



## Applying POSH Act in Political Parties

For Prelims: [Supreme Court](#), [Public Interest Litigation](#), [Sexual Harassment of Women at Workplace \(Prevention, Prohibition and Redressal\) Act, 2013](#), [Vishakha guidelines](#)

For Mains: Application of POSH Act in Political Parties, Need, Implications and Challenges in applying POSH in political parties, Initiatives Related to Women's Safety in India.

### Why in News?

Recently, a [Public Interest Litigation \(PIL\)](#) has been heard by the Supreme Court regarding applicability of ***Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act)*** in political parties.

- This issue has remained an area of ambiguity, especially considering the peculiar structure of political organisations in India.

### Why is there a Need to Bring Political Parties under the POSH Act?

- **Harassment of Women Parliamentarians:** A 2016 **Inter-Parliamentary Union (IPU)** survey found that **82% of women parliamentarians** globally face psychological violence, including sexist remarks and threats.
  - In regions like **Africa**, **40% of parliamentarians** experiencing sexual harassment.
- **Ensuring Safe Work Environment:** Despite growing participation, women hold only **14.4% of Lok Sabha seats and less than 10% in state legislatures**, reflecting systemic barriers.
  - Ensuring safety in political parties can encourage greater representation and leadership roles for women.
- **Legal and Constitutional Mandate:** [Articles 14 and 15](#) of the Constitution guarantee **equality and non-discrimination** and POSH Act's broad definition of "workplace" and "employee" can cover party workers, volunteers, and field operatives, ensuring their rights are protected.
- **Lack of Internal Mechanisms:** Political parties **often lack proper grievance redressal systems**.
  - Internal committees are not mandated to include external members or meet impartiality standards as required under the POSH Act, leading to underreporting of harassment cases.
- **Electoral and Institutional Reforms:** Including political parties under the POSH Act aligns with the Election Commission's emphasis on **transparency and accountability** in party operations, **ensuring internal democracy and gender justice** in influential institutions.
- **Global Best Practices:** Countries like Sweden and Norway have **institutionalized gender-sensitive practices in political organizations**, serving as models for India.
  - The **UK Parliament's Independent Complaints and Grievance Policy (ICGP)**, established in 2017, aims to **tackle bullying and sexual harassment** in UK Parliament.

### What is the POSH Act?

- **About:**
  - It was enacted by the Government of India to **address the issue of sexual harassment in workplaces** and ensure a **safe and conducive environment for women**.
- **Background:**
  - The genesis of the PoSH Act lies in the **landmark 1997 Supreme Court judgment** in [Vishakha and Others v. State of Rajasthan](#), which formulated the [Vishakha Guidelines](#) to safeguard women from sexual harassment.
  - These guidelines, based on constitutional principles (such as **Article 15**, which prohibits discrimination on grounds of sex) and **international conventions** (like the [Convention on the Elimination of All Forms of Discrimination Against Women \(CEDAW\)](#), which India ratified in 1993, served as the foundation for the Act.
- **Sexual Harassment:**
  - The Act **defines sexual harassment** in broad terms, including unwelcome physical contact, sexual advances, requests for sexual favors, sexually colored remarks, showing pornography, and any other unwelcome conduct of a sexual nature, whether physical, verbal, or non-verbal.
- **Definition of Workplace:**
  - **Section 3(1)** of the POSH Act states that **“No woman shall be subjected to sexual harassment at any workplace.”** The definition of “workplace” is broad and includes:
    - Public sector organizations established or financed by the government.
    - Private sector organizations.
    - Locations visited by employees during the course of employment.
- **Key Provisions:**
  - **Prevention and Prohibition:** The Act places a **legal obligation on employers** to prevent and prohibit sexual harassment in the workplace.
  - **Internal Complaints Committee (ICC):** Employers are required to **constitute an ICC at each workplace with 10 or more employees** to receive and address complaints of sexual harassment.
    - The **Complaints Committees** have the powers of [civil courts](#) for gathering evidence.
      - An appeal from the ICC can be filed in the **industrial tribunal** or the **labor court**.
    - In organizations with less than 10 employees or specific circumstances lacking an Internal Committee (IC), a **Local Committee (LC)** is constituted by the District Officer to receive and address complaints.
  - **Duties of Employers:** Employers must undertake **awareness programs**, provide a safe working environment, and display information about the POSH Act at the workplace.
  - **Complaint Mechanism:** The Act lays down a procedure for filing complaints, conducting inquiries, and providing a fair opportunity to the parties involved.
  - **Penalties:** Non-compliance with the Act's provisions can result in **penalties, including fines and cancellation of business licenses**.

## Recommendations of the Justice Verma Committee on Sexual Harassment at Workplace:

The Justice Verma Committee, which was constituted in response to the **2012 Delhi gang rape case to review laws** relating to sexual violence against women. It made several key recommendations regarding sexual harassment at the workplace such as:

- **Inclusion of Domestic Workers:** The Committee recommended that **domestic workers** should be covered under the PoSH Act to ensure their protection from sexual harassment.
- **Employer Compensation:** The Committee recommended that the **employer should be liable to pay compensation to women** who have suffered sexual harassment at the workplace, alongside other legal remedies.
- **Employment Tribunal:** Instead of relying solely on an Internal Complaints Committee (ICC), the Committee proposed setting up an **Employment Tribunal** to address complaints of sexual harassment, ensuring more impartial and comprehensive adjudication.

## What are the Challenges in Application of POSH Act in Political Parties?

- **Lack of Traditional Structure:**
  - Political parties often employ **temporary workers** who **may not have a defined workplace** or a direct relationship with high-ranking officials.
    - This makes it **challenging to identify the workplace** responsible for establishing ICCs.
- **Absence of Explicit Guidelines:**
  - Political parties typically manage internal discipline (**including sexual harassment cases**) through their own committees as there is **absence of explicit guidelines** for application of POSH related to parties.
- **Role of the Election Commission of India (ECI):**
  - **ECI** has explicit mandate in **case of RPA Act under Article 324** of the Constitution but it lacks in other laws like POSH.
  - ECI has enhanced transparency through measures like mandatory candidate disclosures and political funding accountability.
    - However, its role in enforcing workplace safety laws, such as the POSH Act, remains unclear.
- **Legal Precedents:**
  - The Kerala High Court, in the case of **Centre for Constitutional Rights Research and Advocacy v. State of Kerala (2022)** ruled that **political parties do not have an employer-employee relationship** with their members and thus are **not obligated to establish ICCs**.
  - This ruling underscores the complexity of applying workplace laws to the political sphere.

## Similar Issues Related to Political Parties

- **Bringing Political Parties under RTI Act:** Despite being **declared public authorities by the CIC in 2013**, most political parties have **resisted coming under the ambit** of the **RTI Act**.
  - This lack of transparency in their functioning and **financial dealings undermines public trust** and democratic accountability.
- **No Mandatory Income Tax Compliance:** Under **Section 13A of the Income Tax Act, 1961**, political parties are **exempt from taxes** if they maintain proper accounts and submit audited reports.
  - However, **there are allegations of misuse**, with many parties not fully disclosing their financial details. **Reforms to mandate greater accountability and taxation compliance** could help curb financial opacity.

## Way Forward

- **Legislative Amendments:** Amend the POSH Act to explicitly include political parties, addressing ambiguities regarding “workplace” and “employer” in the context of party structures.
  - **Explicit guidelines from the ECI or the Supreme Court** are essential to ensure political parties comply with workplace safety laws like the POSH Act.
  - If smaller institutions with 10 or more members are mandated to constitute Internal Committees, there is **no justification for exempting political parties**.
- **Institution of ICCs:** Mandate the establishment of **Internal Complaints Committees (ICCs)** within political parties to ensure adherence to the POSH Act and provide a robust grievance redressal mechanism.
- **Capacity Building and Awareness:** Conduct regular sensitisation and training programs within political parties to educate members on issues related to sexual harassment and the functioning of ICCs.
- **Dedicated Tribunal for Women:** As recommended by the **Verma Committee**, a dedicated tribunal for **addressing complaints of harassment within political parties** can be established as an **independent and specialized mechanism**.
  - This would foster accountability, ensure timely redressal, and create a safer,

more **inclusive political environment** for women politicians.

- **Strengthening ECI Oversight:** Empower the Election Commission of India (ECI) to monitor and enforce compliance with workplace safety norms, ensuring accountability and transparency within political parties.

## Conclusion

The Supreme Court's deliberations on the applicability of the POSH Act to political parties underscore the pressing need for robust legal frameworks to ensure workplace safety. Given their pivotal role in shaping governance and societal norms, political parties must prioritize safeguarding women against harassment. The verdict in this matter holds the potential to set a transformative precedent, impacting not only the functioning of political parties but also workplace safety standards across diverse sectors in India.

### **Drishti Mains Question:**

Analyze the role of the POSH Act in ensuring workplace safety for women. Should political parties be brought under its ambit? Justify your answer with arguments and examples.

## UPSC Civil Services Examination, Previous Year Questions (PYQs)

### **Mains**

**Q.** We are witnessing increasing instances of sexual violence against women in the country. Despite existing legal provisions against it, the number of such incidences is on the rise. Suggest some innovative measures to tackle this menace. (2014)

PDF Refernece URL: <https://www.drishtias.com/printpdf/applying-posh-act-in-political-parties>