

## **POSH Act 2013** **(Highlights and Key Features)**

The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (“POSH Act”) was enacted consequent to the judgement of Hon’ble Supreme Court of India in the case of *Vishaka and Ors. vs. State of Rajasthan and Ors* with the objective of creating safe environment at workplaces for the Women.

### **Sexual Harassment**

includes

- ◆ Physical contact and advances
- ◆ Demand or request for sexual favours
- ◆ Making sexually colored remarks
- ◆ Showing pornography
- ◆ Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

### **Workplace**

includes

- ◆ Any department, organization, undertaking, establishment, enterprise, institution, office, whether Government or Private
- ◆ NGOs, hospitals, sports complex, dwelling places or house
- ◆ Any place visited by the employee in course of employment

### **Aggrieved Women**

Women of any age, whether employed or not, who alleged to have been subjected to any act of sexual harassment.

### **Prevention of Sexual Harassment**

No women shall be subjected to sexual harassment at any work places.

Circumstances amounts to sexual harassment if connected with any act or behavior of sexual harassment.

- ◆ Promise of preferential/ detrimental treatment in employment
- ◆ Threat about employment, interference with work, offensive or hostile work environment

### **Redressal of Complaint**

- **Internal Complaint Committee** - Every organization, having 10 or more employees, is bound by law to constitute an Internal Committee (IC) which will inquire into complaints of sexual harassment at the workplace.
- ◆ IC should be headed by a senior female employee and will be known as the Presiding Officer (PO)
- ◆ IC should have a minimum of 4 members out of which 50% should be females

- ◆ An external member, who is a subject-matter expert, should be a part of the IC
- ◆ The term of the IC is 3 years

➤ **Local Committee** - The law also provides for constitution of Local Committee at the District level by District Officer notified by government. LC caters to workplaces where the IC is not constituted due to having less than 10 employees or the complaint is against the employer. District officer shall designate 01 Nodal Officer in every block, taluka and tehsil/ward to receive complaints.

### **Complaint**

- ◆ The complaint must be in writing (handwritten, typed or email)
- ◆ The name of the complainant as well as the respondent should be mentioned in the complaint
- ◆ The complaint must be filed within a period of 3 months from the date of the last incident of sexual harassment

### **Conciliation**

The IC or LC may, at the request of the aggrieved woman, take steps to settle the matter between her and the respondent through conciliation before initiating an inquiry.

### **Inquiry into Complaint**

LC or IC shall proceed to make inquiry into the complaint and if prima facie case exist, shall forward the complaint to the Police, within 7 days, for registering case U/S 509 IPC and other relevant provision.

The IC or LC shall provide a report of its finding to the employer/district officer within period of 10 days from the date of completion of inquiry.

Where the LCC or ICC uphold the complaint, may recommend for disciplinary action.

### **Timelines**

- ◆ Report of incident – within 3 months
- ◆ Nodal officer send the complaint to CC – 7 days
- ◆ Notice to respondent – within 7 days of complaint
- ◆ Filing Submission of response by respondent – 10 days from Service of notice
- ◆ Inquiry conclusion – 90 days
- ◆ Report of findings and submission – 10 days after conclusion of hearing
- ◆ Implementation of recommendation – 60 days

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