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# Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

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CURATED &amp; WRITTEN BY

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ACT NUMBER	YEAR ENACTED	REPLACES
Act No. 14 of 2013	2013	Vishaka Guidelines (1997) laid down by the Supreme Court

### KEY PROVISIONS

- 1 Definition of sexual harassment aligned with Vishaka Guidelines (Section 2(n))
- 2 Mandatory constitution of Internal Complaints Committee (ICC) in workplaces with 10+ employees (Section 4)
- 3 Constitution of Local Complaints Committee (LCC) at district level (Section 6)
- 4 Expanded definition of 'workplace' covering government, private, NGOs, hospitals, sports institutions, and dwelling places (Section 2(o))
- 5 Complaint mechanism with 3-month filing window (Section 9)
- 6 Conciliation process before formal inquiry (Section 10)
- 7 Penalty of Rs 50,000 for employer non-compliance; cancellation of licence on repeated violation (Sections 26-27)

## BACKGROUND

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 — commonly known as the POSH Act — was enacted to provide a safe and secure working environment for women. Before this legislation, the only legal framework addressing workplace sexual harassment was the Supreme Court's Vishaka Guidelines issued in 1997, which were not backed by statutory force and suffered from poor implementation.

The Vishaka Guidelines emerged from the case of Bhanwari Devi, a social worker in Rajasthan who was gang-raped in 1992 for attempting to prevent a child marriage. The Supreme Court, in *Vishaka v. State of Rajasthan* (1997), recognised sexual harassment as a violation of fundamental rights under Articles 14, 15, 19(1)(g), and 21 of the Constitution, and laid down binding guidelines for employers until legislation was enacted.

After nearly 16 years of relying on judicial guidelines, Parliament passed the POSH Act in 2013. It received Presidential assent on 23 April 2013 (published as Act No. 14 of 2013) and came into force on 9 December 2013. It covers all women irrespective of age or employment status — including contract workers, temporary and ad hoc employees, and even women visiting a workplace. The Ministry of Women and Child Development is the nodal ministry for its implementation.

## KEY CONCEPTS

- **Sexual Harassment (Section 2(n)):** Includes unwelcome physical contact, demand or request for sexual favours, making sexually coloured remarks, showing pornography, and any other unwelcome physical, verbal, or non-verbal conduct of a sexual nature. Also includes five circumstances: implied or explicit promise of preferential treatment, implied or explicit threat of detrimental treatment, interference with work, creating an intimidating or hostile environment, and humiliating treatment affecting health or safety.
- **Aggrieved Woman (Section 2(a)):** Any woman of any age, whether employed or not, who alleges to have been subjected to any act of sexual harassment. This covers regular employees, contract workers, temporary or ad hoc workers, interns, and even women visiting the workplace.
- **Internal Complaints Committee (ICC) (Section 4):** Every employer of a workplace with 10 or more employees must constitute an ICC. It must be headed by a senior woman employee, have at least two employee members committed to women's causes, and one external member from an NGO or a person familiar with gender issues.
- **Local Complaints Committee (LCC) (Section 6):** Constituted at the district level by the District Officer (usually the District Magistrate or Collector) for complaints from workplaces with fewer than 10 employees, or where the complaint is against the employer himself.
- **Workplace (Section 2(o)):** Broadly defined to include government offices, private sector organisations, NGOs, hospitals, nursing homes, educational institutions, sports institutes, stadiums, and any place visited by the employee arising out of or during the course of employment, including transportation.
- **Employer's Duties (Section 19):** Employers must provide a safe working environment, display consequences of sexual harassment at conspicuous places, organise awareness programmes, assist in filing complaints under IPC if the woman so desires, and ensure ICC is properly constituted.

## IMPORTANT PROVISIONS

- **Section 2(n) — Definition of Sexual Harassment:** Provides a comprehensive five-fold definition covering physical contact, demand for sexual favours, sexually coloured remarks, showing pornography, and other unwelcome conduct. Also lists five aggravating circumstances including

implied threats and hostile work environment.

- **Section 4 — Internal Complaints Committee:** Mandates constitution of ICC in every workplace with 10+ employees. Presiding officer must be a senior woman employee. Term of members is 3 years. At least one external member is mandatory to ensure impartiality.
- **Section 9 — Complaint Filing:** The aggrieved woman must file a written complaint within 3 months of the last incident (extendable by 3 months by ICC/LCC if satisfied that circumstances prevented timely filing). In case of physical or mental incapacity, legal heirs or relatives may file.
- **Section 10 — Conciliation:** Before initiating an inquiry, the ICC or LCC may, at the request of the aggrieved woman, take steps to settle the matter through conciliation. No monetary settlement is permitted as a basis of conciliation.
- **Section 11 — Inquiry:** If conciliation fails or is not sought, the ICC/LCC conducts an inquiry following principles of *natural justice*. The inquiry must be completed within 90 days. During inquiry, the woman may seek transfer or leave (Section 12).
- **Section 13 — Inquiry Report:** ICC/LCC must provide the inquiry report to the employer (or District Officer) within 10 days of completion. If allegation is proved, ICC recommends action including written apology, warning, withholding of promotion, termination, counselling, or community service.
- **Sections 26-27 — Penalties:** Non-compliance by the employer attracts a fine up to Rs 50,000. Repeated violation may result in higher penalty and cancellation of licence or registration to conduct business.

## LANDMARK JUDGMENTS

- **Vishaka v. State of Rajasthan (1997):** The Supreme Court laid down the Vishaka Guidelines defining sexual harassment and mandating employers to establish complaints committees. These guidelines served as the law until the POSH Act was enacted in 2013. The Court relied on CEDAW to fill the legislative vacuum.
- **Apparel Export Promotion Council v. A.K. Chopra (1999):** The Supreme Court upheld the dismissal of an employee for sexual harassment, affirming that such conduct violates the fundamental right to gender equality and life with dignity under Articles 14, 15, and 21.
- **Medha Kotwal Lele v. Union of India (2013):** The Supreme Court directed states to ensure compliance with Vishaka Guidelines and mandated that non-compliance by employers would be treated as contempt of court. This judgment accelerated the passage of the POSH Act.

- **M/s. Wipro Ltd. v. Smt. Pratibha Sharma (2024):** Reinforced that the ICC inquiry must follow principles of natural justice, and the accused must be given adequate opportunity to present their defence. Arbitrary dismissal without proper procedure under the Act is impermissible.

## RECENT AMENDMENTS / DEVELOPMENTS

- **SHe-Box (Sexual Harassment Electronic Box):** The Ministry of Women and Child Development launched an online complaints management system for women working in both public and private sectors to register sexual harassment complaints. It enables direct routing of complaints to the concerned ICC/LCC.
- **Expansion to Gig Economy (Proposed):** With the rise of gig and platform workers, there have been discussions on expanding the POSH Act's definition of 'workplace' to explicitly cover app-based work environments, delivery personnel, and remote/hybrid work setups.
- **Annual Report Mandate:** The Companies (Accounts) Rules, 2014 read with the Companies Act, 2013 (Section 134) require every company to disclose in its annual board report the number of POSH complaints filed, disposed of, and pending.
- **ICC Constitution Compliance Issues:** As of 2024, many establishments — particularly in the unorganised sector, small firms, and educational institutions — still lack properly constituted ICCs. The National Commission for Women (NCW) and state governments have been pushing for stricter compliance audits.
- **Supreme Court Nationwide ICC Survey (2024-2025):** The Supreme Court ordered a nationwide survey in 2024 to identify workplaces lacking ICCs. In December 2024, the Court was informed by the Amicus Curiae of significant compliance gaps and directed: identification and notification of District Officers, constitution/reconstitution of ICCs and LCCs, compliance affidavits from all states and UTs, and legal assistance for aggrieved women via Legal Services Authorities. In April 2025, the Court established a follow-up mechanism mandating proof of compliance through affidavits, including appointment of Nodal Officers.
- **POSH Amendment Bill, 2024 (Proposed):** The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Amendment Bill, 2024 proposes: extending the complaint filing window from 3 months to 1 year, and removing the conciliation step before formal inquiry. As of March 2026, the Bill remains under consideration in Parliament.
- **Companies (Accounts) Second Amendment Rules, 2025:** Effective 14 July 2025, these rules mandate detailed POSH compliance disclosures in annual Board Reports — including number of complaints received, resolved, and pending over 90 days, along with gender-disaggregated workforce data (female, male, and transgender employees).

- **Supreme Court on Limitation (2025):** The Supreme Court emphasised that a complaint of sexual harassment must be filed within the statutory 3-month limitation period (extendable to 6 months) from the date of the last incident, and that patently time-barred complaints can be rejected at the first instance.

## UPSC RELEVANCE

*Definition of sexual harassment under the Act; ICC composition and eligibility; penalty provisions; Vishaka Guidelines year and case; definition of workplace; filing time limit (3 months). **Mains GS-2:** Gender justice and institutional mechanisms; evaluation of POSH Act implementation; role of ICC and LCC; challenges in the unorganised sector; comparison with global standards (e.g., ILO Convention 190). **Interview:** “How effective has the POSH Act been in changing workplace culture? What are the structural gaps in its implementation, particularly for domestic workers and the gig economy?”*

### RELATED TERMS

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