
PREVENTION OF SEXUAL HARASSMENT (“POSH”) AT WORKPLACE

Part 1 of 2

How the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 came into force?

After 16 years of Vishakha case, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 ("the Act") was enacted with the objective to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment.

Vishakha & Ors vs State of Rajasthan & Ors

Brief Facts:

- ❖ Bhanwari Devi, a woman belonging from Bhatari, Rajasthan started working under the Women’s Development Project (WDP) run by the Government of Rajasthan, in the year 1985.
- ❖ As part of her job Bhanwari took up an issue of attempted rape of a woman who hailed from a neighbouring village in the year 1987 and also the campaign against child marriage.
- ❖ While running the campaign, in the year on 1992 Bhanwari and her husband were attacked by 5 men, later gang raped her.
- ❖ Upon avoidance in filing a complaint and which resulted delay in further investigation. Somehow, she managed to lodge a complaint. Medical examination was delayed over 42 hour, so there was no mention of rape in the report.
- ❖ With the help of MLA all the accused managed to get an acquittal in the Trial Court.
- ❖ Many woman activist and organisations came together and raised their voice to attain justice, which resulted in the filing of a Public Interest Litigation (“PIL”). It laid its focus on the enforcement of the fundamental rights of women at the Workplace.

Issues raised in the case-

1. Whether sexual harassment at the Workplace amounts to a violation of Rights of Gender Inequality and Right to Life and Liberty?
2. Whether the court could apply international laws in the absence of applicable measures under the existing?

Judgment of the case-

Safe working environment was acknowledged by the Hon’ble Supreme Court of India. The Hon’ble court also took reference from the provisions of Convention on the elimination of all forms of discrimination against Women.

POSH became effective on 9th December, 2013 with following purpose:-

1. Providing protection to women against sexual harassment at the workplace;
2. Prevent Sexual Harassment;

3. To provide a redressal mechanism for complaints relating to sexual harassment at the workplace.

Applicability of POSH Act

More than 50% of working women faced sexual harassment, crude jokes, and unwelcome gestures at least once in their career. Reporting sexual harassment is not easy, sometimes, due to the fear of unlawful termination, unnecessary work pressure, spoiling the team environment.

“The Act is applicable to every workplace, establishment, company or organization **employing 10 or more employees** (full time, part-time, interns or consultants included) irrespective of the location or nature of the industry and the Act is *intended to have an equal standing for women in the work place and to have a cordial workplace in which their dignity and self-respect are protected, it cannot be allowed to be misused by women to harass someone with an exaggerated or non-existent allegation.*”

Constituting an Internal Complaints Committee at a workplace is a necessary obligation as per the Act. The Committee has a major role to play in the fulfilment of objectives laid down under the Act.

In our next Note, we will be covering what construe’s sexual harassment in the eyes of **Indian courts.**

We are Happy to Assist You.

Please feel free to reach out to us!!!

E-mail us at	<ul style="list-style-type: none">➤ kbaglacs@gmail.com,➤ maheshgbagla@gmail.com
Call us on	<p style="margin: 0;">+919049000431 +917249136913 +91-7875795779</p>

Thanks and Regards

Team~ K. Bagla & Associates

Your Compliance Partner!