



TAMILNADU COUNCIL FOR OPEN AND DISTANCE LEARNING

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CERTIFICATE IN POSH ACT, 2013 TRAINER

SYLLABUS

What is POSH?

POSH is an acronym for **Prevention of Sexual Harassment** (at the workplace). Colloquially people use “POSH” to mean both the idea of preventing sexual harassment and the statutory framework in India that deals with it. In workplace practice, “POSH” refers to policies, complaint mechanisms and training that aim to prevent, prohibit and redress sexual harassment at work.

What is the POSH Act, 2013?

Formally it is **The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**. In plain language:

- It is an Indian law that gives legal force to rules for preventing and handling sexual harassment at work.
- It defines what amounts to sexual harassment, requires employers to set up complaint mechanisms, creates duties for employers, prescribes procedures for inquiry and remedies, and prescribes penalties for non-compliance.
- It is aimed at protecting **women** employees (including permanent, temporary, trainees/interns, contract workers, volunteers, etc.) and applies across organized and unorganized sectors.

Key statutory features most employers and HR teams use every day:

- Employers with **10 or more employees** must constitute an **Internal Complaints Committee (ICC)**.
- A **Local Complaints Committee (LCC)** is to be established at district level for workplaces without ICC or where the complaint is against the employer.

- The Act covers acts at the workplace and acts in connection with employment (e.g., employer-provided transport, business trips, work social events, online communication linked to work).

History of the POSH Act (short but important timeline & background)

- **Vishaka Guidelines (1997):** Before the Act, the Supreme Court in *Vishaka & Others v. State of Rajasthan* laid down binding guidelines requiring employers to prevent sexual harassment and provide redressal. Those guidelines recognized sexual harassment as a violation of a woman's constitutional rights.
- **Law enacted in 2013:** To give statutory backing to the Vishaka principles and create a uniform national mechanism, Parliament enacted the POSH Act in 2013. The Act and its Rules formalized definitions, time limits, required committees, duties of employers, and penalties for non-compliance.
- Since 2013 the Act has been the primary legal framework in India for workplace sexual harassment prevention and redressal.

What is a “POSH case”? (i.e., what a POSH complaint/case means)

A **POSH case** is any complaint or allegation of sexual harassment at workplace brought under the POSH Act (or dealt with via the employer's POSH policy / ICC). Practically this involves:

1. An employee (complainant) submits a written complaint alleging unwelcome conduct of sexual nature by a co-worker, superior, client, contractor, or other person connected with the workplace; and
2. The alleged conduct falls within the statutory definition of sexual harassment (physical advances, demand for sexual favours, sexually coloured remarks, displaying pornography, any other unwelcome physical/ verbal/ non-verbal conduct of a sexual nature) and/or creates a hostile work environment; and
3. The complaint is processed under the Act's complaint, inquiry and redressal procedures (ICC/LCC inquiry, findings, remedies, possible referral to police if criminal offence).

A POSH case therefore covers not just a single sexual advance but also patterns of behaviour that create a hostile or intimidating workplace.

What *can* or *cannot* be considered a POSH case? (clear examples)

Examples that can be POSH cases (typical, concrete)

- Repeated unwelcome sexual comments/jokes about a woman's body or clothing at the office.
- Unwelcome physical contact (Eg. touching, brushing, groping).
- A manager offering promotion or job security in exchange for sexual favours (quid pro quo).
- Displaying sexually explicit images or forwarding pornographic material in office chats or email.
- Sexually explicit or suggestive messages on WhatsApp/Slack from a colleague.
- Stalking or sending sexually charged messages to an employee during work hours or using company systems.
- Creating or tolerating an atmosphere where a woman is objectified or excluded because of sexual remarks — i.e., hostile work environment.

Examples that generally will not be POSH cases

- A purely professional disagreement about work performance, deadlines or ordinary disciplinary action that has no sexual element.
- Constructive feedback or legitimate managerial decisions (transfer, appraisal, dismissal) carried out according to rules — unless those actions are done as retaliation or are sexually motivated.
- Private consensual relationship between colleagues that does not involve harassment, exploitation or abuse of authority. (However: consensual relationships can still create problems where there's power imbalance; employers often require disclosure or take steps to manage conflicts of interest.)
- Criminal conduct unrelated to sexual nature (e.g., property theft) — may be workplace misconduct but not a POSH complaint (it will be redressed under other rules).

Important nuance:

Whether something is a POSH matter often depends on **context** and **consent/unwillingness**. A single off-colour remark could be minor or could amount to harassment depending on frequency, intent, power imbalance, and effect on the complainant.

Where can POSH be applied? (environment / scope)

The Act and POSH policies are intentionally broad. POSH applies to conduct that happens:

- **At the employer's premises** — offices, branches, factories, stores, canteens, restrooms, training centres.
- **During work-related travel** — business trips, client visits, conferences.
- **At employer-sponsored events** — parties, workshops, team outings, award functions.
- **On employer-provided transport** — buses, cars.
- **At client or third-party sites** where the employee is working or visiting for work.
- **Through work-related electronic means** — work email, instant messaging, social media when communications relate to work or use employer platforms.
- **Any location where an employment relationship gives rise to the incident** — e.g., at a hotel during a business trip.

Also, POSH covers interactions with:

- Colleagues, supervisors, subordinates.
- Clients, vendors, contractors, customers, and visitors if the conduct relates to the complainant's work or workplace.
- Non-employees who visit workplace premises.

In short: if the conduct is connected to work or the workplace context, POSH protections can apply.

What is ICC & LCC? (composition, who they are, what they do)

Internal Complaints Committee (ICC)

- **What:** The employer-level complaint and inquiry body required under the Act.
- **Who must have one:** Every employer with **10 or more employees** must constitute an ICC. (Employers with fewer than 10 employees normally rely on the LCC.)
- **Typical composition (statutory template used by most organisations):**
 - **Presiding Officer:** A woman from senior level at the workplace.

- **At least two other members** from among employees (who should be committed to the cause of women or have legal/social work background).
- **One external member** (from an NGO, association, or someone familiar with issues of sexual harassment).
- **Minimum strength:** usually 4 members (presiding officer + at least 2 employee members + 1 external).
- **Gender mix:** At least **half the members must be women**.
- **Functions:**
 - Accept and register POSH complaints.
 - Carry out inquiry into complaints following principles of natural justice.
 - Recommend interim reliefs (transfer, leave, temporary suspension of accused, protective measures).
 - Recommend disciplinary action and compensation if the complaint is substantiated.
 - Maintain confidentiality and records; prepare annual report.
- **Timelines (practical):** ICCs are expected to carry out inquiries promptly — standard practice is completion within **90 days** from receipt and to forward report and recommendations to the employer within a short timeframe; the employer then implements action within a further statutory window. (Organisations usually have timelines in their POSH policy consistent with the Act.)

Local Complaints Committee (LCC)

- **What:** A district-level committee constituted by the State Government to redress complaints in situations where an ICC is not available or where the complaint is against the employer.
- **When used:**
 - Workplaces with **fewer than 10 employees** and the employer has not formed an ICC.
 - When the **complaint is against the employer** (owner/partner) and an internal committee cannot be impartial.
 - Where the workplace is remote, or the complainant prefers the LCC.
- **Composition & appointment:** Constituted by the government or district authority — typically includes officials and at least one experienced NGO member or social worker.

- **Functions:** Essentially same as ICC (accept complaint, inquire, recommend remedies).

Where to file a POSH complaint? (practical step-by-step)

1) File with the Internal Complaints Committee (ICC) — the normal first step

- If your workplace has an ICC, you should submit your **written complaint** to the ICC (some organisations accept email but a written signed complaint is the standard).
- If the complainant is unable to make a written complaint due to disability or other reasons, someone on their behalf may do so with consent.

What to include in the complaint:

- Your name, designation and workplace details.
- Name of respondent(s) and their role.
- **Detailed factual description** — dates, times, locations, what was said/done. Be as specific as possible.
- Witness names, if any.
- Copies of any evidence: screenshots, emails, WhatsApp messages, CCTV reference, photos, medical or counselling records (if any).
- Any interim remedies requested (transfer, leave, no contact, etc.).

2) If ICC not constituted or the complaint is against the employer / senior management

- **File with the Local Complaints Committee (LCC)** in the district (government will have the contact details). LCCs are set up exactly for these circumstances.

3) Criminal aspects / FIR

- If the conduct is also a criminal offence (assault, stalking, rape, obscene acts), the complainant may also file an **FIR with the police**. The ICC can assist/will advise on referring the matter to police when criminality is involved. Filing an FIR does not prevent a POSH inquiry — both processes can proceed.

4) If the ICC/LCC fails or employer doesn't act

- You may approach civil courts or labour forums depending on employment status, or seek police/criminal remedies if criminal conduct. Persistent non-compliance by employer can attract fines and legal action.

The POSH process — what to expect after filing (high-level practical flow)

1. **Acknowledgement:** ICC should acknowledge your complaint.
2. **Preliminary steps / conciliation (optional):** If complainant requests, ICC may attempt conciliation before inquiry — but monetary settlement is not permitted as a condition.
3. **Inquiry:** ICC conducts an inquiry following natural justice (both sides get chance to present). Standard internal practice is completion within **90 days**.
4. **Interim reliefs:** ICC can recommend interim measures: transfer of complainant/accused, granting leave, restricting contact, temporary suspension etc.
5. **Report & Recommendation:** After inquiry the ICC issues a written report with findings and recommended action (disciplinary measures and/or compensation).
6. **Employer action:** Employer implements recommendations (e.g., disciplinary action) and pays compensation where ordered; typically, employers are expected to take action within a specified period (many organisations act within 60 days).
7. **Appeal:** The Act provides for appeal to a civil court or other authority as prescribed — specifics are governed by rules and employer policies.
8. **Confidentiality & non-retaliation:** The process is to be kept confidential and the complainant must not be victimized for filing complaint.

Practical tips for a complainant (evidence & conduct)

- **Keep a written record** — dates, times, locations, what was said/done, any witnesses.
- **Save electronic evidence** — WhatsApp screenshots, emails, chat logs, photographs, call logs; preserve originals where possible.
- **Note witnesses** — colleagues who saw or heard. Ask them if they'd be willing to give a statement.
- **Seek interim relief** if you fear contact with the respondent (request it from ICC immediately).
- **Use counselling or support services** — many organisations provide EAP or counselling; it helps with documentation of emotional impact.
- **If the matter is criminal, consider filing an FIR** and seeking urgent protection.

What remedies/penalties are available if a POSH complaint is proved?

- **Disciplinary action** — warnings, transfer, suspension, demotion, salary deduction, dismissal — depending on severity.
- **Compensation** — ICC may recommend compensation for mental trauma, loss of career opportunity, medical expenses etc.; the amount is decided based on the evidence and impact.
- **Employer penalty for non-compliance** — fines for failure to constitute an ICC or comply with the Act; repeated non-compliance may attract higher sanctions and administrative consequences.
- **Criminal prosecution** — if the conduct is criminal under IPC, the respondent may face criminal charges independent of POSH disciplinary action.

A few frequently asked clarifications

- **Does POSH protect men?** The Act is framed to protect women at workplace. Men who face sexual harassment may pursue remedies under other laws and workplace policies; some organisations extend their internal POSH-style policies to all genders.
- **Can there be false complaints?** False complaints are a concern; the Act and ICC process include safeguards. If a complaint is found to be malicious, the ICC may recommend action against the complainant. However, this is rare and must be decided on evidence.
- **Are online messages covered?** Yes — work-related electronic communications (emails, chat, social media when linked to work) fall within scope if they create harassment connected to the workplace.