



THE POSH DIGEST |
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Issue I

“WORKPLACE SAFETY | POSH QUARTERLY REVIEW”

POSH

Quarterly Review

CASE LAW · COMPLIANCE · REGULATORY UPDATES · BEST PRACTICES

Curated by

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CASE LAW UPDATES ♦ REGULATORY CHANGES ♦ SHe-BOX PORTAL ♦ HR
COMPLIANCE CHECKLIST ♦ IC BEST PRACTICES

FROM THE FOUNDER'S DESK

"The year 2025 fundamentally shifted how India's courts and regulators view POSH compliance — from passive paperwork to active accountability. Internal Committees are now statutory authorities under judicial scrutiny. For every HR professional and IC member reading this, the message is clear: POSH is no longer a checkbox. It is a living commitment to dignity, fairness, and justice at the workplace."

Adv. Manju Parmar Hatgaonkar

Founder & CEO · PRAMAN Foundation · POSH Consultant & External IC Member · Empaneled Expert, SHe-Box Portal, MWCD, Govt. of India

LEGAL UPDATES — Q4 2025 & Q1 2026

Key POSH Case Law Every HR Professional Must Know

LANDMARK RULING · SUPREME COURT OF INDIA

Dr. Sohail Malik v. Union of India & Anr.

SUPREME COURT OF INDIA · DECEMBER 10, 2025
· J.K. MAHESHWARI & VIJAY BISHNOI JJ.

The Supreme Court delivered a watershed ruling on ICC jurisdiction. An IC constituted at the workplace of the aggrieved woman can conduct inquiry even when the respondent belongs to a different department or organisation. The word "where" in Section 11(1) is a procedural trigger — not a geographic restriction. Jurisdiction cannot be weaponized to delay or deny Redressal.

HR Takeaway: Do not reject complaints citing inter-departmental jurisdiction. Your IC has authority to proceed and forward findings to the respondent's employer for action.

LIMITATION PERIOD · SUPREME COURT OF INDIA

Vaneeta Patnaik Case — "Direct Nexus Test" & Timelines

SUPREME COURT OF INDIA · SEPTEMBER 2025,
REVIEWED NOVEMBER 17, 2025

The Court upheld that the 3-month limitation period under Section 9 of the POSH Act is mandatory. It introduced the "Direct Nexus Test" to determine whether later administrative actions can extend the complaint window. Remedies under POSH must stay within the Act's statutory framework — courts cannot impose penalties outside it.

HR Takeaway: Advise employees not to delay filing. The window is 3 months from the last incident, extendable by only 3 more months in exceptional circumstances.

NATURAL JUSTICE · KERALA HIGH COURT

ANTI-RETALIATION · DELHI HIGH COURT

Vineeth V. V. v. Kerala State Electricity Board & Ors.

KERALA HIGH COURT · 2025

The Court held that supply of the written complaint and all relevant material to the respondent is mandatory. Denial of documents constitutes a violation of natural justice. Any inquiry conducted in breach of prescribed procedure is liable to be set aside. ICs function as statutory authorities and must follow due process strictly.

HR Takeaway: Ensure both parties receive all relevant documents before the inquiry begins. Procedural shortcuts — even well-intentioned ones — can invalidate the entire inquiry report.

X v. Sahitya Akademi & Ors. — Retaliation as Independent Illegality

DELHI HIGH COURT · AUGUST 28, 2025

The Court treated retaliation as an independent illegality under POSH. The complainant's employment was terminated while her complaint was pending. The Court held this unlawful — probationary status cannot defeat statutory protections. A written complaint is mandatory; without it, an IC has no jurisdiction to inquire.

HR Takeaway: Never take adverse action — termination, demotion, or transfer — against an employee while a POSH complaint is pending. Such actions attract strict judicial scrutiny.

SCOPE OF POSH · MADRAS HIGH COURT

HCL Technologies Ltd. v. N. Parsarathy — Intent vs. Impact

MADRAS HIGH COURT · 2025

The Court held that the complainant's experience and perception are central — not the respondent's claimed intent. A "hostile work environment" falls under POSH only if the hostility has a sexual element. Bullying or power misuse without sexual overtones must be addressed under service or labour law, not POSH.

HR Takeaway: ICs must carefully classify complaints at intake. Misclassifying general misconduct as POSH weakens the law. Use the correct legal framework for each grievance type.

NATIONAL IC SURVEY · SUPREME COURT OF INDIA

Aureliano Fernandes v. State of Goa — District-Wise IC Audit

SUPREME COURT OF INDIA · AUGUST 12, 2025

The Supreme Court directed all States and UTs to conduct district-wise surveys to verify IC constitution under Section 4. Labour Commissioners and District Officers must collect data and submit compliance reports. Section 26 penalties — fines up to ₹50,000 and licence cancellation — apply to non-compliant organisations.

HR Takeaway: Expect compliance verification from Labour Officers. Ensure your IC is formally constituted, trained, and documented. Non-compliance is no longer a private matter.

NEW RULE — EFFECTIVE 14 JULY 2025

Mandatory POSH Disclosures in Board Reports

The Ministry of Corporate Affairs notified the **Companies (Accounts) Second Amendment Rules, 2025**, requiring every company to disclose sexual harassment data in the Board's Report under amended Rule 8(5)(A)(x).

- Number of sexual harassment complaints received during the financial year
- Number of complaints disposed of during the financial year

REGULATORY ALERT — NOVEMBER 21, 2025

4 Labour Codes Come into Force

All four Labour Codes came into force on November 21, 2025, replacing 29 central labour laws. This landmark step streamlines compliance, expands social security, and modernises workplace standards. Specific State-level rules are still awaited.

- Proactively assess compliance needs across HR, Finance, Payroll, and Legal functions
- Review and realign existing HR policies with the new consolidated framework
- Ensure POSH policies remain consistent within the Labour Code framework

- Number of complaints pending for more than 90 days
- Whether IC recommendations were actually implemented
- Gender composition of employees (men, women, transgender persons)

- Connect with PRAMAN HR for holistic compliance reviews and policy alignment

"Merely having a policy is no longer sufficient. Boards must demonstrate implementation through data and transparency."

DIGITAL COMPLIANCE MANDATE

SHe-Box Portal — What Every Employer Must Do Now

The **SHe-Box (Sexual Harassment Electronic Box)** portal, maintained by the Ministry of Women and Child Development, was relaunched following the Supreme Court's directions. All workplaces — including private organisations — must register their Internal Committees on the portal.

- Register your IC and workplace on shebox.wcd.gov.in immediately
- SHe-Box allows complaints from clients, vendors, freelancers, interns, and gig workers
- Sector regulators — Ministry of Education, NSE — have issued mandatory registration instructions
- Delhi NCT directed all public and private entities to register effective June 12, 2025
- Non-registration may attract Section 26 penalties on inspection



SHe-Box

Ministry of Women & Child
Development Govt. of India

shebox.wcd.gov.in

*Adv Manju Hatgaonkar is proudly
featured as an empaneled POSH Expert
on the SHe-Box Portal.*

Q1 2026 ACTION LIST

HR & IC Compliance Checklist

✓ **Constitute Your IC**

Ensure IC has min 4 members including a woman Presiding Officer and one external member. Mandatory for workplaces with 10+ employees.

✓ **Register on SHe-Box**

Register your IC and workplace on shebox.wcd.gov.in immediately. Effectively mandatory per court directions and sector-regulator circulars.

✓ **Board Report Disclosures**

Prepare POSH complaint statistics for your Board Report from FY 2025-26. Maintain accurate complaint registers throughout the year.



✓ Train IC Members

Conduct refresher training for all IC members. Courts now examine whether members handle complaints with statutory competence and procedural fairness.

✓ Review & Update Policy

Audit your POSH policy to incorporate 2025 legal changes — jurisdictional clarifications, retaliation protections, and virtual workplace coverage.

✓ File Annual Report

File the mandatory POSH Annual Report with the District Officer. Include complaints received, disposed, and pending. Non-filing attracts Section 26 penalties.

IC MEMBERS' DESK

4 Inquiry Principles Courts Are Now Watching Closely

01

Written Complaint is Non-Negotiable

An IC has no jurisdiction without a written complaint. Verbal complaints or email trails alone are insufficient. Ensure a formal written complaint is received before commencing any inquiry proceedings.

02

Share All Documents with Both Parties

Failure to provide the respondent with the complaint and supporting material is a natural justice violation. The Kerala HC ruling is clear — withholding documents can get your entire inquiry report set aside.

03

Complete Inquiry Within 90 Days

The POSH Act mandates completion within 90 days. Under new Board Report rules, complaints pending beyond 90 days must be publicly disclosed. Time management is now a corporate governance metric.

04

No Adverse Action During Inquiry

Transferring, demoting, or terminating a complainant while an inquiry is pending is now treated as retaliation — an independent illegality under POSH — attracting judicial intervention.

Truth · Trust · Transformation

🔒 Disclaimer

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