# The Sexual Harassment of Women at Workplace (Prevention. Prohibition and Redressal) Act, 2013. (POSH) Act, 2013

### **Background:**

The Supreme Court of India in its landmark judgment of **Vishaka v. State of Rajasthan** ("Vishaka Judgment"), wherein the Supreme Court framed certain guidelines and issued directions to the Union of India to enact an appropriate law for combating workplace sexual harassment.

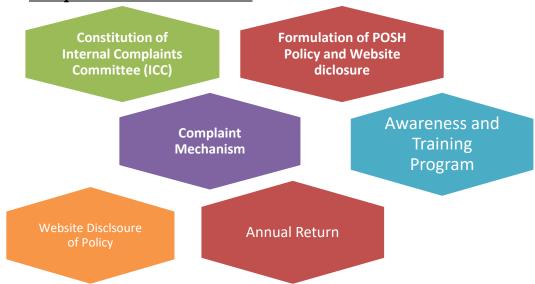
In the absence of a specific law in India, the Supreme Court, in the Vishaka Judgment, laid down certain guidelines making it mandatory for every employer to provide a mechanism to redress grievances pertaining to workplace sexual harassment ("Vishaka Guidelines") which were being followed by employers until the enactment of the POSH Act.

While the Vishaka Guidelines were confined to the traditional office set-up, recognizing the fact that sexual harassment may not necessarily be limited to the primary place of employment, the POSH Act has introduced the concept of an 'extended workplace'. As per the POSH Act, 'workplace' includes any place visited by the employee arising out of or during the course of employment, including transportation provided by the employer for the purpose of commuting to and from the place of employment

# Applicability of POSH Act,2013:-

The Act is applicable to all companies, workspaces, establishments, and organizations **that employ 10 or more employees**, irrespective of the industry and whether the employment is part-time, full-time, contract, or internships.

### Compliance under POSH Act:



# **POSH Compliance w.r.t filing of POSH return on or before 31st January Every Year:**

### • Section 21:- Committee to submit annual report:

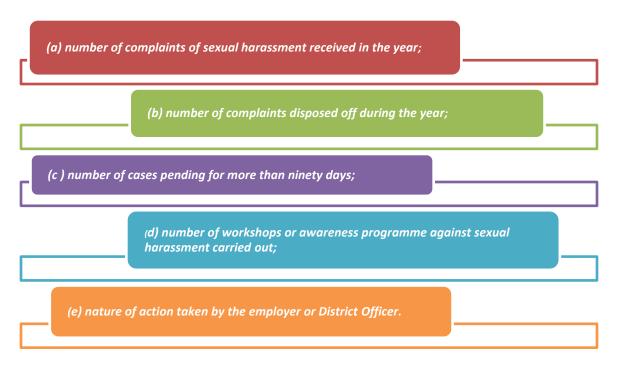
- (1) The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, **an annual report** and submit the same to the employer and the District Officer.
- (2) The District Officer shall forward a brief report on the annual reports received under subsection (1) to the State Government.

### • Section 22:- Employer to include information in annual report

The employer shall include in its report the number of cases filed, if any, and their disposal under this Act in the annual report of his organization or where no such report is required to be prepared, *intimate such number of cases*, *if any, to the District Officer*.

• Rule 14 of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013:

**Preparation of annual report.-** The annual report which the Complaints Committee shall prepare under **Section 21**, shall have the following details:-



<u>The last date of submission of such annual report to the District Officer is 31st January of every year for the preceding calendar year.</u>

### • Section 26: Penalty for non-compliance with provisions of Act.

- a. Where the employer fails to.
- i. constitute an Internal Committee under sub section (1) of Section 4;
- ii. take action under Sections 13, 14 and 22; and

contravenes or attempts to contravene or abets contravention of other provisions of this Act or any rules made thereunder, he shall be punishable with fine which may extend to fifty thousand rupees.

## Provision Under Company Acts, 2013

Rule 8 of Companies (Accounts) Rules, 2014: Matters to be Included in Board's Report.

<u>Sub Rule (x):</u> a statement that the company has complied with provisions relating to the constitution of Internal Complaints Committee under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

\*\*\*\*\*