

Role of POSH Act, 2013 in Prevention of Sexual Harassment of Women at Workplace: An Empirical Study of Working Women

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Abstract

Gender equality is one of the important and basic Human Right protected by the Constitution of India. The biggest hindrance in the Right to Equality is Sexual Harassment which is also treated as the contravention of Fundamental Right of women. Right to equality is guaranteed under the Article 14 and 15 of the Constitution of India. Sexual harassment is a major problem face by many people at the workplace and the problem is so serious that countries have developed many laws to resolve the issue. As increase in education level and to become independent many women dream about a good and resourceful job, but due to unwanted working conditions force them to halt the job in between and stay at home. One of the major causes of these unwanted working conditions is sexual harassment. Many time women are forced to take the steps that are fatal for their lives. Numerous laws have been introduced in India to curb and end cases of sexual harassment. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013 is one such statute. This piece will address the significance of the 2013 Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act as well as ways to enhance the working conditions for women.

Keywords: POSH Act, 2013, Working Conditions of Women, Sexual Harassment of Women at Workplace, Gender Equality, Prevention of Women from Sexual Harassment

Introduction

It is a legal right of women to have a protected, secure and inviolable workplace. As the women are becoming independent, they are keen to earn, sometimes they face harassment in many forms like eve-teasing, molestation, rape, and other crimes. Crimes against women have been a problem for years, and many laws have been enacted to address the problem, but sexual harassment is not just a women's problem, it is a violation of the right to equality and dignity. This is also called regulated violence against women. Though the women are participating in

almost all the fields and independently working still the attitude towards women has not changed, still many women face problems and harassments at workplace. Sexual harassment can be described as a sexual behavior which is unwelcoming, offensive, humiliating and intimidating. These sexual acts against women have decreased the participation of women at work which has directly or indirectly resulted in the discouragement of social and economic growth. The Indian Constitution guarantees women the right to practice any profession, conduct any business, or engage in any trade, as well as safe working conditions and an environment free from any form of harassment (Icengole, Eagle, Ahmad, and Hanks, 2002).

Sexual harassment at work place poses a serious problem towards women and society. Many women choose to keep silence against such harassment. Many women are not even aware of behaviors associated with sexual harassment. Sexual harassment means, touching or making any kind of physical contact without the consent of a woman, making sexual comments, asking for sexual favors, staring, presenting offensive things, making sexual gestures, any criminal offence including sexual assault through phone. Sexual harassment can be written, verbal or via internet. Sexual harassment is conducted for giving any kind of promotion or increment at workplace. When an individual asks for a sexual favor in return of something then it is called a Quid pro sexual harassment. Blackmailing and sexually assaulting a woman to stop her from holding any higher post or taking higher offices or authority is another type of sexual harassment. There are many factors responsible for sexual harassment of a women, but one main factor is patriarchy. The Parliament of India has enacted and enforced POSH act to protect and prevent women form sexual assault or harassment in 2013. According to POSH act sexual harassment means solicit or solicit sexual favors, making sexual comments, displaying pornography or otherwise undesirable physical, verbal, or non-verbal behavioral nature (Blackstone and Uggen, 2017).

The fundamental rights of women to equal opportunities and to life under Article 21 are both violated by sexual harassment. This covers the freedom, privacy, and prohibition against sexual harassment. The Indian Penal Code, 1860's Section 354A, which defined sexual harassment, was included in the Penal Code Amendment Act 2013, which took effect on April 3, 2013. The term "sexual harassment" and related offences are also defined in the Indian Penal Code of 1860, along with the associated penalties. Sexual harassment is defined in Section 354 A to include unwanted sexual comments and non-consensual sexual images (Pornography). Such offence

incurs penalties with fine and a prison sentence of up to three years. Under section 354B - Undressing women includes penalty of 3 to 7 years imprisonment and fine. Section 354C- Viewing or photographing a woman without her consent includes penalty in which first conviction is 1 to 3 years imprisonment and repeat offence includes conviction of 3 to seven years. Section 354 D means following or attempting to contact a woman when she refuse to contact, spying or stalking of women via the Internet or other forms of electronic communication includes penalties in which First conviction is up to 3 years imprisonment and fine and multiple convictions includes imprisonment up to 5 years in and fines. The same definition is specified in Sexual Harassment of Women in the Workplace (Prevention, Prohibition and Remedy) Act, 2013 (Sharma, 2017).

Literature Review

The POSH Act was categorically enacted to protect women from all forms of sexual harassment in the workplace and has spread across India. Under the POSH Act, women of all ages, employed, clients, or customers who are victims of sexual harassment, are protected under the law. One condition that must be fulfilled to get protection under the POSH act is that the harassment should have taken place at the workplace. POSH act is applied to organized and unorganized organizations. It also applies to government organizations or departments, public or private sectors, hospitals, sports institutions, training centers or other such earning activities happening at home. The POSH act also covers the definition of employee in which it describes permanent employees, temporary employees, temporary employees, persons employed directly or through agents on a daily wage basis, contract workers, employees, volunteers. It also includes interns and apprentices, express or implied, whether paid or unpaid, volunteer work or otherwise, in which the terms or employment are specified or not. The POSH act also describes the term workplace which means places workers visit during employment, including transportation provided by the organization (Gupta, 2014).

The important role of POSH act is it focuses on setting up of grievance redressal committee. To prevent sexual harassment at workplace an employee has to setup an Internal Complaints Committee under POSH act. The committee should be established at every branch or offices of an organization where there are more than 10 employees are employed. According to POSH act,

the Internal Complaints Committee must constitute a governing officer who shall be a working woman at the workplace and should hold a senior position. The committee must also include at least two members and preference should be given to those employees who have done social work or have any legal knowledge. The committee must also include an external member from a Non-Governmental Organization or from any organization related to same field. The POSH act also specifies that the committee must constitute at least fifty percent of the members to be women. The terms of members ICC or Internal Complaints Committee shall not exceed 3 years. During the conduction of inquiry three members from the ICC including the governing officer must be available. In a study, it was found that a thorough knowledge of the POSH act, roles, and responsibilities is required to make the chair more effective. The bottom line is that the number of ICC members should be an odd number to establish a conclusion, in case of any distinguishable opinion. The selection of members of ICC must be made keeping in view whether they have all or a few leadership qualities. The members of the ICC should be sensitive as far as gender-based violence is concerned. The functioning of ICC should be free from partiality (Chaudhuri, 2008).

To prevent sexual harassment the government should constitute a Local Complaint Committee at district level. The main idea of establishing the LCC is to prevent or inquire sexual harassment in unorganized sectors or where no ICC has been constituted. The LCC plays an important role to protect domestic workers or employees employed by any third party to prevent them from the sexual harassment. According to the POSH act, the LCC must constitute a chairman who is a woman and who works as a social worker or work for a social cause particularly for women. The must also include a local women who shall be nominated from the any block, taluka, tehsil, ward or municipality. The LCC should also constitute of two NGO members in which one shall be a woman from any NGO or committed towards a cause to protect women from any kind of harassment in society. One of the NGO members must have knowledge of law and other must be from schedule caste or schedule tribe. In a study it was found that the ICC and LCC are granted the same powers vested in civil court (Bhat, 2017). .

In a research it was found that the main role of the POSH act plays for preventing sexual harassment at workplace is wide and to expand its role there are some guide line made under the act which every employer and employee needs to learn. The organization must promote gender-

sensitive workplaces and address the underlying factors that create misogynistic work environments. Provide a safe work environment, develop and disseminate an internal policy, or statement to prohibit, prevent and redress sexual harassment at workplace, prominently display criminal penalties under POSH act. The organization should aware there employee about the POSH act by conducting seminars or workshops. ICC should be given enough space and place to conduct the regular meetings and inquiry in case of sexual harassment. It should also be provided with a facility to keep all the documents or proofs related to sexual harassment (Sharma, 2017).

In a study it was also found that dealing with sexual harassment at workplace is long and complicated procedure. Therefore it is important for the concerned committees like ICC and LCC to have enough knowledge about the POSH act and other acts related to sexual harassment. The basic skill the members of these committees should have is communication. They need to communicate properly or sensitively with the victim. They should listen, write and communicate the incident clearly. They should address the issue sensitively without harming the prestige of the victim and most importantly they should ensure that the justice is provided to the victim. For a proper redressal and prevention of sexual harassment the committee must undergo six stages that include receipt of the complaint, planning, interview, reasoning, finding and recommendations, and report writing. While conducting all the processes and procedure the committee must ensure confidentiality in case of sensitive matters. In a study it was also found that it not just a duty but a mass campaign to prevent women from sexual harassment (Gupta, 2014).

Objective: To find the role of POSH Act, 2013 in prevention of sexual harassment of women at workplace

Methodology: This study is descriptive in nature in which the data were obtained from the 190 respondents who are aware of POSH act. The major business area covered in the study were Banking and Financial Services, IT and ITEs, Retail Management, Transportation, Tour and Travel. A checklist question was used to analyze and interpret the data. In a checklist question respondents choose “Yes” or “No” for all the questions.

Data Analysis and Interpretations:

Table and Figure 1 show the role of POSH Act, 2013. It was found that around 94.2% respondents accept that the act helps to maintain equality at the workplace, helps in teaching on how to deal with harassment situations (92.1%), prevents and protects women at the workplace against sexual harassment (90.5%), companies are protected from any type of legal liability (87.8%), act helps employees feel more committed and confident (86.8%), the work environment becomes safer (83.6%), the act helps in strengthening the organization culture (83.1%) and POSH act helps in increasing employee productivity (81.0%).

Table 1 Role of POSH Act, 2013 in prevention of sexual harassment of women at workplace

SL No.	Role of POST Act, 2013	Yes	% Yes	No	% No	Total
1	Companies are protected from any type of legal liability	167	87.89	23	12.11	190
2	POSH act helps in increasing employee productivity	154	81.05	36	18.95	190
3	Prevents and protects women at the workplace against sexual harassment	172	90.53	18	9.47	190
4	Act helps employees feel more committed and confident	165	86.84	25	13.16	190
5	The act helps in strengthening the organization culture	158	83.16	32	16.84	190
6	The act helps to maintain equality at the workplace	179	94.21	11	5.79	190
7	Helps in teaching on how to deal with harassment situations	175	92.11	15	7.89	190
8	The work environment becomes safer	159	83.68	31	16.32	190

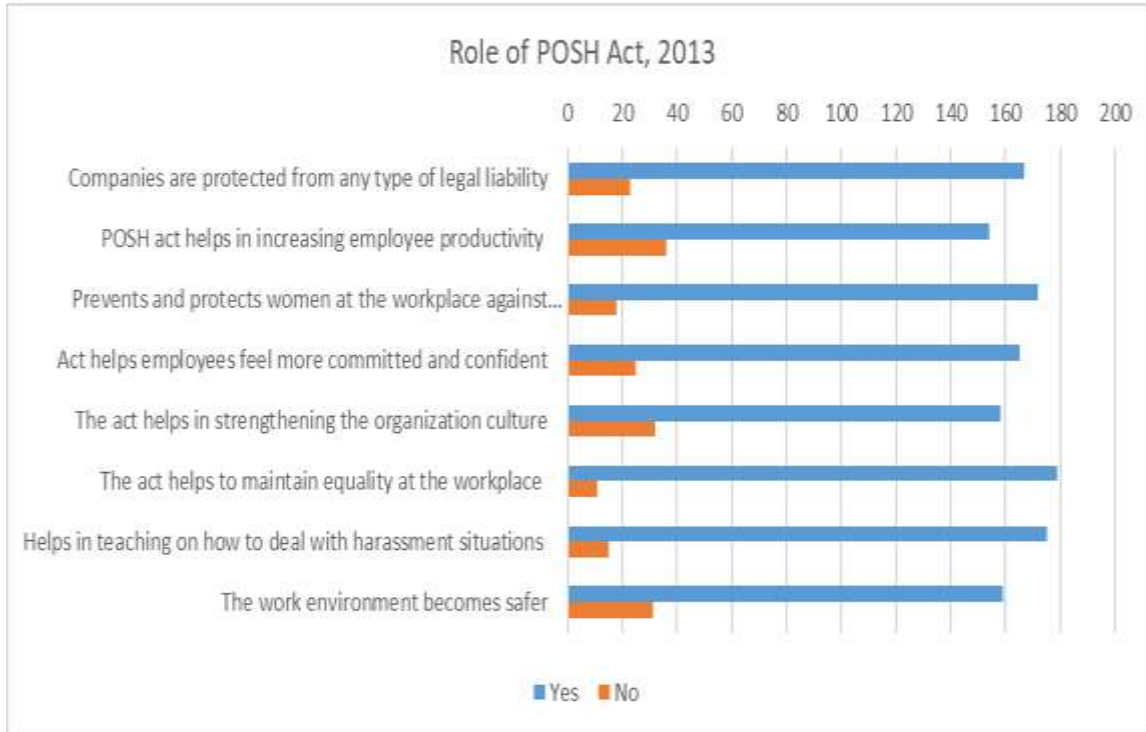


Figure 1 Role of POSH Act, 2013

Conclusion

From the above report it is concluded that safe workplace is a legal right of every woman. In today’s era every individual is keen to become an independent person. Where women were facing discrimination from the ancient world the situation of women has not even changed in this technological era. Though women are pushing themselves a lot but still they are facing harassments in many forms. At workplace where women are supposed to earn, learn, and grow they are blocked from further success. Many women are facing sexual harassment in various ways. To protect and prevent women from sexual harassment, the Indian judicial system has implemented various laws, one of which is the POSH law, which was created specifically to protect women from sexual harassment in the workplace. The act plays an import role is efficient redressal of cases related to sexual harassment at workplace. The act also ensures that there should be a proper procedure at various levels to prevent women from sexual harassment. The act also ensures that the sensitive matters of sexual harassment should be handled in sensitive manner.

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