

IMPLEMENTATION OF POSH ACT, 2013: WOMEN EMPOWERMENT AND LEADERSHIP

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Abstract:

The International instrument for driving Individual organizations had formulated the UNSDGs, SDG- 5, one of which is promoting for the Women Empowerment and Gender Equality. There are many laws that empowers women and sustains their leadership but POSH 2013, has been the landmark in the legal history for (Prevention, Prohibition and Redressal) of Sexual Harassment of Women in Workplace. This study has been taken from the secondary sources for Analyzing the point of view of POSHCA organization through case story narrations using Qualitative method and few journals based on mixed methods integrating both quantitative (surveys) and qualitative study (in depth interviews) method related to the subject. The findings has led to understand the significance of the implementation of this Law as the backbone for Women Empowerment and can sustain their leadership role by helping them to come to their fullest potential.

Keywords: SDG, Gender Equality, Sexual Harassment, Workplace, Women Empowerment, Leadership, POSH Act, 2013

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Introduction:

In the present paper Implementation of POSH Act, 2013 Women Empowerment and Leadership has been studied by referring to the secondary data and its has been qualitatively analyzed from the point of view of POSHCA organization and few journals based on the subject.

Gender Equality and Empowerment:

Every 1/3rd of the women facing violence are mostly underreported. It is seen in most of the reality stories that the women are murdered by their partners or their family members. On the other hand, women placed as a responsible person head there is less corruption witnessed. Gender Equality includes gender mainstreaming. This is through creating safe working environment for the women in the workplace. In the strategy document of UNODC (United Nations Office on Drugs and Crime), it has framed women led activities that will motivate and speak for equality of the gender across all streams, UNODC also empowers member states to inspire gender balance across legal institutions like law enforcement, judicial and criminal justice institutions.

Implementation of POSH (Prevention of Sexual Harassment), 2013 in workplace contributing Women Empowerment and their Leadership: The nation's economic development is dependent on gender equality. It is one of the core factors towards the nation's development. The agrarian sector in India came to a standstill with a rise of entrepreneurs paying less to the employees with a lot of hard work. The rise in the Informal Sectors gave rise to Women's employment but at the same time contributed to their insecurity. The Recent Update that Maharashtra State Government hosted the 4th Women's Policy where there were constructive discussions

revolving around the women representation in leadership and keys for its success like in employment, skill development. e.g. focus in women friendly agricultural machinery. The policy also focused on POSH, Government will investigate the enforcement of the ICC in every private and public organizations as per the mandate of the POSH Act, 2013.

The Legal Provision for Women in workplace safeguarded their rights in an incident during sexual harassment. The United Nations, the only Global forum addresses Gender inequality to be a “lifelong reality.” The fundamental Rights of the Constitution as well as POSH, 2013 is the legal provision towards the protection of women in workplace. Vishaka Guideline acted like the backbone for the legal framework – comprehensive legal framework towards the sexual harassment of women in workplace. It gave right to the victim to be heard as well as punishment of the prosecutor was mentioned in the POSH Act, 2013 which went missing in the previous legal frameworks thus empowering women’s voice to be heard. The Definition of the Sexual Harassment is vividly mentioned in the Act which helps the Internal Committee to identify the Sexual Harassment from other assaults. The role of every workplace to cater to the Legal provision and address the issue of Sexual Harassment contributes towards advocating the women for their empowerment and their leadership to voice out their suffering and get justice for the episode that occurs and also reduce the possible sexual harassment or assaults that can be curbed through awareness as well as then action that can be taken with the help of the Internal Compliance Cell which is a kind of interval court that is provides satisfactory justice on the Sexual Harassment Case Filed in the Cell. This Case filed has a timeline to resolve for the internal committee members. The procedure helps the committee members to address justice to the victim and frees her from the chain of Sexual Harassment, as a result, the company’s profile, reputation, and branding, also helps in retaining better employees in the company than losing with then fear.

This Indian law was enacted to foster a safer work environment by preventing, prohibiting, and addressing instances of sexual harassment which can cater to Women’s Empowerment and their Leadership paving a way for equitable rights for the women like that of men;

1. Formulating a policy aimed at preventing sexual harassment within the company.
2. Establishing an Internal Complaints Committee (ICC) responsible for handling and resolving sexual harassment complaints.
3. Conducting regular awareness programs to educate employees about their rights and responsibilities in creating a safe workplace.
4. Preparing and submitting an annual POSH Compliance Report to ensure ongoing adherence to the Act’s requirements and guidelines.

If seen , 78% of the Sexual Harassment Cases are going unreported. There is lack of understanding of the Act that empowers women and the importance of the trainings that must be conducted in the Work Sector has been the need of the hour. As rightly pointed out by Nandini Mehta, Head, Business HR, Max Retail Division, Lifestyle International Pvt. Ltd., “*The leadership must treat this like a long term, ongoing learning process. It should be a way of life for all and not something being done by the organization as an obligation because of the*

law.” *The presence of Ill effective Compliance Committee, which is not equipped to take up the case in their sector can out pressure on the complainant. There is delay in reporting the Annual Report about the case update filed and the status of the case.*

Definitions of Sexual Harassment:

Social philosopher Margaret Crouch, PhD, wrote that all sexual harassment intends to keep women in their place, subordinate in society, in public spaces—male domains (2009). Pinching, pawing, staring, whistling, remarks, and sexual assault (some even add murder), are ways of communicating: "My street, my bus station, my train—I have power. You don't."

Feminists Jan Crosthwaite and Graham Priest (2001, p. 66) take the sexual harassment definition a step further, calling it behavior that "limits the prospects of self-development, realization of goals, and material success." Their definition points to dominant gender behavior "whose typical effect is to cause the subordinate group to experience their powerlessness." Gender class subjugation is fundamental. (L.S. f., 2001)

A. Causes of Sexual Harassment

The major cause of Sexual Harassment in workplace is Gender discrimination. In our nation it is widely seen in the underrepresented groups of women. This causes major disturbances in the families of women and the employers in the company where they are working. This also strikes the economic growth of the company. (L.S., 2024)

B. Effect of Sexual Harassment

This issue is highly experienced by women. It had been affecting women, especially midlife. This issue if existing should be given immediate attention to prevention, not only its treatment. 40 – 50 % of women in the US experience Sexual Harassment. It is found that it has ill health outcomes. Thornton is linked between mood, Blood Pressure, Anxiety and Sexual Harassment in the workplace. Women Experience Depression or Anxiety. (L.S., 2024)

POSH, 2013, the legislative back up:

The Fundamental Rights of Women Violated due to Sexual Harassment. Articles 14 & 15 of the Indian Constitution – state the Right to Equality and Sexual Harassment in the workplace as against women’s rights. Numerous laws have been enacted for the redressal of sexual harassment in the workplace. POSH, 2013 is one of the laws enacted for this purpose. To curb these Sexual Harassment Acts, the Ministry of Women and Children drafted “Sexual Harassment at Workplace (Prohibition, Prevention, and Redressal Act, 2013). It was from effect on 9th December 2013. The Legislative Backup was given by the Vishaka Guideline which was laid down by the Supreme Court (L.S., 2024)

Features of POSH Act, 2013:

The basic features of which are I) the definition of employee, employer and workplace under the 2013 Act is wider in scope; ii) any organization having more than 10 workers is required to have an 'internal complaints committee' for grievance redressal as per the said Act, which must have external members with appropriate skills and a requisite number of women members too; iii) the Act also prescribes detailed guidelines for conducting

the inquiry process ' there is an overall timeline for completion of inquiry in 90 days and time limits for each stage of the filing and the investigation; iv) the Act punishes fine up to Rs 50,000 for non-compliance with the statutory provisions of law. For any subsequent conviction, the employer may have to pay double the fine amount and be liable for cancellation of business license; v) several remedies are also provided under the said Act like disciplinary action, withholding of promotions and salary increases, awarding of compensation, etc. The internal committee may even provide interim relief, such as transfer of the complainant or accused pending their decision on a complaint; and vi) any aggrieved person may also prefer an appeal in such manner as may be prescribed under the said Act and Rules. (Alyssa et.al., 2019)

Sexual Harassment constitutes under POSH Act defines;

Any unwelcome act/ behavior consulted;

1. Physical contact and advances
2. A demand/request for sexual favors
3. sexually colored remarks
4. Showing pornography
5. Any other unwelcome physical
6. verbal or non-verbal conduct of sexual nature (MUNJAL, 2023)

POSH, came into force in December 2013. The basic features of the POSH Act are that it is applicable to all women. It is mandate by the employer to follow the Sexual Harassment which if prevalent is a misconduct as per the HR rules. The training of the ICC is essential as per the set time which is a quasi – judicial body. The complaints redressal is as per the ILO which describes.

Methodology - Implementation of POSH – Data Analysis and Findings:

A. “Sexual harassment in hospitality is prevalent across the globe, affecting 42% of women working in hospitality jobs in the United States, 75% in 27 European countries, 50% in the Nordic Region and 60% in Taiwan (Worke, Koricha & Debelew 2021, p.1). “

“This report draws on qualitative data from a program of research spanning 2017-2022 about employment, labour and identity amongst young (aged 18-30) hospitality workers across two Australian cities, Melbourne and Newcastle.”

Episode at Newcastle: Sexual Harassment is very much evident in the hospitality sector. The qualitative study based on this remarked that it is ‘unavoidable’ but it is very much ‘part of the job’ by young women. The harassment may be caused by guests, managers or employers of the industry. Participants addresses such episodes to ‘overcome such risks’ by observing co – workers dealing in that particular environment. The female deputed in bar or club found the space unable to manage as they were usually occupied by the guests. Participants describes themselves to mention the ‘the line is clear’. Women working in the bar should be ‘sexy, fun and flirty’. When they were confronted by customers they were found to be ‘uncomfortable and powerless’. The Physical Assault and Sexual Assault is very so attacking the females they feel they have run the situation.

The Issue: Given the scale and breadth of gendered violence against women, in domestic and public spaces including the bars they work, and on the street (Fileborn 2012) the normalized position that women are ‘better suited’ to manage violence is highly problematic, risky and exploitative for women bar workers. (Steven threadhold et.al., 2023)

- B. Few case experiences of POSHCA, a non – governmental body that implements POSH Act, 2013 in various private sectors/ governmental bodies. This has been a profound case on women empowerment and how she dealt with her perpetrator. The following case is taken from the Journal, “Preventing Sexual Harassment at Workplaces; The Legal and the Spiritual Perspective” by Madhury et.al.

“Case: Learning to Handle Empowered Women – The Hard Way A leadership team of an MNC was in Goa for an offsite. On the last day, they were on the dance floor with loud music and psychedelic lights. A male colleague approached a woman for a dance. She ignored him. He persisted. Two other colleagues came in between the dancing in such a way as not to offend anyone and separated the two. He approached her again and tried to hold her by her waist. She moved away. He then touched her on her shoulder and then she very clearly showed her index finger trying to say a firm ‘no.’ After this, she moved out of the dance floor and made a complaint the same night. Witnesses corroborated her version of the complaint. The male, in his defense, said he had tapped her on her shoulder only to ask her to come out for a smoke. When the inquiry began, he was asked to produce witnesses and evidence in his defense. He stated, “Why would somebody be looking at me? I am no Tom Hanks.” The case was adjudged against him and he had to suffer a substantial monetary loss in compensation. When the final report was handed to him, he was taken aback and requested the case be reopened.

Spiritual Reflections on the Case:

These are typically cases from MNCs where the western culture of freedom is acceptable. In most cases ‘men work from an angle of grandiosity and need to step down while women usually suffer from shame and therefore need to step up’ (Real, 2019). However, empowered women firmly refuse conciliation. They are confident that deeper investigations would lead to the truth. They use such incidents to send signals to stop patriarchal behavior. The leadership tilts towards justice especially if the respondent is a high performer. In this case, both colleagues were equally empowered. There was also a psychological angle where monetary punishment is what pinched him and drove him to desperation to fly down to talk personally to the committee.” (Madhury et.al., 2022)

- C. The major component an individual has is the spirit. The individual tries to build a stronger relation between the soul and its values; if we talk to the inner self, seek guidance from the spirit will all contribute to the building of the self and connect better and constructively with the environment.

In the Journal Titled,” Data Analysis of Empowering women through protection from sexual harassment at Workplace by Shilpa Singh. The author had conducted surveys for quantitative study to understand the women’s experience in various regions of India. In – dept interviews with HR Professionals, POSH Women

Experts and Legal Experts through qualitative analysis to find out the disempowerment persisting for women in the Indian Workforce.

Findings: This is the biggest barrier for gender discrimination and evolving themselves to their fullest potential. The strictest following of the POSH policy in the workplace, creating a culture for gender inclusiveness can contribute for better treatment of women in the workplace. (Singh, 2015)

Discussions and Conclusions:

POSH Act, 2013 contributing to Gender Equality:

The study dives into understanding the gaps of women working in the workplace has a threat of their safety where they spend 1/3rd time of their day. The Law not only defines Sexual Harassment, works tirelessly towards the sensitization of the employees causing awareness thus prohibiting such occasions or incidents that can victimize women. The Redressal Mechanism is well explained in the Law for the quasi – judicial body i.e. ICC, Internal Complaints Committee on their timelines of action and giving detrimental powers towards the perpetrators of such violence against women. Thus, helping every woman to be equipped in equal par with their male colleagues or deal in safe accordance with their male bosses in their respective firms.

It is high time that Sexual Harassment must be curbed or else it spreads like a disease. The Government should vet ensuring the prevention, prohibition, and redressal mechanism for this cause for women to feel free when she spends her 1/3rd of her time in workplace.

The women from age long have been suffering from Violence but Especially Sexual Harassment in Workplace. It affects their full potential, organizations culture and their reputation. The irony is that there are lot of women who have subject themselves to Violence and never retaliated but then this becomes a barrier for the Women who make voice gains such violations. Thus, women themselves is not affected, women working are also effective.

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