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A quarterly insight to the POSH Law!

By V.P Shintre & Associates

www.vaishalibhagwat.com

POSH LIVE brings to you updates and information relating to matters of sexual harassment irrespective of the gender and age. This is an effort to create awareness about laws relating to sexual harassment and any form of discrimination.

The Importance of Good Faith in POSH Inquiries – A Pillar to Natural Justice

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013—popularly known as the POSH Act—was enacted to ensure that women feel safe, respected, and dignified at their workplace. At the core, this law provides a powerful redressal mechanism: the Internal Committee (IC). However, the effectiveness and fairness of POSH inquiries depends critically on one element—"good faith".

Conducting POSH inquiries in good faith is not just a procedural ideal; it is a legal and ethical necessity that upholds the broader framework of natural justice, which is central to any fair investigation or disciplinary process.

What Does 'Good Faith' Mean in POSH Context?

'Good faith' in the context of a POSH inquiry refers to (not limiting to):

- Honest intention in investigating complaints.
- Acting without malice, bias, or prejudice.
- Ensuring a neutral, fair, and transparent process.
- Protecting the dignity and rights of both the complainant and respondent.
- Avoiding procedural lapses and respecting confidentiality.

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GOOD TO KNOW!

Damini Pathak

Damini Pathak is an all women squad within the City Police, dedicated to enhancing the safety and security of women and girls in the city. They are known for patrolling in public areas, responding to distress calls, conducting safety programs and providing support to women in need.

Women in distress may call on 1091 or 100 or 112 and ask for Damini Pathak

Different City Police have also declared mobile numbers which can be found on their websites.

Where the police station has not published any specific number to call, a call can be made on 1091/112 to seek immediate help from Damini Pathak

Alignment with the Principles of Natural Justice

Natural justice is a fundamental concept in law that ensures **fairness, equality, and due process**. Its two core principles are:

1. Audi Alteram Partem (Hear the Other Side)

- The respondent has the right to know the allegations and respond to them.
- IC must ensure that **both parties are heard**, and no decision is taken without allowing the respondent to present their side.

2. Nemo Judex in Causa Sua (No One Should Be a Judge in Their Own Cause)

- IC members must act without **personal interest or bias**.
- Any member with a conflict of interest must **recuse themselves** to uphold impartiality.

Conducting POSH inquiries in **good faith directly supports these principles**. A biased or pre-decided inquiry violates natural justice and can **invalidate the outcome**, exposing the organization to legal and reputational risks.

Why Good Faith Matters in POSH Inquiries?

1. Ensures a Fair Process for All Parties

Sexual harassment complaints are sensitive. A process based on good faith allows both parties to trust the system, knowing that **truth, not bias or assumptions, will guide the outcome**.

2. Protects the Integrity of the Internal Committee (IC)

A good-faith inquiry upholds the IC's credibility. Conversely, inquiries marred by vengeance, bias, or procedural shortcuts erode trust and invite litigation.

3. Prevents Misuse of the Law

Good faith also guards against **malicious or false complaints**, which the Act itself recognizes as an abuse. ICs must approach every complaint **objectively**—neither prejudging nor dismissing it without due inquiry.

4. Minimizes Legal Challenges

Courts often review whether **natural justice and good faith** were observed during internal inquiries. If these are lacking, the findings can be **struck down**, even if substantively correct.

Best Practices to Uphold Good Faith and Natural Justice in POSH Inquiries

- Form a neutral and trained IC with gender diversity and legal understanding.
- Disclose conflicts of interest and recuse members where needed.
- Share complaint documents with the respondent with reasonable time to respond.
- Maintain strict confidentiality throughout the process.
- Record all proceedings meticulously and avoid assumptions not backed by evidence.
- Provide both parties the opportunity to present witnesses or documentary proof.
- Pass a reasoned, speaking order with logical findings and recommendations.

POSH inquiries deal with delicate matters that impact lives, reputations, and workplace culture. To ensure justice, it is imperative that such inquiries be conducted in **good faith**, following the **principles of natural justice**. This not only ensures legal compliance but also fosters a culture of fairness and trust in the workplace.

When justice is pursued sincerely, without prejudice or haste, it doesn't just protect rights—it reinforces the very fabric of a safe and equitable work environment.

Building a Culture of Respect – Going Beyond Compliance with the POSH Act

The **Prevention of Sexual Harassment (POSH) Act, 2013** was a landmark step toward ensuring safe workplaces for women in India. While many organizations have ticked the boxes of legal compliance—by forming Internal Committees, conducting training, and displaying policies—true transformation lies in going **beyond compliance**. It lies in cultivating a **culture of respect, dignity, and inclusion**, where safety isn't just a mandate but a lived value.

This article explores how organizations can shift from a reactive, rule-bound approach to a proactive, respectful workplace culture.

The Problem with a “Check-the-Box” Approach

Legal compliance is the **bare minimum**. Many organizations treat PoSH as:

- A yearly training ritual,
- A static policy document uploaded on the intranet,
- Or a box to tick before an audit.

This approach may reduce legal liability, but it does little to address **power dynamics, everyday sexism, inappropriate behaviours, or silent suffering** at work. Employees may still hesitate to report, fear retaliation, or mistrust the system.

What Does a Culture of Respect Look Like?

1. Psychological Safety

Employees feel safe to express concerns, report misconduct, and share feedback without fear of judgment or retaliation.

2. Inclusive Leadership

Managers and leaders model respectful behavior, address biases, and actively support gender equity.

3. Everyday Accountability

Disrespectful jokes, innuendos, and inappropriate conduct are challenged—not ignored—at all levels.

4. Shared Responsibility

Safety and dignity are seen as everyone's business, not just HR or the ICC's job.

5. Empowered Voices

Victims are heard, not doubted. Bystanders are encouraged to speak up. ICCs are trusted and transparent.

Going Beyond Compliance: Practical Steps

1. Leadership Buy-In is Non-Negotiable

Respectful culture starts at the top. Leadership must not only approve policies but also actively communicate and model them in action.

2. Embed Respect into Everyday Systems

- Add respectful behavior into performance reviews.
- Make it a part of leadership KPIs and team culture assessments.

3. Rethink Training

Move beyond PowerPoint decks. Use **scenario-based learning, interactive roleplays, anonymous Q&A sessions**, and multilingual formats tailored to your workforce.

4. Recognize and Reward Respectful Behavior

Create systems to **acknowledge bystanders, mentors, and ethical managers** who foster safe work environments.

5. Create Safe Reporting Channels

Use **multiple, accessible channels**—digital, in-person, anonymous, or ICC-based—to encourage reporting. Build **trust in the process** through timely action and communication.

6. Periodic Culture Checks

Use surveys, listening circles, and independent audits to track the lived experience of employees, especially women, interns, and contractual staff.

Creating a culture of respect isn't just about following the law—it's about **valuing people**. While POSH Act compliance may help you meet the legal threshold, only a deep-rooted culture of respect can create sustainable change. Because real safety doesn't come from fear of punishment—it comes from shared values.

NEWS CORNER

POSH Act is not anti-men, says Chairman NCW

Vijaya Rahatkar, Chairman of National Commission for Women stated that "POSH Act is not anti-men – it is pro-justice. It empowers women to speak up safely and ensures fairness for all." She was attending a meeting on 29th April, 2025; held to review implementation of the Act. Many women are unaware of the forums available to raise complaints, such as the internal committee and the local committee, where their grievances, including those against heads of institutions, can be addressed. The Act also contains provisions to deter women from raising false allegations, she added.

Adv Vaishali Bhagwat



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 is an external member on various ICC committees and has conducted several complex inquiries relating to sexual harassment at workplace. POSH awareness and capacity building workshops conducted by her are rich in content as she discusses various cases and draws on her experience dealing with inquiries and POSH related court litigation including criminal cases.

Vaishali has advised several organizations across varied sectors on POSH compliance, safety in virtual workplaces, cyber safety and is also regularly invited as an expert speaker/ panelist on this subject by various organizations providing POSH services

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