

The Posh Act, 2013 in the Era of Platform Capitalism and Informal Labour: Relevancy, Jurisdictional Gaps, and Structural Reform

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ABSTRACT

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) represents India's statutory commitment to dignity and equality in the workplace. Enacted in the aftermath of Vishaka v. State of Rajasthan, the Act institutionalised Internal Committees (ICs) and Local Committees (LCs) as quasi-judicial redressal bodies. However, more than a decade later, the definition of "workplace" has dramatically evolved. India's labour market is now characterised by gig work, platform-mediated services, domestic work, remote work, and informal labour arrangements that challenge traditional employer–employee constructs. This article examines the continued relevance of the POSH Act in 2026, particularly in the context of emerging sectors such as gig workers, platform-based service providers, and domestic workers. It analyses recent judicial developments, including platform accountability jurisprudence, Supreme Court directions on LC constitution, limitation interpretations, and the doctrine of alternative remedy in POSH disputes. The article argues that the principal crisis in POSH implementation is not normative but institutional. It proposes structural reforms—strengthening Local Committees, platform-specific compliance models, jurisdictional interoperability mechanisms, and access-oriented procedural frameworks—to ensure that POSH remains effective in decentralised and informal labour environments.

Keywords: POSH Act 2013, Gig Workers, Domestic Workers, Platform Economy, Internal Committee, Local Committee, Limitation, Workplace Jurisdiction, Informal Sector, Sexual Harassment Law.

Introduction

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013¹ (hereinafter "POSH Act") represents the statutory culmination of constitutional guarantees under Articles 14, 15, 19(1)(g), and 21 of the Constitution of India. Rooted in the Supreme Court's landmark decision in *Vishaka v. State of Rajasthan*,² the Act institutionalised workplace mechanisms for preventing and redressing sexual harassment.

In 2026, the relevance of POSH is not diminished. Rather, it is intensified by the transformation of India's labour economy. Gig platforms, app-based service aggregators, domestic employment in private households, and hybrid work models have fragmented the conventional idea of "workplace." Traditional assumptions underlying the POSH framework—stable employer, identifiable premises, payroll employee—no longer uniformly apply.

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This article addresses three central questions:

- Does the statutory architecture of POSH sufficiently cover emerging work arrangements?
- How have courts interpreted POSH in platform and cross-workplace contexts?
- What structural reforms are necessary to ensure meaningful enforcement for gig and domestic workers?

Statutory Architecture and Expansive Definitions

- **Broad Definition of “Workplace”**

Section 2(o) of the POSH Act defines “workplace” expansively to include any place visited by the employee arising out of employment, including transportation provided by the employer.³ This expansive language anticipates field work, travel-related harassment, and off-site engagements.

Importantly, the Act recognises that a “dwelling place or house” may constitute a workplace for domestic workers.⁴ This provision theoretically extends protection to domestic employees, though enforcement remains dependent upon Local Committees.

- **“Aggrieved Woman” and Coverage Beyond Formal Employment**

Section 2(a) defines an “aggrieved woman” broadly, covering women of any age, whether employed or not, who allege sexual harassment in a workplace.⁵ This expansive formulation allows coverage even where formal employment contracts are absent.

Thus, doctrinally, the POSH Act is not conceptually restricted to traditional employment relationships. The enforcement gap arises primarily at the institutional level.

Institutional Mechanisms: Internal Committees and Local Committees

- **Internal Committees (ICs)**

Every organisation with ten or more employees must constitute an Internal Committee.⁶ ICs possess powers akin to civil courts under Section 11(3), including summoning witnesses and requiring document production.

- **Local Committees (LCs) as Access Mechanisms**

Local Committees (formerly LCCs) are district-level bodies constituted to address complaints where:

- The establishment has fewer than ten employees;
- The employer is the respondent;
- No Internal Committee exists.⁷

LCs are indispensable for gig workers and domestic workers. However, inconsistent constitution and lack of public visibility have significantly undermined their effectiveness.

Recognising systemic gaps, the Supreme Court in 2024 directed State authorities to ensure constitution and operationalisation of Local Committees within specified timelines.⁸ These directions underscore that POSH’s failure lies not in legislative drafting but in institutional execution.

Gig and Platform Work: Reimagining Employer Accountability

- **Platform Economy and the “Control” Paradigm**

Gig platforms frequently characterise service providers as “independent contractors.” However, algorithmic control, rating systems, and deactivation powers create functional dependency.

Sexual harassment risks in platform ecosystems include:

- Customer-to-worker harassment;
- Worker-to-customer harassment;
- Worker-to-worker harassment across platform networks.

The central legal issue is whether platforms can disclaim POSH obligations by invoking intermediary status.

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- **Karnataka High Court: Platform Responsibility under POSH**

In *Ms X v. Internal Complaints Committee & Ors.* (Karnataka High Court, 30 September 2024), the Court examined whether a driver associated with a cab aggregator could be treated as an “employee” for POSH purposes.⁹ The Court rejected a narrow contractual interpretation and recognised that effective control and platform integration justified extending POSH obligations.

This reasoning signals a jurisprudential shift from formalistic employment labels toward functional accountability.

- **Implications**

- Platforms may be required to maintain ICs that entertain complaints linked to platform-mediated work.
- Duty of care may arise from control, not merely contractual designation.
- Compliance models must incorporate in-app reporting, digital evidence preservation, and anti-retaliation safeguards.

Domestic Workers and the Home as Workplace

The POSH Act expressly contemplates domestic work within private households.¹⁰ Nevertheless, enforcement barriers persist:

- Lack of awareness of Local Committees;
- Social stigma and economic dependence;
- Evidentiary difficulties within private homes;
- Absence of structured HR mechanisms.

Commentary and judicial observations have emphasised that statutory recognition alone does not guarantee effective access.¹¹ Strengthening Local Committees is therefore central to meaningful domestic worker protection.

Jurisdictional Complexities and Cross-Workplace Harassment

Modern workplaces often involve multi-employer arrangements—vendors, consultants, principal employers, and platform ecosystems.

The Supreme Court has underscored that procedural technicalities should not defeat access to redressal and that ICC jurisdiction should be interpreted purposively where cross-workplace dynamics are involved.¹²

However, enforcement challenges remain when the respondent falls outside the complainant’s employer’s disciplinary control. Coordinated compliance mechanisms between organisations and district officers are therefore essential.

Procedural Discipline and Judicial Scrutiny

- **Alternative Remedy Doctrine**

High Courts have consistently emphasised that Section 18 provides an appellate remedy against IC findings, and writ petitions should not ordinarily bypass this mechanism.¹³

This reinforces the quasi-judicial character of IC proceedings and underscores the need for procedural compliance.

- **Natural Justice and Inquiry Standards**

Courts have set aside POSH findings where inquiries failed to comply with principles of natural justice.¹⁴ Documentation, reasoned findings, and fair opportunity remain indispensable.

- **Confidentiality**

Section 16 mandates confidentiality of proceedings and outcomes.¹⁵ Judicial directions reiterate strict adherence to confidentiality obligations.¹⁶ In informal sectors, confidentiality is crucial to prevent retaliation and social ostracisation.

Limitation and the Doctrine of Continuing Harassment

Section 9 prescribes a three-month limitation period, extendable by another three months for sufficient cause. The Supreme Court has recently taken a strict approach to limitation in POSH matters, declining to treat unrelated administrative decisions as “continuing harassment.”¹⁷

While procedural certainty is necessary, strict limitation may disproportionately impact informal workers lacking immediate access to committees. This tension necessitates improved awareness and assisted complaint mechanisms rather than dilution of statutory timelines.

Structural Challenges in Emerging Work Sectors

- Fragmented employment relationships;
- Dispersed and mobile workplaces;
- Algorithmic management and economic dependence;
- Weak Local Committee infrastructure;
- Digital evidence complexities;
- Fear of retaliation and deactivation.

These challenges highlight that POSH enforcement must evolve institutionally rather than doctrinally.

Recommendations

- **Strengthen Local Committees**
 - Mandatory public disclosure of LC contact details;
 - Dedicated budgets and secretarial support;
 - Periodic capacity-building programs;
 - Integration with legal aid and One Stop Centres.
- **Platform-Specific Compliance**
 - Broaden IC jurisdiction policies;
 - Digital reporting and SOS systems;
 - Evidence preservation protocols;
 - Anti-retaliation safeguards.
- **Cross-Workplace Cooperation**
 - MoUs between principal employers and vendors;
 - SOPs for handling external respondents;
 - District-level enforcement coordination.
- **Access and Equity**
 - Assisted complaint filing;
 - Multi-lingual awareness campaigns;
 - Confidential and trauma-informed processes.

Conclusion

The POSH Act remains normatively robust and constitutionally grounded. Judicial developments demonstrate a willingness to interpret the statute purposively in response to platform capitalism and informal labour realities. However, the future effectiveness of POSH depends on institutional strengthening—particularly of Local Committees—and platform accountability models aligned with decentralised work.

In the gig economy and domestic sphere, the law must travel to where work happens. Without accessible, trained, and empowered redressal mechanisms, statutory rights risk becoming symbolic rather than substantive.

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POSH in 2026 is not obsolete; it is unfinished. The task ahead lies in operational transformation, not legislative replacement.

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