideally have a legal background or legal knowledge. Furthermore, at least one of the nominees shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government from time to time.

The concerned officer dealing with the social welfare or women and child development in the district, shall be a member *ex officio*.

The POSH Act specifies that a “person familiar with issues relating to sexual harassment” is someone with expertise in this area, which may include:

(a) A social worker with at least five years of experience in promoting conditions that empower women and specifically address workplace sexual harassment;

(b) An individual knowledgeable in labor, service, civil, or criminal law.

Given the complex and often subtle nature of workplace sexual harassment, effectively responding to complaints requires careful consideration. Therefore, the POSH Act stipulates that external members on the Complaints Committees drawn from civil society or legal backgrounds should have:

a) Demonstrated knowledge and skills in addressing workplace sexual harassment issues; and

b) A solid understanding of the legal implications involved.

This expertise will significantly enhance the Committee’s ability to handle complaints fairly and effectively, leading to just outcomes.

The POSH Act also clearly states that a ‘person familiar with the issues relating to sexual harassment’ shall be a person who has expertise on issues relating to sexual harassment and may include any of the following:-

- (a) A social worker with at least five years’ experience in the field of social work which leads to creation of societal conditions favourable towards empowerment of women and in addressing workplace sexual harassment;
- (b) A person who is familiar with labour, service, civil or criminal law.

The POSH Act further provides that at least one of the nominees to the Local Complaints Committee shall be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government, from time to time.

The concerned officer dealing with the social welfare or women and child development in the district, shall be a member *ex officio*.

Given the largely intangible nature of workplace sexual harassment, there are a range of complexities involved in responding effectively to workplace sexual harassment complaints. It is for this reason that the POSH Act provides that external third party/ members on the Complaints Committee/s (from civil society or legal background) should possess the following attributes:

- a. Demonstrated knowledge, skill and capacity in dealing with workplace sexual harassment issues/complaints; and
- b. Sound grasp and practice of the legal aspects/implications.

Such an expertise will greatly benefit the Complaints Committees in terms of fair and informed handling of complaints to lead to sound outcomes.

9. WHAT IS AN APPROPRIATE GOVERNMENT?

As per the Section 2 (b) of the POSH Act, ‘Appropriate Government’ means:²¹

²¹ POSH Act, Section 2 (b).

- i. The Central Government when it is in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the Central Government or the Union Territory administration; or
- ii. The State Government when it is in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the State Government; or
- iii. The State Government when it is in relation to any workplace not covered under the type (b) and falling within its territory.

10. WHAT ARE THE ROLES AND RESPONSIBILITIES OF THE STAKEHOLDERS?

Roles and Responsibilities of the Employers:

The POSH Act outlines certain duties for the employers, which are as under:²²

- i. Duty to constitute an ICC;
- ii. Duty to ensure a safe working environment that includes mechanisms to protect female employees from individuals they may encounter at the workplace.
- iii. Duty to display the consequences of sexual harassment at prominent locations at the workplace.
- iv. Duty to widely display and publicize the names and contact details of ICC members, among employees.
- v. Duty to develop and widely disseminate an internal policy/charter/ resolution/ declaration to prohibit, prevent and address sexual harassment in simple, easy-to-understand language for the employees' benefit.
- vi. Duty to organize regular workshops and awareness programs to educate employees about the provisions of the POSH Act, as well as conducting similar sessions for members of the Internal Complaints Committee;
- vii. Duty to utilize modules developed by the State Governments to conduct training for employees on the Act's provisions;

²² POSH Act, Section 19.

- viii. Duty to provide necessary facilities/logistical support to the Internal Complaints Committee to manage complaints of sexual harassment and conduct inquiries.
- ix. Duty to secure the attendance of the respondent (the individual against whom a complaint has been made) and witnesses before the Internal Complaints Committee;
- x. Duty to offer support to the aggrieved woman, should she decide to file a complaint under the penal laws, and initiating action against the perpetrator as necessary.
- xi. Duty to treat sexual harassment as misconduct under the Service Rules and take disciplinary action for such misconduct;
- xii. Duty to monitor the timely submission of reports from the Internal Complaints Committee, as they must complete the inquiry within 60 days and submit the report to the employer and both parties within 10 days;
- xiii. Duty to ensure that the ICC adheres to the timeline while following the principles of natural justice;
- xiv. Duty to implement the recommendations from the Internal Complaints Committee/Local Complaints Committee;
- xv. Duty to ensure that the details of the complaint made by the aggrieved woman, her identity, address and the identities and addresses of the respondent and witnesses, as well as information about conciliation and inquiry proceedings, remain confidential and are not disclosed to the public, press or media;

Roles and Responsibilities of the District Officers:

Under Section 20 of the POSH Act, the District Officer is assigned specific duties which include:²³

- a) Duty to monitor the timely submission of reports from the Local Committee;

²³ POSH Act, Section 20.

- b) Duty to forward a summary of the annual reports received by it to the State Government; and
- c) Duty to take necessary steps to collaborate with Non-Governmental Organizations to raise awareness about sexual harassment and women's rights.

Roles And Responsibilities of the Internal Complaints Committees:

The POSH Act assigns specific duties to the Internal Complaints Committees, which include:

- i. Duty to inquire into complaints of sexual harassment received at the organization and prepare a detailed report;
- ii. Duty to prepare an Annual Report in the prescribed format and time frame and submit it to the employer and the District Officer;
- iii. Duty to summon and enforce the attendance of individuals and examine them on oath;
- iv. Duty to call for documents; and
- v. Any other matter which may be prescribed.

Further, as per the POSH Act, the Annual Report prepared by the Internal Complaints Committee shall have the following details: -

- a. The number of complaints of sexual harassment received during the year;
- b. The number of complaints disposed off during the year;
- c. The number of cases pending for more than ninety days;
- d. The number of workshops or awareness programs conducted regarding sexual harassment; and
- e. The actions taken by the employer or District Officer.

Roles And Responsibilities Of The Local Complaints Committees:

The POSH Act assigns certain duties to the Local Complaints Committees, which include:

- i. Duty to inquire into complaints of sexual harassment received at an organization and duty to prepare a detailed report;
- ii. Duty to prepare an Annual Report in the prescribed format and timeframe, and submit it to the employer and the District Officer;

- iii. Duty to summon and ensure the attendance of individuals and examine them on oath;
- iv. Duty to call for documents;
- v. Any other matter which may be required.

Further, as per the POSH Act, the Annual Report prepared by the Local Complaints Committee shall have the following details:

- a. The number of complaints of sexual harassment received during in the year;
- b. The number of complaints disposed off during the year;
- c. The number of cases pending for more than ninety days;
- d. The number of workshops or awareness programmes conducted against regarding sexual harassment carried out; and
- e. The actions taken by the employer or District Officer.

Roles And Responsibilities Of The Appropriate Government:

The POSH Act entrusts certain duties on the Appropriate Government, which are as under:

- i. To monitor the implementation of the POSH Act and maintain data on the number of cases filed and disposed off regarding sexual harassment at workplace;
- ii. To develop relevant informational, educational, and training materials, and organize awareness programmes, to enhance public understanding of the provisions of the POSH Act aimed at protecting women from sexual harassment at workplace;
- iii. To call upon any employer or District Officer to furnish in writing such information relating to sexual harassment as it may require;
- iv. To authorize an officer to inspect records and the workplace in relation to sexual harassment, who must submit a report of the inspection within a time frame specified in the order.

11. Who Can Complain and Where?

Section 9 of the POSH Act provides that any aggrieved woman, may submit a written complaint of sexual harassment at the workplace. It further states that if the aggrieved woman is unable to make a complaint, either on account of her physical or mental incapacity or death or otherwise, her legal heir or such other person as may be prescribed may file a complaint on her behalf.

Rule 6 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (POSH Rules) specifies that with the written consent of the aggrieved woman, a relative/ friend/ co-worker; officer of the National Commission for Women or State Women's Commission; or any person with knowledge of the incident, can file a complaint on her behalf.

Rule 6 of the POSH Rules, 2013 also states that if an aggrieved woman is unable to make a complaint due to mental incapacity, a complaint may be filed by a relative/ friend; special educator; qualified psychiatrist or psychologist; guardian or authority responsible for her care and treatment, or by any person with knowledge of the incident, jointly with her relative, friend ,special educator, qualified psychiatrist or psychologist, or guardian.

Rule 6 of the POSH Rules, 2013 also states that if the aggrieved woman is deceased, a complaint may be filed by any person with knowledge of the incident, provided they have the written consent of her legal heir.

The POSH Act and the applicable POSH Rules, empower a wide category of persons to file a complaint of sexual harassment if the aggrieved woman is unable to do so herself. This has been done because the law- makers were cognizant of the social realities prevailing and the impediments women face in filing complaints at workplaces.

12. What Should the Complaint Contain?

When drafting a complaint of sexual harassment, the following points should be considered and incorporated:

- a. The complaint may be submitted in person, in writing (including through electronic communication).
- b. The complaint should be addressed to the members of the Internal Complaints Committee/ Local Complaints Committee rather than to the employer or HR representative.
- c. The complaint must be clear and concise, using simple language that is easily understood.
- d. The complaint should contain specific details about the incident, including the date, time, place and details of witnesses etc.
- e. The complaint should give an account of the circumstances preceding and following the incident.
- f. The complaint should also indicate whether the complainant asked the respondent to desist from the unwelcome act(s)/ behaviour.
- g. The complaint should be accompanied by as many supporting documents as possible, such as relevant emails screenshots of SMS/ WhatsApp messages, call logs, photographs, recordings etc.
- h. The complaint should also include the respondent's details, including their name, designation, and the nature of reporting relationship (e.g. (subordinate, colleague or superior).
- i. The complaint should not state any false or incorrect information. It is essential to provide accurate information and evidence to support the complaint to avoid any adverse impact on the Complainant.
- j. The complaint should specify the relief being sought from the employer – apology, compensation, or termination.
- k. The complaint should specify the impact on the complainant – such as emotional distress or effects on work performance.

When filing the complaint, the complainant is required to submit to the Complaints Committee, six copies of the complaint along with supporting documents and the names and addresses of the witnesses.

13. WHAT IS THE TIME FRAME FOR FILING A COMPLAINT OF SEXUAL HARASSMENT?

Section 9 of the POSH Act provides that a complaint of Sexual harassment at workplace can be filed within three months from the date of the incident. In the case of a series of incidents, the complaint can be filed within three months from the date of the last incident.

It further provides that the Internal Complaints Committee or the Local Complaints Committee, as the case may be, may, extend the time limit by up to three months for reasons to be documented in writing, if it is satisfied that the circumstances prevented the aggrieved woman from filing a complaint within the specified period.

14. WHERE CAN A COMPLAINT OF SEXUAL HARASSMENT AT WORKPLACE BE MADE?

Section 9 of the POSH Act provides that any complaint regarding Sexual harassment is to be made either to the Internal Complaints Committee if so constituted, or to the Local Complaints Committee, if the Internal Complaints Committee is not constituted.

If the Complainant's organization has an Internal Complaints Committee, she should file the complaint with that Internal Complaints Committee. She can also file the complaint with the Respondent's Internal Complaints Committee if the Respondent belongs to a different organization.

Further, a platform developed by the Ministry of Women & Child Development called "Sexual Harassment Electronic Box" (SHe-Box) also allows the Complainant to file a complaint in case there is no Internal Complaints Committee. The Complainant can also check the status of the complaint at any time.

15. WHAT SHOULD THE EMPLOYEE/WORKER EXPECT WHENEVER A COMPLAINT OF SEXUAL HARASSMENT IS MADE?

When it comes to redress for workplace sexual harassment, an aggrieved employee/worker, as a complainant, has the right to expect:

- i. A trained, skilled and competent Complaints Committee, a time bound process, confidentiality of information, assurance of non-retaliation, counselling or other enabling support and assistance if the complainant opts for criminal proceedings.
- ii. An empathetic attitude from the Complaints Committee allowing her to state her grievance in a fear-free environment.
- iii. A copy of the statement along with all the evidence and a list of witnesses submitted by the respondent.
- iv. An assurance that her identity will be kept confidential throughout the process.
- v. Support, in lodging a FIR if she chooses to lodge criminal proceedings.
- vi. If there is a fear of intimidation from the respondent, her statement can be recorded in the absence of the respondent.
- vii. The Right to appeal, if, she is not satisfied with the recommendations/findings of the Internal Complaints Committees/ Local Complaints Committees.

The respondent has the right to expect:

- i. The opportunity to present his case in a non-biased manner.
- ii. A copy of the statement along with all the evidence and a list of witnesses submitted by the complainant.
- iii. An assurance that his identity shall be kept confidential throughout the process.
- iv. The Right to appeal if he is not satisfied with the recommendations/findings of the Internal Complaints Committees/ Local Complaints Committees.

16. WHAT IS THE MANNER IN WHICH THE INTERNAL COMPLAINTS COMMITTEES/ LOCAL COMPLAINTS COMMITTEE DEAL WITH A COMPLAINT OF SEXUAL HARASSMENT AT WORKPLACE?

The Complaints Committee that receives a complaint of sexual harassment at the workplace should proceed as follows:

Step 1 : Receive And Acknowledge Receipt Of The Complaint:

The complaint submitted by an aggrieved woman and received by the Internal Complaints Committee should be promptly acknowledged by the receiving official/entity with an explanation of the next steps in the process. If the complaint is not received by the Internal Complaints Committee, it should be promptly forwarded to them by whoever receives it.

Anonymous complaints shouldn't be entertained as they are frivolous in nature, and may be intended to harass an employee or boss.

Step 2: Review The Complaint:

Formal complaints must be promptly reviewed to determine whether they:

- a. Will be closed, with or without managerial or administrative action; or
- b. Will be investigated/ inquired into.

The threshold for initiating an investigation into a sexual harassment complaint should not be narrowly interpreted. Generally, a sufficiently detailed and verifiable complaint will warrant investigation.

When deciding whether to investigate, the Internal Complaints Committee/ Local Complaints Committee should consider: Whether the complaint fits the definition of sexual harassment, e.g. Does it detail unwelcome conduct of a sexual nature that may cause offense or humiliation?; Did it occur in the workplace or in connection with work?; Did the conduct interfere with work or create an intimidating, hostile, or offensive work environment?; Whether the complaint contains enough verifiable information to commence an investigation?; and Whether there is evidence that the complaint is based on intentionally false or misleading information.

The Internal Complaints Committee/ Local Complaints Committee may need to seek additional information from the complainant, or verify details through other means before making a decision. For instance, if the formal complaint is submitted by a person other than the victim, the views or the situation of the victim should be considered. Ultimately, it is the victim's choice whether to proceed with a formal complaint, unless it conflicts with the entity's duty of care.

Any such inquiry must seek to preserve the integrity of the investigation. Additional information should only be sought when there is insufficient information available to inform a decision. The inquiries should not aim to obtain a fuller account of the sexual harassment or to corroborate it. The preliminary inquiries should focus on gathering important missing details, such as dates and locations, the name of the alleged offender, or any documents referred to but not provided. Typically, the preliminary inquiries should exclude contact with the alleged offender.

After the initial review, the Internal Complaints Committee/ Local Complaints Committee will decide to either:

- i. Close the formal complaint with or without managerial or administrative action; or
- ii. Investigate the formal complaint.

Decision To Close the Formal Complaint:

If there is a decision to close the formal complaint, the victim should be informed of the decision, and the reasons behind it. This is an important communication which may form the basis for an appeal by the victim.

The Internal Complaints Committee/ Local Complaints Committee may also inform management of the decision for appropriate administrative or managerial action, which may include: training on sexual harassment behaviour and gender relations/power dynamics; oral or written caution/reprimands; referral to a Staff Counsellor; reassignment and/or change in duties, or exploring informal resolution.

Decision To Investigate the Formal Complaint:

If the Complaints Committee decides to investigate, it should adopt the following course.

Step 3: Meet and Talk to the Complainant to Explore Options for Formal and Informal Resolution:

The Internal Complaints Committee/ Local Complaints Committee shall inform the complainant about the ensuing process and the informal or formal

options available for the redress. The choice of a formal process rests with the complainant even if the person responsible for managing the complaint believes an informal resolution is possible.

Informal Mechanism of Conciliation:

If the complainant requests conciliation in writing, the Internal Complaints Committee/ Local Complaints Committee, will appoint a neutral person to act as a conciliator. However, before recommending conciliation, the Committee must assess the severity of the situation and if necessary, advise and enable the complainant to opt for the formal route. Conciliation should only be considered for complaints of lesser severity, where the behavior was unwelcome but isolated and did not upset her. Conciliation should not be based on monetary settlements. At no point, the Complaints Committee will advise the complainant to resolve the matter directly with the respondent.

Where the conciliation proceedings are successful and the settlement has been arrived at, the resolution is to be recorded by the conciliator and forwarded to the Complaints Committee, which in turn will forward the same to the Employer/District Officer for further action based on the resolution.

It is also a duty of the Internal Complaints Committee/Local Complaints Committee to provide the copies of the settlement arrived at, to the aggrieved woman as well as the respondent/alleged harasser.

Where a settlement has been amicably arrived at, no further enquiry shall be conducted by the Internal Complaints Committee/Local Complaints Committee. Employers/District Officers shall however, be responsible for taking steps to ensure that the complainant is not subject to any backlash.

Formal Mechanism of Inquiry:

If the complainant doesn't opt for conciliation, if no amicable settlement is reached, or if the nature of the complaint is serious the Internal Complaints Committee will inquire into the complaint (if the respondent is an employee). within seven days of receiving the complaint, the respondent will be informed in writing. The respondent shall file his response along with a list of

documents, names and addresses of witnesses. For cases involving domestic help or workers in the unorganized sector, if a prima facie case exists, the Local Complaints Committee will forward the complaint to the police within seven days for registration under Section 509 of the Indian Penal Code and other relevant provisions of the Code.

In cases where a settlement was initially been arrived at between the aggrieved woman and the respondent, and the latter has resiled from it, the Internal Complaints Committee/the Local Complaints Committee can proceed to inquire into the complaint or forward it to the police.

Inquiry Proceedings:

Initial Preparations:

If the Complaints Committee decides to inquire into the complaint of sexual harassment, this decision entails meticulous and careful planning, which includes the following:

- 1. Preparation of the File by compiling all relevant documents;**
- 2. Review of the prevailing Laws and Policies;**
- 3. Preparation of a List of dates and events related to the written complaint as well as the names of witnesses;**
- 4. Compilation of the respondent's reply and any documents relevant to the complaint filed by the respondent.**

After this initial preparation, the Complaints Committee has to act quickly by creating an initial checklist to ensure that all critical elements are covered (including the names of the parties and witnesses to be interviewed; any documentary support that needs to be examined; and the timeline for inquiry etc.).

The Complaints Committee should conduct the Inquiry in conformity with the principles of natural justice. a minimum of three Members of the Complaints Committee including the Presiding Officer or the Chairperson, e, should be present.

The Complaints Committee has the right to terminate the inquiry proceedings or issue an *ex-parte* decision on the complaint, if the complainant or respondent fails, without sufficient cause, to appear for three consecutive hearings convened by the Chairperson or Presiding Officer,. However, such a termination order

or *ex-parte order* may not be passed without giving a written notice at least fifteen days in advance, to the concerned party.

The parties shall not be allowed to bring in any legal practitioner to represent them in their case at any stage of the proceedings before the Complaints Committee.

Interim Measures: - section 12

While a complaint is pending inquiry, a complainant can make a written request for her transfer, the transfer of the respondent, or for leave upto 3 months. She can also request that the Complaints Committee restrain the respondent from reporting on her work performance, writing her confidential report or supervising her academic activities (in case that she is in an educational institution). Even in the absence of such a request, the Complaints Committee may take action to prevent potential ongoing sexual harassment. It may also provide the complainant with any specific assistance she may require, (such as counselling, addressing health related concerns etc.).

Interviews:

The Complaints Committee must then prepare an Interview Plan for the hearing. Based on the results of the previous steps and before conducting interviews, the Complaints Committee should determine which issues need to be pursued for questioning. Interviews are intended to gather information relevant to the complaint from individuals. Each interview should be conducted separately and in confidence, ensuring that the complainant and the respondent are not brought face to face.

After interviewing the complainant, respondent and witnesses, the Complaints Committee should review the gathered information and assess its factual relevance to each aspect of the complaint. This process will help determine whether there is sufficient information to make a finding on the complaint.

Draft Inquiry Report:

Once the information and review are complete, the Complaints Committee will make its reasoned finding(s), which involves identifying the substance of each aspect of the complaint; determining, whether, on a balance of probabilities, the unwelcome sexual harassment occurred; checking whether such a behaviour/conduct falls within the definition of sexual harassment set out in the relevant Act/Rules, Policy, Service Rules or laws; commenting on any underlying factor(s) that may have contributed to the incident. The Complaints Committee shall compare similarities and differences among the statements made by the interviewees. Based on the above, the Complaints Committee must arrive at a finding of whether the allegations in the complaint are substantiated. If both parties are employees, before finalizing the findings, the Complaints Committee shall share its finding with both parties and provide them with an opportunity to make representations against it before the Complaints Committee.

Based on its findings, the Complaints Committee shall then make appropriate recommendations which may include:

- i. Where the Complaints Committee is unable to uphold the complaint, it shall recommend no action.
- ii. Where the Complaints Committee upholds the Complaint, it may recommend such action as stated within the relevant Policy or Service Rules, which may include a warning to terminate.
- iii. In the absence of Service Rules, if the Complaints Committee upholds the complaint, it may recommend actions such as:
 - a) Disciplinary action, including a written apology, reprimand, warning, censure;
 - b) Withholding promotion/ pay raise/ increment;
 - c) Termination;
 - d) Counselling;
 - e) Community service.
- iv. Section 13(3)(ii)– include properly The Complaints Committee may also recommend granting compensation/ financial damages to the complainant.

While deciding on the quantum of the compensation to be paid to the complainant, the Complaints Committee shall consider the following factors :

- a) Mental trauma, pain, suffering and emotional distress caused;
- b) Medical expenses incurred for physical or psychiatric treatment ;
- c) Loss of career opportunity;
- d) Income and financial status of the respondent;
- e) Feasibility of such payment in lump sum or in instalments.

The Complaints Committee may also provide additional recommendations to address the underlying factors contributing to sexual harassment at the workplace.

Final Inquiry Report:

After considering any representation from the complainant or respondent regarding the draft inquiry report shared with them, the Complaints Committee will prepare a final report containing the following elements:

- a. A description of the different aspects of the complaint;
- b. A description of the process followed;
- c. A description of the background information and documents that support or refute each aspect of the complaint;
- d. An analysis of the information obtained;
- e. Findings as stated above;
- f. Recommendations.

An inquiry must be completed within 90 days and a final report submitted to the Employer or District Officer (as the case may be) within ten days thereafter. This report will also be made available to the concerned parties. The Employer or District Officer is obliged to act on the recommendations within 60 days.

Any person not satisfied with the findings or recommendations of the Complaints Committee or with the non-implementation of the recommendations, may appeal in an appropriate court or tribunal, as prescribed under the Service Rules or where no such Service Rules exist, in such manner as may be prescribed.

17. WHAT ARE THE GOOD PRACTICES THAT THE INTERNAL COMPLAINTS COMMITTEES/ LOCAL COMPLAINTS COMMITTEES SHOULD FOLLOW?

Respect For Privacy/ Ensuring Confidentiality:

Inquiries into sexual harassment must respect the rights of both victims and alleged offenders. Understanding confidentiality is central to the inquiry into the sexual harassment complaints. It is critical that this concept be uniformly understood and clearly explained to all witnesses, including both victims and alleged offenders. In the context of an inquiry, confidentiality means that information should be shared on a “need to know” basis including with other witnesses, the alleged offender, and those responsible for acting on the outcome of the investigation. Witnesses must also be asked to maintain the confidentiality of the process by refraining from discussing their knowledge of the alleged sexual harassment or the content of their interview with the Internal Complaints Committee.

Preservation Of Important Evidence:

The victim should be encouraged to preserve and submit all information deemed relevant to the Complaints Committee (for example, text messages or e-mails), and to provide a list of persons the victim considers relevant to the complaint, such as witnesses to the alleged sexual harassment and outcry witnesses.

Complaints Committee Should Be Easily Accessible:

The members of the Complaints Committee should make themselves available to the victim to outline the process and to discuss any concerns the victims may have. They must keep the victim informed about the status of the inquiry. They may consider providing victims with a document that explains the inquiry process, ensuring that the victim knows what to expect during the inquiry.

Complaints Committee Should Tell The Respondent About The Need Of Confidentiality And Standard Of Conduct To Be Observed:

The Complaints Committee should notify the alleged offender at an early stage that he is the subject of a sexual harassment inquiry and that he will be contacted for an interview. During this notification, , the Complaints Committee must explain that the process is confidential and remind the alleged offender not to discuss

the matter with anyone who may be a witness in the investigation, including the victim(s). The committee should also emphasize that engaging in behaviour designed to undermine the investigation, such as destruction of evidence is not permissible. It should be clarified that any such actions could constitute separate grounds for disciplinary action. The alleged offender should also be reminded of the obligation to preserve and maintain a harmonious work environment.

Complaints Committee Should Consider Taking Interim Measures To Protect The Rights Of The Victim And Ensure Fair Inquiry:

The Complaints Committee should consider whether any interim measures are appropriate during the pendency of the inquiry (for e.g. measures such as physically separating the alleged offender and victim, reassignment, changing reporting lines or placing the alleged offender or victim on administrative leave). Due regard to confidentiality must be given when communicating accommodations to supervisors or colleagues, as appropriate.

During the pendency of the inquiry and on the written request of the aggrieved woman, the Complaints Committee may recommend to the employer the following:

- a. Transfer of the aggrieved woman or the respondent to any other workplace; or
- b. Grant leave to the aggrieved woman, for upto a period of 3 months (the leave granted shall be in addition to the leave to which the aggrieved woman may in normal course be entitled); or
- c. Restrain the respondent from reporting on the work performance of the aggrieved woman or writing her confidential report, and assign this responsibility to another Officer;
- d. Restrain the respondent in case of an educational institution from supervising any academic activity of the aggrieved woman;
- e. Grant such other relief to the aggrieved woman as may be prescribed.

Complaints Committee Should Interview A Wide Range Of Persons During The Inquiry And It Should Have A Sensitive Approach While Conducting These Interviews:

The Complaints Committee should speak with all relevant persons who have knowledge of the alleged sexual harassment and its impact on the victim. While the order of the interviews is best left to the Complaints Committee to decide, it often makes sense to start with the complainant, (if not the victim), followed by the victim, as these accounts normally serve as the basis for the inquiry.

The Complaints Committee may seek to interview persons outside the organization, such as the victim's family or former staff members. Every effort should be made to speak with these witnesses, bearing in mind that they are under no obligation to agree to the interview.

Since, testimony is at the heart of a sexual harassment inquiry, all interviews must be conducted sensitively, thoroughly, objectively and without bias. They should be held in confidential settings, preferably away from the witnesses' immediate workplace.

When interviewing a victim, the Complaints Committee, should be particularly sensitive, careful and transparent. The purpose of interviewing the victim is to obtain and explore a full account of the alleged sexual harassment, including probing for potential corroborative evidence, such as emails, text/instant messages, notes of meetings, conversations with others about the sexual harassment, personal diaries, counselling records and medical records.

Victims should generally be interviewed in person. However, if an in-person interview is not possible, consideration should be given to conducting the interview remotely using audio/ visual communications.

Enough advance notice of the interview should be provided to allow the victim to prepare for the interview and secure the presence of any support person.

Given that victims may experience heightened anxiety and mistrust of the inquiry process, the Complaints Committee should take extra care to explain the process and their role in it.

The Complaints Committee must be mindful of gender and other biases that could undermine the integrity of the inquiry. Inappropriate interviewing techniques may also expose a victim to secondary trauma. To minimize the risk, the Complaints Committee must avoid presenting the victim with evidence that contradicts their account. It is more important that the victim's account be thoroughly explored during the interview, using appropriate victim- sensitive interviewing techniques. However, the victim may, exceptionally need to be re-interviewed if the Complaints Committee believes that parts of the victim's testimony requires clarification, or if they become aware of a material gap not covered in the initial account. Any inconsistencies in the account, or with other evidence, can be considered by the Internal Complaints Committee as part of their evidence analysis and credibility assessment.

The Complaints Committee should carefully explore and record the impact of the alleged sexual harassment on the victim. They should be aware that victims may display a range of emotions during the interview, including fear, embarrassment, distress, shame and mistrust of the process. Therefore, the Complaints Committee should anticipate these emotions and adjust their approach accordingly. They must also recognize that there will be individual differences between in how victims present. Extra efforts must be made by the Complaints Committee to surmount these challenges.

Witnesses should be reminded, where applicable, of the duty to cooperate with the inquiry proceedings and of the entity's protection against retaliation framework. Complaints Committee should explain the inquiry process and its purpose (including possible outcomes).

Witnesses in an inquiry should be treated with respect for their dignity, safety and well-being. Factors such as Age, sex, sexual orientation, gender identity,

race, religion and other individual factors that may lead to increased vulnerability (including disability, socio-economic circumstances, legal status, health status) should always be taken into consideration

The interview of an alleged offender is a critical due process right and full regard must be paid to the due process obligations embedded within the entities' legal framework. The purpose of the interview with the alleged offender is to obtain his account of the incidents under inquiry and their response to the evidence collected during the fact-finding process. This means that relevant evidence, such as victim and witness testimony, emails, and text/instant messages, must be put to the alleged offender for comment.

Where possible, interviews with alleged offenders should normally be conducted in-person by the Complaints Committee. If an in-person interview is not possible, consideration should be given to conducting the interview remotely using audio/ visual communications.

Alleged offender should be given an opportunity to contextualize the complaint, where appropriate, for instance by providing information about any pre-existing relationship with the victim, negative performance appraisals or relevant employment contract insecurities.

The alleged offender should also be given an opportunity to nominate witnesses in support of his account.

The Complaints Committee should be conscious that the alleged offenders may also demonstrate a range of emotions during the interview, including anger, embarrassment, shame and mistrust of the process. The Complaints Committee should anticipate these emotions and adjust their approach accordingly.

Complaints Committee Should Endeavour To Gather A Wide Range Of Evidence Related To The Case:

The Complaints Committee must scrutinize all kinds of evidence that may be furnished by both the victim and the alleged offender. This may include Digital Evidence (includes emails, text/instant messages, records of telephone calls,

internet access, CCTV footage, social media entries, premises access logs, car logs, and photos). Such evidence and others which are often central to inquiries of sexual harassment, serving to corroborate the accounts of either the victim or the alleged offender. Particular attention must be paid to the availability and handling of this evidence.

Witnesses should also be asked to provide any relevant digital evidence. The Complaints Committee should have unrestricted access to all Organizational Information and Communication Technology (ICT) resources and data. The Complaints Committee's access to ICT resources must be based on a legitimate, documented need to retrieve them. At times, communications between witnesses may have occurred using privately owned devices. In such cases, an institutional call may have to be taken whether the Complaints Committee should be permitted access to any information or device within a witnesses' control or used by them for official business. If the witnesses refuse to share the relevant digital evidence, such refusal may lead to an adverse inference against them.

The Complaints Committee may also rely on medical and counselling records to ascertain the veracity of a victim's account of assault and/or distress. They can also be read as a corroborative piece of evidence.

Complaints Committee may also rely on other forms of documentary evidence including correspondence, forms and all information that may be maintained on paper in official archives, as well as external material such as personal letters, business records, etc. It may also rely on records of a site inspection.

When inquiring into sexual harassment complaints, the Complaints Committee should consider the relevance of personnel records, leave and attendance records and work performance evaluations. These records may corroborate a victim's account of the impact of the sexual harassment or serve to demonstrate an additional context to the complaint, such as the allegations arising alongside negative performance appraisals or an impending end of contract.

Complaints Committee Should Complete Inquiry Within 90 Days Of Receipt Of The Complaint:

The Complaints Committee should therefore endeavour to complete the inquiry into sexual harassment complaints within 90 days. However, this does not mean that sexual harassment investigations are always capable of swift resolution. Completion can be frustrated by the need to obtain and analyse digital evidence, the addition of new allegations as the investigation proceeds, the reluctance of witnesses to be interviewed, the volume of relevant witness testimony, and difficulties in interviewing parties, for example on account of sick leave. Accordingly, sexual harassment investigations cannot operate within a strict time frame.

Things That A Complaints Committee's Report Should Ideally Incorporate And What Considerations Should The Complaints Committee Keep In Mind While Writing A Report:

While the structure of an Inquiry Report may vary between entities, it should invariably:

- i. Contain a complete and factually accurate summary of the evidence including both inculpatory and exculpatory evidence;
- ii. Be impartial and objective;
- iii. Be concise and clear;
- iv. Be logically organized;
- v. Contain a credibility assessment;
- vi. Anonymise the name of the victim using an appropriate descriptor;
- vii. Anonymise the names of any witnesses whose disclosure would necessarily lead to an identification of the victim; and
- viii. Set out the factual findings resulting from the inquiry, based on an analysis of the evidence obtained during the investigation (it should include a finding as to whether sexual harassment has been established or not).

If the Complaints Committee arrives at a finding that the allegations of sexual harassment haven't been duly substantiated, it shall inform both the victim and the alleged offender. The victim should be provided with a summary of the reasons why the complaint was found to be unsubstantiated. This is a sensitive communication that requires careful consideration. The communication should acknowledge that an unsubstantiated allegation does not necessarily mean that the incident/s did not occur rather it means that there was insufficient evidence to establish the incidents(s).

If the Complaints Committee arrives at a finding that the allegations of sexual harassment have been duly substantiated, it shall forward its Inquiry Report (incorporating its recommended action) to the Employer.

The Employer shall then act on the recommendations of the Complaints Committee within 60 days of receiving the report.

17. WHAT SHOULD THE INTERNAL COMPLAINTS COMMITTEES/ LOCAL COMPLAINTS COMMITTEES REFRAIN FROM DOING?

The members of the Complaints' Committee, while interacting with victims, witnesses or the respondent in a sexual harassment complaint, must never become aggressive. They should eschew from insisting on graphic description of the incident of sexual harassment, to prevent any secondary victimization of the victim. They shouldn't frequently interrupt the victim, witnesses or respondents, while they narrate their version as this may break their flow of thought, and impede the process of eliciting material facts related to the incident of sexual harassment. The Complaints Committee must at all times ensure that the complainant and the respondent don't come face to face during the enquiry proceedings.

18. WHAT IS THE PENALTY FOR PUBLICATION OR MAKING KNOWN THE CONTENTS OF COMPLAINT/INQUIRY PROCEEDINGS?

Section 17 of the POSH Act stipulates that if any person who is entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the POSH Act, contravenes the duty to maintain confidentiality, then such a person shall be liable for penalty in accordance

with the provisions of the Service Rules applicable to such a person or where no such Service Rule exists, in the manner as may be prescribed.

Rule 12 of the POSH Rules provides that subject to the provisions of Section 17 of the POSH Act, if any person contravenes the provisions of Section 16, the employer shall also recover a sum of five thousand rupees as penalty from such person.

20. WHAT IS THE PENALTY FOR FALSE OR MALICIOUS COMPLAINT OR FALSE EVIDENCE?

Rule 10 of the POSH Act provides that except in cases where Service Rules exist, where the Complaints Committee arrives at the conclusion that the allegation against the respondent is malicious or the aggrieved woman or any other person making the complaint has made the complaint knowing it to be false or the aggrieved woman or any other person making the complaint has produced any forged or misleading document, it may recommend to the employer or District Officer, as the case may be, to take action in accordance with the provisions of Rule 9 of the POSH Rules.

20. WHAT IS THE PROCESS OF FILING APPEAL?

Rule 11 of the POSH Rule provides that subject to the provisions of Section 18, any person aggrieved from the recommendations made under sub-section (2) of Section 13 or under clauses (i) or clause (ii) of sub-section (3) of Section 13 or sub-section (1) or sub-section (2) of Section 14 or Section 17 or non-implementation of such recommendations, may prefer an appeal to the Appellate Authority notified under clause (a) of Section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946).

READING MATERIAL 07

CASE STUDIES/ SELF TEST QUESTIONS FOR IDENTIFYING AND RESPONDING TO SEXUAL HARASSMENT AT WORKPLACE

SCENARIO 1: You, a female worker approach your male supervisor for guidance on the project that you are working on. He tells you that if you stay late and put in a little effort of your own, he will give you the guidance you are looking for. He says this without making eye contact, instead looking all over your body.

Question No.1: How should you feel and react in this circumstance?

Question No.2: Would you submit a complaint regarding this? If yes, where?

Answer No. 1: People respond to sexual harassment in different ways. The responses can range from shame to confusion to anger. What's important is to speak out instead of hiding or suppressing your true feelings.

Answer No. 2: Sexual harassment is against the law and you do not have to endure it. The best way to stop such conduct is to be direct. You should have a conversation with your supervisor or send him a brief and clear letter. Your supervisor should be made aware that his actions are making you feel uncomfortable and you would appreciate it if he stops immediately. If he continues to behave inappropriately, you can file a complaint with the Internal Complaints Committee of your organization. If these steps prove ineffective, you may consider filing a case in court.

SCENARIO 2: A new female employee has just been hired at a firm and is doing her best to make a good impression. Her male boss has been complimenting her on her work and style. One day when she is working later than the other employees, he approaches her, rubs her shoulders and reiterates how much he appreciates her efforts., However, he also suggests that she could be doing more, after which he gestures for her to follow him into his office.

Question No. 1: Should she follow her boss into his office?

Question No. 2: Should she tell her boss not to touch her in such a manner?

Question No. 3: Should she not stay late hours anymore?

Answer 1: No, she shouldn't, as it may give a wrong impression that she is acquiescing to her boss's or is receptive to his flirtatious designs.

Answer No. 2: Yes, she should clearly tell her boss not to touch her in that manner. Addressing this in public may convey her disinterest clearly to him. Failure to object to the behaviour may send the wrong signal, leading him to feel justified and even encouraged by her silence. Clearly objecting to his behaviour in the presence of other employees, may deter him from behaving similarly in the future.

Answer No. 3: No, she shouldn't stop staying late in the office for work. Employees should not allow harassers' actions to limit their freedom. Doing so gives the harasser more power than he deserves. If she feels the need to put in late hours and has done so before, she should continue to do so. The goal of actions against sexual harassment is to change the harasser's actions, not her own.

SCENARIO 3: A Secretary at a firm feels that her job expectations may be exceeding her job requirements. Her male boss asks her to pick up his laundry, bring his lunch from home, for which he has given her a key, claiming it out of trust. He has also recently asked her to accompany him to a networking event with other companies. When she expresses resistance, he insists that she has to do so for the company. He tells her that since his wife left, he's been very lonely, and she should consider anything she can do to help him be a happier boss as part of her job, assuring her that she will be rewarded accordingly.

Question No. 1: Should the lady refuse to do any of these tasks? If so, which ones and how?

Question No. 2: Should she have accepted the key to his house?

Question No. 3: Is it her job to make her boss happy? How should she respond to his request?

Question No. 4: What kind of rewards do you think the boss is referring to? Is he at liberty to do so?

Answer No. 1: Some tasks may fall within the normal scope of a secretary's duties, such as getting coffee or ordering lunch or making personal phone calls to friends, family, and business acquaintances. However, there are clear boundaries that should not be crossed. For instance, accompanying the boss to a personal networking event should be declined, as it does not align with her professional responsibilities. She can express her refusal respectfully, stating that such requests are outside her job description.

Answer No. 2: Accepting the key to the boss' house oversteps the employer-employee boundaries. While it can be challenging to refuse such a request, doing so early on is crucial to maintain a healthy employer – employee relationship. Accepting the key may lead to uncomfortable situations and increase the risk of inappropriate behavior. Refusing them immediately will make them harder and harder to refuse as time goes on. This will only create a more difficult work environment and increase the risk of sexual harassment.

Answer No. 3: It is not the secretary's responsibility to ensure her boss's happiness. Her primary role is to contribute to the company's success, independent of her boss's emotional state. If she feels uncomfortable with his requests, she should communicate her boundaries clearly and assertively, explaining why certain tasks are inappropriate. All employees work for the success of the company. That can happen whether or not the boss is happy. Therefore, the Secretary is not responsible for keeping her boss happy. The Secretary has the right to turn down the boss' requests that make her feel uncomfortable and let the boss know why. Communication is the key, lack of which only causes more problems.

Answer No. 4: The nature of the rewards is not as important as the implication behind them. If the boss suggests that her willingness to make him happy will lead to personal benefits or recognition, that is inappropriate. A boss should not tie employment benefits to personal favors, as it can lead to ethical violations and a toxic work environment. It does not matter what exactly the rewards are. But the implication is important. If the boss is implying that if the Secretary takes up the responsibility of making him happy, she will receive employment benefits- no matter what that may be, otherwise, he will not give her the recognition of her work, it is wrong. A boss is not at liberty to assign employment benefits to any employee for his personal benefit.

SCENARIO 4: A woman has expressed her need for a promotion. She tells her boss that she is willing to put in extra hours if necessary. She is informed told that her request will be reviewed and taken into consideration. However, , her boss then begins to criticize her work and suggests that she can put in more efforts overall. He calls her into his office and informs her that after reviewing her contributions to the company, he cannot grant her request. He concludes by saying that, if she would like to discuss the matter further, he would be willing to take her to dinner, and afterward to see a performance.

Question No. 1: How could the female employee have immediately responded to his criticism?

Question No.2: Do you think the lady should refuse to have dinner with her boss when she suspects it is due to her request for a promotion?

Answer No. 1: The lady could have asked her boss specifically what problems he had with her work to ensure she wouldn't repeat the same mistakes. If the criticism continues afterwards, she can inquire whether this newfound criticism is related to her promotion request, prompting her boss to address the topic directly.

Answer No. 2: The woman can suggest discussing the matter during work hours to maintain a professional environment. If her boss refuses to discuss it

during office hours and insists on discussing it at a distant resort over the weekend, she can decline. The boss' insistence on discussing a work-related issue in a faraway resort may be perceived as an attempt to seek favours unrelated to work.

SCENARIO 5: Miss Rashmi is a high-ranking female in a company. She has been feeling ostracized/isolated from her male counterparts. and expresses these concerns to her boss, requesting to be invited to the same events as her male co-workers. Her boss informs her that these are not company events, but rather male-bonding activities that she doesn't need to concern herself with. However, at her insistence, he invites her and other staff members, including some women, to a company dinner. At the dinner, lewd jokes about men are made and while the other women seem to find them amusing, Miss Rashmi expresses her distaste. As a result, she feels ridiculed by the men at the table for overreacting. . The boss then takes her aside and tells her that this is what he thought she wanted, but if she feels uncomfortable, she is free to leave.

Question No. 1: Does the boss have a legitimate reason to ask her to leave?

Question No.2: Does Miss Rashmi have a legitimate reason to feel offended?

Question No.3: Is it appropriate to have activities that exclude any gender group from participating?

Answer No. 1: The boss' request for an employee to leave an employee dinner is rude and has no legitimate reason, especially after she expressed her concerns about isolation in the work setting.

Answer No. 2: A reasonable person would feel offended in such circumstances. Therefore, Miss Rashmi's feelings are entirely valid. . She should continue to communicate her concerns with her boss and not be intimidated by his position.

Answer No.3: Excluding any gender group from company activities is inappropriate, and constitutes gender discrimination in the workplace.

SCENARIO 6: Ms. Sushila is a domestic help, working in the flat of Mr. Avinash and she is expected to take care of all domestic chores. The wife of Mr. Avinash is a school teacher and she leaves for school early in the morning therefore, Ms. Sushila is left alone in the house with Mr. Avinash. She sees Mr. Avinash constantly leering and staring at her when she is alone and he is very often scantily dressed, thereby making Ms. Sushila very uncomfortable. On one occasion, Mr. Avinash touched her inappropriately by groping her buttocks. When Ms. Sushila retaliated and asked him not to do so, Mr. Avinash threatened to falsely implicate her in a case of theft and fire her. He also told her that if he let her touch her and fondle her, he would give her a pay hike.s

Question No.1: Does the conduct of Mr. Avinash fall within the ambit of Sexual Harassment?

Question No.2: Does the POSH Act protect Ms. Sushila from such conduct of Mr. Avinash?

Question No. 3: Where can Ms. Sushila approach to get her grievances redressed?

Answer No. 1: Mr. Avinash by threatening to falsely implicate Ms. Sushila and asking her to remain quiet about unwelcome physical contact if she wants to continue with her employment, commits a composite form of sexual harassment (quid pro quo as well as hostile work environment). His behaviour occurring in the matrix of power is unwelcome, sexual and has a negative impact on Sushila.

Answer No. 2: Yes. POSH Act protects domestic workers also.

Answer No. 3: Ms. Sushila can approach the Local Complaints Committee of her area to register a complaint. If her concerns are not addressed, she may also file a complaint with the police.

SCENARIO 7: Ms. Vindhya is a para-legal at a large law firm that has adopted remote work as the primary way most employees work. As the firm transitioned to remote

work, there were some teething troubles and for a period of time, employees relied on their personal phones and e-mail accounts to stay in touch while working from home. Although, employees now have access to their work e-mails and phone numbers, on occasion, a lawyer with whom Vindhya works closely, will text her questions on her personal cell-phone. One night the lawyer texts Ms. Vindhya a sexually explicit image.

Question No.1: Since, the lawyer sent the image from his personal phone to Vindhya's personal phone, does it fall within the ambit of a workplace issue?

Question No. 2: Since the sexually explicit image was sent after office hours, does it fall within the purview of sexual harassment?

Answer No. 1: Yes. Though the incident did not happen in the workplace, harassment can occur wherever and whenever work takes place. The POSH Act provides an extended definition of workplace.

Answer No.2: Yes. Behaviour of employees outside of work hours that might impact the workplace is also covered under the POSH Act. In this case, though the photo was sent outside of working hours, it might impact Vindhya's relationship with the lawyer at work. The lawyer's behaviour would be covered by the sexual harassment prevention policy.

SCENARIO 8: After Ms. Vindhya (referred to in Scenario 7) did not respond to the lawyer, he sent her a text apologizing for the night before, stating that the image was meant for someone else. However, a few weeks later, during a one-on-one meeting to discuss a case over Zoom call, the lawyer comments on the fact that Ms. Vindhya's home work-station is set up in her bedroom, and jokes that he would love a virtual tour of "where the magic happens". Ms. Vindhya feels uncomfortable hearing this and finds an excuse to end the meeting quickly. Later that same week, during an – firm Zoom meeting, the lawyer sends Ms. Vindhya a direct message telling her that he can't stop thinking about her in her bedroom during the weekday.

Question No.1: Will the conduct of the lawyer constitute sexual harassment, even though it is done via SMS/ emails/ Zoom Calls?

Question No. 2: What should Ms. Vindhya do? Should she file a complaint?

Question No. 3: What pieces of evidence should Ms. Vindhya rely on/ preserve?

Answer No.1: Yes. The conduct of the lawyer falls within the purview of sexual harassment, which is not limited to acts within the physical confines of the office and can extend to the homes of employees working remotely. The remote workplace is an extension of the office. Regardless of where the employee is logging in from, any virtual video or text-based platform constitutes a work environment and harassment and discrimination that takes place over these platforms also contributes to a hostile work environment.

Answer No.2: Ms. Vindhya should send a strongly worded message to the lawyer, clearly expressing her disapproval his behaviour. If it persists, she can file written complaint to the Internal Complaints Committee, specifically citing the incidents/ dates when the lawyer sent her such sexually / explicit messages.

Answer No. 3: Ms. Vindhya should preserve the messages sent by the lawyer/ including screenshots She should also keep a record of her message to the lawyer objecting to his behaviour and any replies she may have received. Additionally, she may rely on any other documentary evidence related to the incidents.

SCENARIO 9: Ms. Kanupriya is a first-year resident intern at a hospital in Delhi. She is the only person from North-East India in her department. Apart from her Mongoloid features, she also has golden hair. She and her fellow interns attend rounds everyday with Dr. Vishwakarma. Ms. Kanupriya feels as though Dr. Vishwakarma, when asking interns questions, holds her to a higher standard than the other interns. He frequently makes comments about her ignorance and belittles her answers to his questions, even

though her, responses align with those of her fellow residents/interns. One day, as they are walking down the gallery near the General Ward, Ms. Kanupriya overhears Dr. Vishwakarma telling a fellow intern that Kanupriya must be from the “reserved quota”. Upset, she confides in her fellow intern about what she overheard. Her colleague understands that she is upset, but advises her not read too much into it, saying that he is also from North – East India and has never felt that Dr. Vishwakarma treated him differently from his other peers who were not from the region. He consoles her by saying that Dr. Vishwakarma is hard on them because he wants to all to be great doctors. Following her co-intern’s advice, Ms. Kanupriya does not make a formal complaint and continues working with Dr. Vishwakarma, who persists in bullying her during the rounds. He rolls his eyes when she speaks and reacts dramatically, when she gives incorrect answers, a behaviour he does not exhibit toward her fellow residents. Of late, Dr. Vishwakarma’s comments have shifted from assessment of Ms. Kanupriya’s medical knowledge to being directed towards her appearance, sartorial choices and hairstyle.. On one occasion, he calls her a “blonde bimbo” When Ms. Kanupriya expresses her concern to her fellow intern, who is also a woman, the latter shrugs off Ms. Kanupriya’s concerns because Dr. Vishwakarma has never made her feel uncomfortable with personal remarks.

Question No. 1: Is Dr. Vishwakarma’s conduct gender-discriminatory and does it fall within the ambit of sexual harassment?

Question No. 2: Is Ms. Kanupriya justified in feeling that she is being harassed when her co-intern doesn’t feel the same?

Answer No.1: Yes. The conduct of Dr. Vishwakarma is gender discriminatory and creates a hostile work environment for Ms. Kanupriya.

Answer No. 2: Yes. Ms. Kanupriya is justified in feeling that she is being targeted and sexually harassed. There was no justification for Dr. Vishwakarma to label Ms. Kanupriya as a “blonde bimbo”. The fact that other interns have not felt mistreated does not invalidate Ms. Kanupriya’s experience. Even if other women interns feel respected, Ms. Kanupriya has experienced belittling

behaviour and remarks regarding her appearance that seem discriminatory based on her gender. This behaviour falls within the ambit of the POSH Act, as it rises above a petty slight or trivial inconvenience. The conduct of Dr. Vishwakarma amounts to sexual harassment, particularly when viewed as part of a pattern of sexually colored remarks.

SCENARIO 10: Ms. Preeti is a bartender at a popular restaurant in Gurugram. She has been with the restaurant for a month and is hoping to be scheduled during the popular Friday and Saturday evening shifts. However, her manager Jameel creates the shift schedule. Ms. Preeti tells him that she will be given a position in the Friday-Saturday evening shifts as she knows the restaurant patrons well enough to be scheduled for the high tipping weekend shifts. Jameel tells her “We will see. We have lots of qualified bar tenders”. A week later, Ms. Preeti and Jameel are closing after a Wednesday- night shift. Jameel pours them both a glass of whiskey and asks Ms. Preeti to join him at the bar and tells her that he hopes that he will be able to give her some weekend shifts. He tells her that some other bar-tenders have been with the restaurant longer but that she is the one he wants. Jameel then places his hand on Ms. Preeti’s thighs and encourages her to drink whiskey. Ms. Preeti quickly takes the drink before jumping off the bar stool and finishing her closing tasks.

Question No. 1: Would Jameel’s behaviour of offering whiskey to Ms. Preeti and placing his hands on her thighs, constitute Sexual Harassment?

Question No. 2: Should Ms. Preeti object to this behaviour right away?

Answer No. 1: Jameel’s behaviour could be interpreted as harassment of Ms. Preeti. His behaviour is inappropriate and Ms. Preeti should feel free to report the behaviour if it made her uncomfortable. At this point, Jameel’s behaviour may or may not constitute quid pro quo harassment as he has not made any promises or threats regarding how he will handle her shift schedule based on her response to his advances. However discussing shifts while making what could be seen as a sexual advance is inappropriate and might be considered potentially coercive. If Jameel continues to make advances, even without any

explicit threats or promises about job benefits, it could create a hostile environment for Ms. Preeti.

Answer No. 2: Ms. Preeti should object to this kind of behaviour if she is not comfortable. The fact that she is working in a bar, where such incidents maybe common, shouldn't give Jameel the right to touch her in this manner.

SCENARIO 11: After a week of continuing to receive less desirable shifts, Ms. Preeti asks Jameel (both referred to in Scenario 10), again for the weekend shifts. He responds that he is not sure, but there is still time for her to make it worth his while. He then asks her to come home with him after work that night. Ms. Preeti who really needs the extra cash from weekend shifts decides to accompany Jameel to his home and continues doing so every week. at his home, they both engage in sexual activity. Jameel starts scheduling Ms. Preeti's work for weekends. However, Ms. Preeti, does not want to be in a relationship with Jameel and is only going out with him because she believes he will change her schedule away from busier shifts.

Question No. 1: Does the fact that Ms. Preeti started going to Jameel's house and voluntarily engaged in sexual activity with him, disentitle her from the right to complain of harassment?

Question No. 2: Can Preeti complain of harassment even if she got the shifts she wanted?

Answer No. 1: No. Ms. Preeti doesn't forfeit her right to complain about sexual harassment simply because she agreed to have intercourse with Jameel. The sexual activity was unwelcome to her and she only consented to it in exchange for weekend shifts, which were more lucrative. If she had refused Jameel's advances, she would still have been a target of sexual harassment as he wouldn't give her those lucrative weekend shifts. The offer to Ms. Preeti to trade job benefits for sexual favours by someone with authority over her in the workplace is quid pro quo sexual harassment, and the employer is liable for the manager's action.

Answer No. 2: Yes, she can still complain.

SCENARIO 12: After several months, during which she believes she has proven herself as an asset during the weekend rush, Ms. Preeti breaks off her sexual activities with Jameel. Jameel immediately changes her schedule and assigning her to less desirable shifts with fewer customers and lower tips.

Question No.1: Is it now too late for Ms. Preeti to complain, given that her relationship with Jameel was consensual and there is no proof that she was receiving less favourable shifts due to the breakup?

Question No. 2: Do you think that the Internal Complaints Committee would be justified in rejecting or dismissing Ms. Preeti's complaints solely because she had voluntarily engaged in sexual activity with Jameel on multiple occasions in the past?

Answer No. 1: No. It is never too late to complain about sexual harassment, provided that Ms. Preeti can furnish concrete, and plausible reasons for the delay in complaining. Jameel's conduct constitutes quid pro quo sexual harassment whether Ms. Preeti accepted and benefited from or rejected it and was harmed by it is irrelevant.

Answer No. 2: Internal Complaints Committee would not be justified in rejecting or dismissing it Ms. Preeti's complaints solely because she had voluntarily engaged in sexual activity with Jameel in the past. It should consider the circumstances under which Ms. Preeti agreed to that activity.

SCENARIO 13: At a company's annual meeting in December 2008, William Toby, an expatriate supervisor of the multinational company, went on stage to sing a song, where he loudly called the name of Vasundhara. Frightened, Vasundhara went under the table. However, William Toby still found her and after singing, forcefully hugged her, clutched her at the throat and touched her breasts. Her hands became blue because of the dragging. As a result, Vasundhara had to tightly grasp the chair. After that night,

Vasundhara wept for two days. Although more than a year has passed, Vasundhara still often wakes up from nightmare at night.

Question No.1: Can Vasundhara still file a complaint with the Internal Complaints Committee in her office?

Question No. 2: What would be important pieces of evidence in the present case?

Answer No. 1: Yes. POSH Act provides that the Internal Complaints Committee may consider belated complaints as well if it is satisfied that the circumstances were such which prevented the woman from filing a complaint within the prescribed period of three months from the date of the incident.

Answer No.2:

SCENARIO 15: Ria, is a software engineer at a prominent tech company known for its innovative culture and cutting-edge projects. She has always been passionate about technology and is thrilled to be working in an industry she loves. However, Ria has found herself targeted by a male colleague, Anuj, in ways that have made her question her decision to pursue her dream career. It started with subtle comments disguised as jokes about Ria's appearance and gender, often made during team meetings or casual conversations in the office. At first, she tried to brush off Anuj's remarks, telling herself that he didn't mean any harm and that she should focus on her work. But as time went on, Anuj's behaviour became increasingly intrusive and unsettling. During late nights at the office, he would linger around Ria's desk under the guise of offering assistance, but his intentions felt anything but professional. He stood too close, invade her personal space, and make suggestive comments that made her feel uncomfortable and vulnerable. Despite her efforts to avoid him, Anuj seemed to always find a way to corner her when they were alone.

Question No.1: How should Ria muster the courage to file a complaint against Anuj's behaviour?

Question No. 2: Should Ria fear for her career prospects at the company after talking about Anuj's behaviour?

Answer No.1: With the support of her friends, family, and allies within the company, Ria can press forward, determined to hold Anuj accountable for his actions. Through legal counsel and advocacy groups, she can find the strength to navigate the complexities of the investigation process and assert her rights.

Answer No.2: The aftermath of Ria's complaint will be a rush of emotions and challenges but she shouldn't fear for her career prospects as there are laws to prevent unjust dismissal of employees. By speaking out against sexual harassment, she can reclaim her voice and agency in a male-dominated industry that too often silences and dismisses survivors. Her bravery can spark conversations about consent, boundaries, and respect in the workplace, inspiring others to stand up and demand change.

ANNEXURE A

SAMPLE ASSESSMENT QUESTIONNAIRE FOR CIRCULATION **BEFORE & AFTER THE AWARENESS CAMP/ PROGRAM**

S. No.	STATEMENT	TRUE	FALSE	ANSWER KEY	REMARKS
1.	Sexual Harassment is really just a form of teasing.			False.	Sexual harassment can be very hurtful and have long-lasting effects on people. It is also against the law.
2.	Sending an SMS to a friend that spreads false stories about another person's sex life is OK.			False	Sexual harassment includes sending inappropriate texts that will offend or humiliate another person even if they don't see it themselves.
3.	Sexual harassment is against the law.			True.	It is prohibited under the POSH Act as well as IPC/ <i>Bharatiya Nyaya Sanhita</i> and POCSO Act.
4.	If a person likes the sexual attention you give them, then it is not sexual harassment.			True.	Sexual harassment does not cover relations based on mutual attraction and friendship.
5.	If a student is			False.	Sexual harassment by an

	being sexually harassed by an adult at school, then there is nothing that can be done about it.				adult at school is against the law. You can have the issue dealt with under a school policy or by making a complaint with the police.
6.	If a student is being sexually harassed at school, there needs to be a witness for it to be investigated.			False.	Sexual harassment does not need to be witnessed for a complaint to be made and taken seriously.
7.	Schools have legal responsibility to deal with sexual harassment in the school.			True.	The POSH Act covers sexual harassment in educational institutions as well. Even the POCSO Act casts similar duties on educational institutions. This means that schools have a duty to ensure sexual harassment does not occur in their precincts.
8.	If a person has accepted the sexual attentions of someone in the past, they cannot complain about			False.	Sexual harassment is any sexual attention that is unwanted. Just because someone accepted this sort of attention in the past does not mean that

	sexual harassment by that person in the future.				it's OK now.
9.	A person can only complain about sexual harassment where a reasonable person would anticipate that the behaviour would make someone feel humiliated.			False.	The subjective experience of a victim is what matters while assessing a complaint of sexual harassment.
10.	Girls sometimes harass boys sexually.			True.	Girls can sexually harass boys. However, since this does not happen as often, the Indian laws do not at present punish such form of harassment as sexual harassment, even though such acts when combined with acts of abuse may be punished under the Penal laws.
11.	Sexual harassment has to be between two people of different sexes.			False.	Sexual harassment usually happens between people of opposite sexes. However, this is not always true. At present, the Indian laws only deal

					with sexual harassment of females by males and not vice-versa.
12.	If a girl wears revealing clothes, she cannot then complain about being sexually harassed.			False.	The responsibility to avoid sexual harassment is on the person doing the harassment. The girl cannot be blamed for the way she dresses.
13.	Writing true comments about a person in a toilet cannot be sexual harassment.			False.	Sexual harassment includes sexual comments or graffiti that offend or humiliate another person.
14.	If a person is only joking and does not intend to harm or distress another person, it cannot be called sexual harassment.			False.	Sexual harassment is based on the effect it has on the person being harassed, not the intentions of the harasser.
15.	Boys are sexually harassed as often as girls are.			False.	The number of such instances is relatively small as compared to sexual harassment of girls.
16.	Sexual harassment can make the			True.	Sexual harassment can have very serious effect

	person being harassed feel intimidated and humiliated.				on people including humiliation and intimidation.
17.	Sexual harassment is a form of flattery.			False.	Sexual harassment is not about flattery. It is about someone crossing the lines of professional propriety.
18.	It's OK to ask a person for sex as long as you accept their answer.			False.	Depending on how it's said, requests for sex can be a form of harassment.
19.	Sexually explicit jokes can be sexual harassment.			True.	Sexually explicit jokes, either told or sent by email or otherwise are a form of sexual harassment.
20.	Rude gestures are not sexual harassment as you have to actually touch or say something to another person to sexually harass her.			False.	Sexual harassment is not confined to physical touching and it includes explicit gestures, comments, staring, leering or intrusive questions about a person's private life.
21.	Teachers can be			True.	Students can be equally



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	sexually harassed by students.				liable for sexual harassment of their teachers, given the circumstances of each case.
22.	Saying to someone “you are a queer and I hope you get AIDS” is a form of sexual harassment.			True.	This could be a form of sexual harassment and can be punished. Such a statement also reveals a homophobic behaviour.
23.	Sexual harassment is not really serious- it’s just a bit of fun.			False.	Sexual harassment can have serious effects on people, like making them avoid certain places and classes or drop-out of school or jobs entirely. It is also against the law.
24.	The best way of stopping sexual harassment is to ignore it and it will vanish into thin air on its own.			False.	The best way to stop sexual harassment is by addressing/ confronting it and taking it up with the authorities established under the POSH Act and other relevant laws which at times may require strength and support from friends/families.