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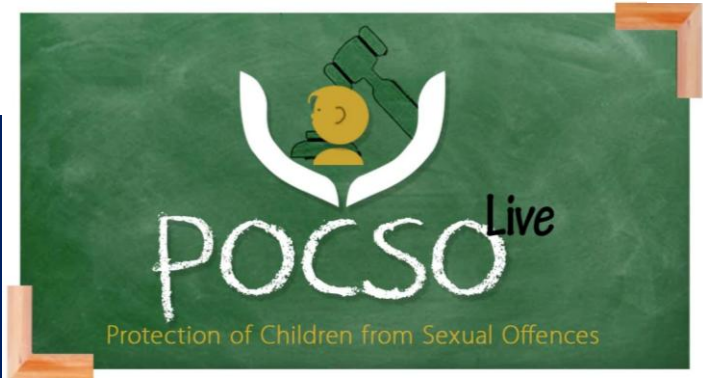
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*A quarterly insight to the POCSO Law!*

By V.P Shintre & Associates

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**POCSO LIVE** brings you updates and information relating to matters of protection of children from sexual abuse irrespective of gender. This is an effort to create awareness amongst all stakeholders having access to children about their duties and obligations towards protecting children from sexual abuse and keeping them safe.

## Guidelines for Schools by Maharashtra Government

Maharashtra State Government Education and Sports Department has issued number of Guidelines in its recent GR - Sankirna-2025/PR No.119/SD-4

The Government of Maharashtra, through the Education and Sports Department, has periodically issued guidelines and directives regarding measures to be taken for the safety and protection of school students. Following a tragic incident at a school in Ambarnath, District Thane, a suo moto public interest litigation (PIL No. 1/2024) was taken up by the Hon'ble High Court of Mumbai.

In the hearing held on 3rd September 2024, the High Court was presented with details of all previously issued government resolutions and circulars concerning student safety at schools. Additionally, the government submitted the actions taken after the Ambarnath incident, including a new directive issued on 21 August 2024 for strict implementation of safety measures in all schools across the state.

A committee was formed under the directive dated 23 August 2024 to create a policy framework to prevent such incidents.

The High Court, in its order dated 3 September 2024, instructed that this committee be chaired by Hon'ble Retired Justice Mrs. Sadhana S. Jadhav and co-chaired by Dr. Shalini Phansalkar-Joshi, another retired judge of the Mumbai High Court. Other members were also to be appointed.

As per the High Court's directives, the committee was officially constituted through a government resolution dated 26 September 2024. The committee submitted its detailed report to the government on 25 February 2025, containing recommendations

## GOOD TO KNOW!

### Complaint Box in Schools – Mandate by Government of Maharashtra

All schools must mandatorily place complaint box for students to report any complaints fearlessly.

### School/Educational Institution's Responsibilities –

- i) Schools should place complaint box at a place where students can access the same without an effort and can fearlessly come ahead to submit the complaint. The Complaint box should be big enough to consist complaints and must be secured with a lock
- ii) The Complaint Box must be opened twice a week in the presence of Child Safety Committee, Presiding officer of Sakhi Savitri Committee, PTA member, Student Representative.
- iii) In case of a complaint of serious in nature it must be reported to the nearest police station on immediate basis
- iv) The complaints reported in the complaint box must be resolved by authorities of schools internally or with the help of zonal/state officials as the case may be
- v) Maintain the confidentiality about the complainant and ensure non-retaliation
- vi) Complaints regarding women employees such as teachers or female students should be routed to the POSH Committee and any other complaints should be addressed by Safety Committee and should be redressed according to the laws applicable

After reviewing all relevant government resolutions as well as the committee's report, the government has decided to consolidate and issue a comprehensive guideline for safety and protection measures to be implemented in all schools—across all types of managements and mediums—in the state.

### These Guidelines are as below –

1. **Implementation of POCSO Act, 2012:** The Protection of Children from Sexual Offences Act, 2012 came into force on 14<sup>th</sup> November, 2012. This Act defines any person below 18 years of age as a child. Upon receiving the information about child abuse the Educational Institute/School Management/Authority should **mandatorily report it to the nearest police station/Special Juvenile Police Unit**. Failure to do so will attract legal consequences.

All Education Officers/Administrative Officers must inform all school managements in their jurisdiction about this law and its mandatory provisions within one week.

2. **Reporting of Child Abuse on POCSO E-Box and Chirag App:** Schools/Educational Institutes should take necessary steps to inform students about POCSO e-Box (by NCPCR) and Chirag App (Maharashtra State Govt) and assist them to report on these platforms if required. The information about POCSO e-Box and Chirag App must be displayed on the notice boards and Head/Management must ensure that the students are aware of these platforms.
  - 2.1 Child Helpline 1098 should be displayed on the notice board and students should be informed about the use of this helpline
  - 2.2 Information regarding child safety and reporting mechanisms should be displayed on the notice boards and at all conspicuous places for ready reference
  - 2.3 The school should be surrounded by compound wall with one entrance gate where A Security personnel member should be appointed to be in charge of security and ensuring that an unknown or unauthorized person does not enter the school premises
  - 2.4 While the students are in the campus, their safety would be the responsibility of concerned School/Educational Institute
  - 2.5 School authorities must hold meetings with teachers and non-teaching staff to plan safety measures
  - 2.6 Attendance should be marked **in the morning, afternoon, and at the time of school dispersal**. Absentees' parents should be notified by **SMS**
  - 2.7 To ensure mental health and reduce mental pressure of the students, Schools should appoint Counsellors who are qualified and experienced. Government and aided schools may appoint a trained teacher as counsellor. Training for such counsellors should be provided by the **Maharashtra State Council of Educational Research and Training (MSCERT), Pune**.
  - 2.8 Schools should organize Good Touch and Bad Touch Sessions for Pre-Primary and Primary Students
  - 2.9 Bullying and any other form of mental or physical abuse should be addressed at school and parents should be informed about it during Parent Teacher Meetings. Students should be encouraged to report about bullying or any abuse immediately to their teachers/parents. They should be encouraged to use the Complaint box to raise the concerns and the Child Safety Committee should promptly look into the complaints and take necessary steps immediately.
  - 2.10 Ban tobacco and cigarette/paan shops within 1 km from the school and its premises. It's the school's responsibility to ensure this and co-ordinate with police for enforcement.

3. **Complaint Box:** All schools must mandatorily place complaint box for students to report any complaints fearlessly.
  - 3.1 School/Educational Institution's Responsibilities –
    - i. Schools should place complaint box at a place where students can access the same without an effort and can fearlessly come ahead to submit the complaint. The Complaint box should be big enough to consist complaints and must be secured with a lock
    - ii. The Complaint Box must be opened twice a week in the presence of Child Safety Committee, Presiding officer of Sakhi Savitri Committee, PTA member, Student Representative.
    - iii. In case of a complaint of serious in nature it must be reported to the nearest police station on immediate basis
    - iv. The complaints reported in the complaint box must be resolved by authorities of schools internally or with the help of zonal/state officials as the case may be
    - v. Maintain the confidentiality about the complainant and ensure non-retaliation
    - vi. Complaints regarding women employees such as teachers or female students should be routed to the POSH Committee and any other complaints should be addressed by Safety Committee and should be redressed according to the laws applicable
  - 3.2 Review and Implementation will be checked timely by the Representatives from the Education Department. A report will be shared on the implementation of Complaint Box in Schools by the appointed representatives from the Education Department.
4. **Sakhi Savitri Committee:** Sakhi Savitri Committee will consist of - Female teachers, Counsellors, Female medical specialists, Anganwadi worker, Police officer, Female Gram Panchayat Members, Parent representatives (mothers, atleast 2), Students (2 female and 2 male), School Principal (Serves as Secretary to this Committee), Representative from School Management (serves as Chairperson to this Committee)
  - 4.1 Role of the Sakhi Savitri Committee is - Helping students who have dropped out of school re-enter the educational system  
Providing counselling to students and parents if required
  - 4.3 Offer information on Government education schemes
  - 4.4 Organize Self-defence training programs
  - 4.5 Raise awareness regarding child marriages, prevent child marriages
  - 4.6 Promote healthy habits in children for their better health and safety
  - 4.7 Assist students in their education who are from socially, geographically and economically disadvantaged backgrounds
  - 4.8 Senior students become a part of this committee for the purpose of reporting as younger students may feel free to express their concerns with their seniors if not directly with the teachers
  - 4.9 Liasoning with Companies for CSR Projects for upliftment of backward students
  - 4.10 Gender sensitivity, equality and safety related training programs for children. Ensure safe environment for students and create awareness regarding POC SO e-Box, Chirag App, Childline 1098 amongst the students
  - 4.11 Meet once in a month to discuss and check the implementation
  - 4.12 Submit the implementation report to concerned authority
  - 4.13 Display the members name and list of Sakhi Savitri Committee on notice boards
5. **CCTV Camera Installation in the School premises:** All schools should install CCTV cameras at all locations such as Classroom, Corridors, Main gate and exits, Playgrounds, Outside the restrooms etc.
  - 5.1 Schools and Institutes must backup the footage for at least one month. It's the responsibility of the schools and institutes to ensure that CCTV cameras are functional and are regularly monitored. Failure to do so will attract strict consequences
  - 5.2 The CCTV camera footages should ne regularly monitored and an appropriate action must be taken upon noticing inappropriate behaviour. School Principals would be responsible to ensure that the footage has been monitored at least thrice a week and an appropriate action has been taken if necessary.

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**6. Character Verification Certificates for all staff:** Character Certificate should be obtained for all staff teaching/non-teaching/contractual staff by the School Authorities by collecting all information, photographs of the said staff and submitting it to the police station for background verification related to crime records. If it is found that any staff has any criminal record, he/she should be dismissed immediately.

6.1 For Staff appointed for canteen, security, transport etc, schools should also obtain character verification certificate from police

6.2 Any suspicious behavioural change/inconsistencies should be noted by the school and an inquiry must be conducted to understand the change in the nature of any staff to prevent any unfortunate incident

6.3 For **serious offenses against children**, government or semi-government representatives working with children must serve as **monitors** to ensure timely action.

6.4 For **pre-primary to Grade VI, female staff** should be appointed as far as possible, especially if outsourced or on contract

6.5 Any staff currently employed **without police verification** must be verified immediately.

6.6 The responsibility towards police verification lies with the School Management

## **7. Student Transport Safety Protocols:**

7.1 **Student safety during transportation** is the responsibility of the school.

7.2 Schools must ensure:

- **Driver verification**
- **Installation of GPS in school buses**
- **Safety training for transport staff**

7.3 Every school bus must have a **female attendant**. Where possible, appoint **female drivers**.

Verify driver's license and background, including any accident or criminal history.

7.4 Conduct **random alcohol/drug tests** for drivers and attendants at least once a week.

7.5 Install **CCTV cameras in school buses**.

Ensure that:

- No student is left behind in the building or premises after school.
- If a student misses the bus, **parents must be informed immediately**.

7.6 Buses must be **regularly inspected** for roadworthiness.

- Certificates must be obtained every six months from the **Regional Transport Officer (RTO)**.

7.7 Buses must **not be overloaded**.

- Students should be dropped only at their designated stops.
- GPS should be installed for route tracking.

7.8 Parents of students using **private transport** must be advised to:

- Verify the driver's background
- Keep personal details of the driver for safety

7.9 No **unauthorized individuals** should be allowed to ride in the school bus.

7.10 A female attendant or staff member must **remain on board** until the **last student is dropped**.

7.11 When sending students for **off-campus school activities**, a **female staff member** should accompany them.

7.12 Students should preferably be **dropped off and picked up by parents or relatives**.

7.13 In emergency cases, until the parent or relative arrives, the **school head should place the child in the care of a female staff member**.

7.14 No child should be handed over to **unauthorized individuals** without parent consent and proper **ID verification** (e.g., PAN, Aadhaar).

7.15 An **alert/notification system** must be developed to notify parents immediately if a child goes missing or fails to board the school bus.

**8. School Washrooms/Toilets and Restrooms:** Every school must have separate washrooms/toilets for male and female students.

8.1 A **female attendant** must be stationed near the girls' restroom, and a male attendant near the boys'. Toilets must be clean, with **running water and lighting** at all times. Toilet doors should be easy for children to open and close. Floors should be kept **as dry as possible**, especially near washbasins and entrances. **Grilles should be installed** to prevent unauthorized access. In emergencies, **a bell or buzzer** must be installed inside restrooms.

8.2 For schools under local bodies: Sanitary pad vending machines and incinerators should be provided. Girls should receive training on how to use these facilities. In private schools, installation and maintenance of sanitary facilities is the responsibility of school management.

8.3 Toilets for boys and girls must be **at a reasonable distance from each other**, and separate from those used by **teachers and staff**.

9. **Code of Conduct for Visitors:** Every **adult visitor** interacting with children must follow a **prescribed code of conduct**.

A **visitor logbook** must be maintained at the school gate, recording:

- Entry and exit time
- Purpose of visit
- Contact and identification details

The logbook must be checked daily by the **Principal, coordinator, or supervisor**, who should also sign it.

#### 10. **Measures for Cyber Safety by Teachers and Parents:**

10.1 Students and parents must be warned **not to respond** to unsolicited messages or pop-ups requesting personal or financial information. They must be sensitized on repercussions on sharing personal information and responding to unsolicited messages

10.2 Through awareness campaigns, students must be taught **not to share personal information** (address, phone number, photos) on social media or online platforms.

10.3 Schools and parents must ensure that the **devices used by children** are protected with up-to-date **antivirus software** and cybersecurity tools.

10.4 Schools should organize **age-appropriate cyber safety sessions** to warn students about phishing and the risks of inappropriate internet usage.

10.5 Students should be **encouraged to report** any suspicious online activity, such as messages from strangers or coercive demands.

10.6 Students should be made aware of the **National Cyber Crime Reporting Portal** and encouraged to use it when needed.

10.7 Every **parent-teacher meeting** should include guidance on:

- Monitoring children's online activity
- Supervising digital behavior
- Having open communication about internet use

10.8 Students must be advised **not to allow strangers to take their photos**, and **not to handle digital devices** (phones, tablets, laptops) of unknown persons.

10.9 Students should be instructed to **avoid misuse of webcams** and be cautioned against participating in uncomfortable video calls.

- If they feel unsafe, they should inform the school or parents immediately.
- Schools must install **secure firewalls and filters** to block inappropriate websites.

10.10 Organize interactive cyber safety activities (e.g., **quiz competitions, role plays**) to increase awareness.

10.11 Every parent-teacher meeting must have a **dedicated cyber safety segment**.

- Invite expert speakers at least once every six months to educate students on **protecting themselves from cyber threats**.

#### 11. **Capacity Building and Training Initiatives**

11.1 Capacity-building for all stakeholders in student safety must **prioritize child protection**, including prevention, early identification, and intervention related to abuse.

11.2 Every school must have a **Parent-Teacher Association (PTA)** and hold regular meetings.

- Minutes must be recorded.
- Complaints from parents should be addressed with appropriate follow-up action.

11.3 Schools must conduct training on **special physical safety protocols** and ensure **first aid** is available for emergencies.

11.4 Teachers must receive training to:

- Engage in **friendly and empathetic communication** with students
- Recognize **red flags** in student behavior
- Refer children to **counselors** when necessary

11.5 Teachers should be trained to understand the **mental state of students during failure or crisis**, and:

- Encourage **positive coping strategies**
- Prevent vulnerability to **substance abuse** or risky behaviours

11.6 Teachers and parents must be made aware of:

- **Child Rights Laws**
- The **Juvenile Justice (Care and Protection of Children) Act**
- **POCSO Act** provisions

11.7 **Sexual education and responsible behavior** should be incorporated into the curriculum for adolescents.

11.8 The state's "**Joyful Saturday**" initiative must include:

- Self-defence sessions
- Training on recognizing **danger signs**
- Seeking help in uncomfortable situations

11.9 Every school must develop a **Disaster Management Plan** to prepare for any emergencies.

- Teachers must be trained accordingly.
- Help from experienced agencies may be enlisted when needed.

11.10 The responsibility of designing and implementing these training programs lies with the **Maharashtra State Council of Educational Research and Training (MSCERT), Pune**.

11.11 The **Commissioner of Education** and **MSCERT Director** must jointly prepare a **Standard Operating Procedure (SOP)**.

- The SOP should be piloted in selected schools and then rolled out statewide.
- All training materials must include **monitoring and feedback mechanisms**, allowing for continuous improvement.
- Guidance from the **Maharashtra State Commission for Protection of Child Rights** should be taken where required.

12. **Child/Student Safety Committee:** Every school must establish a **Student/Child Safety Committee**, chaired by the **School Management Committee (SMC)** Chairperson.

Members should include:

- **Two parent representatives**
- **Two teacher representatives** (at least one female)
- **Two members from the Sakhi Savitribai Committee**
- The **school headmaster/principal**, who will act as the member secretary

The committee will be responsible for reviewing student safety, addressing grievances, and coordinating the implementation of all safety measures outlined in this government resolution.

## **NEWS CORNER –**

### **School teacher arrested for allegedly sexually harassing 24 students**

In Himachal Pradesh, a teacher has been arrested for allegedly sexually harassing 24 girls at a government school. The case came to light after students complained against the mathematics teacher during a meeting of the sexual harassment committee. The teacher has been taken into police custody for three days, and a case has been registered under various sections, including the Protection of Children from Sexual Offences (POCSO) Act.

During the 'Shiksha Samvad' programme in a government school in Himachal Pradesh's Sirmaur district, students from classes VIII to X complained to the principal about harassment. The students submitted a written complaint, alleging they were touched inappropriately by the school mathematics educator, a trained graduate teacher.

The parents were called in, and it was found that even they were unaware of the harassment faced by their children. Upon learning, parents raised slogans against the school management and the teacher, demanding action. A case was registered, and the accused teacher was arrested soon after. Meanwhile, the teacher has been suspended.

# *Consensual nature of relationship irrelevant in POCSO cases – Delhi High Court*

## **Case Summary: Mohd Rafayat Ali v. State of Delhi** Delhi High Court Judgment on Consent and Minor Status under POCSO February 2025

### **Facts of the Case**

The accused, Mohd Rafayat Ali, was involved in a relationship with a 16-year-old girl under the pretext of marriage. The girl became pregnant and took pills provided by the accused, which led to pain. An ultrasound confirmed the pregnancy. During bail proceedings, the accused claimed the relationship was consensual and disputed the victim's age, stating she was 18 years old.

### **Legal Findings & Reasoning**

#### **1. Consent is Irrelevant Under POCSO**

Justice Sanjeev Narula stated that under the Protection of Children from Sexual Offences (POCSO) Act, any individual below the age of 18 is legally incapable of consenting to sexual activity. Therefore, the alleged consensual nature of the relationship was considered irrelevant.

#### **2. Age as the Decisive Factor**

The court relied on the victim's school records, which indicated her date of birth as August 3, 2008, confirming her minor status. Such documentary evidence was held to be conclusive at the bail stage unless convincingly disputed during trial.

#### **3. Bail Denied on Grounds of Severity and Risk**

Due to the seriousness of the alleged offence, age disparity, the ongoing trial, and potential risk of witness tampering, the Court denied the accused's request for bail.

### **Implications of the Decision**

- The case affirms the strict liability principle under the POCSO Act—minor consent is not a defense.
- Documentary proof such as school records is pivotal in bail hearings involving POCSO.
- This judgment strengthens legal protection for minors and provides a precedent against the 'consensual relationship' defense in such cases.



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Advocate Vaishali Bhagwat, is amongst the first technology lawyers in the country with prior qualification and working experience in the field of Computer Science, Cyber Defense and Information Assurance.

Her work also focuses on women and children's rights and has worked extensively on cases relating to violence against women and children including sexual violence.

Vaishali has done extensive work in creating awareness amongst stakeholders in keeping children safe online and her work was recognized by the DSCI NASSCOM Award and also by Rotary International in Seoul

Vaishali is on the advisory board of several educational and academic institutions for POCSO related services of drafting and implementation of the Child Protection Policy and training of the members of the child protection committee.

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