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ActionAid Association (India)

The POSH Act:

Securing Your Right
to a Harassment
Free Workplace



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1. Why This Booklet is For You

This booklet is for you.

If you work: whether in someone's home, on the street, at a construction site, from your own home, or in any other similar way, this information is to help you. As women working in the informal sector, you contribute greatly to our society and the country. However, you might face unique challenges and vulnerabilities, and sometimes, unsafe situations at your workplace.

This booklet will tell you about a law called the **POSH Act (The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013)**. This law was made to protect all working women, including you, from sexual harassment at your place of work.

Let's learn together how this law can help you work with safety and dignity.

2. What is Sexual Harassment?

Sexual harassment is any unwanted sexual behavior that makes you feel bad, scared, uncomfortable, insulted, or creates a hostile or offensive work environment for you. It's important to remember that it's not your fault if this happens. The law focuses on the impact the behavior has on you, not necessarily what the other person intended.

Sexual harassment can be any one or more of the following unwelcome acts or behavior (whether directly or by implication):

Unwanted Physical Contact and Advances:

- » Someone touching you in a way that makes you feel uncomfortable (like patting, brushing against you, hugging, or kissing without your consent).
- » Trying to get too close to you physically without your permission.

A Demand or Request for Sexual Favors:

- » Someone asking you for sexual favors, perhaps in return for getting work, keeping your job, getting better pay, or a promotion. This is also called "quid pro quo" harassment.

Making Sexually Coloured Remarks:

- » Someone making comments about your body, your looks, or your private life that are sexual in nature.
- » Telling sexual jokes, making sexual sounds, or asking offensive questions about your sexual life.

Showing Pornography:

- » Someone showing you adult pictures, videos, messages, or objects that are sexual in nature against your will.

Any Other Unwelcome Physical, Verbal, or Non-Verbal Conduct of Sexual Nature:

- » This can include staring or leering in a sexual way, making offensive gestures, whistling, or following you.
- » Repeatedly asking you out despite you saying no.
- » Any other behaviour that is sexual and makes you feel unsafe, disrespected, or humiliated.

The following circumstances, if they happen because of any of the acts above, can also be sexual harassment:

1. Implied or explicit **promise of better treatment** in your work (like a raise or promotion) if you agree to sexual demands.
2. Implied or explicit **threat of bad treatment** in your work (like firing you, cutting your pay, or giving you harder tasks) if you refuse sexual demands.
3. Implied or explicit **threat about your current or future job status**.
4. **Interfering with your work** or creating an intimidating, offensive, or **hostile work environment** for you. This means the atmosphere at work becomes so bad due to sexual harassment that it's hard for you to work.
5. **Humiliating treatment** that is likely to affect your health or safety.

Remember: If any behaviour is sexual in nature and makes you feel uncomfortable or unsafe, it can be sexual harassment. You have the right to say NO.

3. Who is Protected by This Law?

This law protects **ALL** women, no matter where they work or what kind of job they do.

This law is for you if you are:

- » A **domestic worker** (working in someone's house – like cooking, cleaning, childcare)
- » A **street vendor** (selling goods on the street, in markets)
- » A **construction worker** (working at building sites, road construction)
- » A **home-based worker** (like stitching clothes, making bidis, or handicrafts at home for payment)
- » A **gig worker** (like delivery persons, app-based taxi drivers, beauticians working through apps)
- » Working on daily wages, part-time, full-time, temporary, ad-hoc, or even as a volunteer or trainee without pay.
- » Working for a contractor, or through an agent, even if the main employer doesn't directly know you.

The law calls any woman, of any age, whether employed or not, who says she has been subjected to any act of sexual harassment an **"Aggrieved Woman"**.

The law also considers you an **"Employee"** even if you don't have a formal job letter or contract. This broad definition is to make sure women in many different work situations are protected.

4. What is Your "Workplace"?

The law has a very broad meaning of **"Workplace"**. It's not just a formal office building.

Your workplace can be:

- » Any place you go for your work, or because of your work.
- » Someone's **house or dwelling place** (if you are a domestic worker).
- » A street, market, or public space (if you are a vendor).
- » A construction site, factory, or small workshop.
- » Any office, hospital, or any private organization.
- » Even a **vehicle provided by your employer** for work travel (like a bus or auto).
- » The law also recognizes that work can happen beyond a fixed place. This can include **any place visited by you arising out of or during the course of your employment.**
- » Traveling to or from work is also considered part of the "workplace" under the law.

- » For some types of work, like those using phones or computers, even **virtual spaces** can be considered a workplace.

So, if harassment happens in any of these places connected to your work, this law can help.

The person responsible for managing your work is considered the **"Employer"**. For domestic workers, it's the household that employs you.

5. What are Your Rights?

Under this law, you have several important rights:

1. **Right to a Safe Workplace:** You have the right to a workplace that is free from sexual harassment. Your employer has a duty to provide this safe environment.
2. **Right to Complain:** If you face sexual harassment, you have the right to make a complaint to the appropriate committee.
3. **Right to Confidentiality:** When you make a complaint, your identity, the details of your complaint, the identity of the respondent (the person you complained against) and witnesses, any information about conciliation or inquiry proceedings, and the recommendations of the committee should be kept secret. They should not be published or made known to the public, press, or media. This is to protect your privacy and safety. There are penalties for breaking this confidentiality.

4. **Right to Protection from Retaliation:** You should not be punished, treated badly, or victimized (like being fired, having your pay cut, being given unfair work, or being isolated) just because you made a complaint or are a witness.
5. **Right to Get Help for Filing a Complaint:** If you cannot write the complaint yourself (for example, if you are not literate or are unwell), the Presiding Officer or any member of the committee **must** provide all reasonable assistance to help you write it down. You can also take a friend, relative, co-worker, or social worker to help you.
6. **Right to Interim Relief:** While your complaint is being looked into, you can ask the committee for certain immediate measures to help you feel safer or more comfortable. (More on this later).

6. Who Can Help You?

The Internal Committee (IC) or The Local Committee (LC):

- » For workplaces with fewer than 10 workers: Complaints go to the Local Committee (LC).
- » For workplaces with 10 or more workers, the employer must form an Internal Committee (IC), and complaints are handled by the IC.

For most informal workers, the main place to complain is the **Local Committee (LC)**. This committee is sometimes called the Local Complaints Committee (LCC).

What is a Local Committee (LC)?

The government (District Officer like DM or Collector) must set up an LC in every district.

You can go to the LC if:

- » You work in a place with **less than 10 workers** (where an Internal Committee is not formed). Or, if the complaint is **against your employer** himself.

For **informal workers**, the LC is the main place to complain.

How to find your Local Committee?

This can sometimes be difficult. The LC office is usually supposed to be with the District Office of the District Magistrate, Collector, or Deputy Collector's office.

The District Officer is also supposed to appoint **Nodal Officers** in every block, taluka, tehsil (for rural/tribal areas) and ward or municipality (for urban areas) who can receive complaints and forward them to the LC.

However, many LCs are not well-known, may not be properly formed, or may lack resources. Information about them might not be easily available.

Important Tip: Because finding and approaching LCs can be hard, it's often easier to first contact a local NGO that works on women's rights, a **women's support group**, or a **trade union**. They often have more information, can provide support, help you understand your rights, assist in

writing your complaint, and guide you on how to approach the LC or other authorities.

A Nodal Officer is the first point of contact for complaints of sexual harassment in each block, taluka, tehsil (rural/tribal areas), or ward/municipality (urban areas) where an Internal Committee (IC) is not constituted.

The Nodal Officer's role is to receive complaints from aggrieved women and promptly forward them to the Local Committee (LC).

You can check the official notice boards, or the website of your district administration, where the District Officer is required to display the name and contact details of the Nodal Officer. This information is regularly updated so that workers can easily identify and contact the Nodal Officer for assistance.

Other Support:

In addition to the workplace redressal mechanisms under the POSH Act, you can also access the following support services for further assistance and protection:

- » **Legal Aid Services:** Government legal aid services, available through the District Legal Services Authority (DLSA) at the district court, can provide free legal advice and help.
- » **One Stop Crisis Centre (OSCC/Sakhi):** One Stop Crisis Centres provide integrated support to women facing violence or distress, offering emergency response,

medical aid, police facilitation, legal assistance, counselling, and temporary shelter—all under one roof. You can approach an OSCC for immediate help if you are affected by any form of violence, including domestic violence, sexual harassment, or trafficking.

- » **SHe-Box (Sexual Harassment electronic Box):** This is an online portal (website) launched by the government where women can file complaints of sexual harassment at the workplace. The complaint is then supposed to be sent to the concerned LC or IC. Website: <https://shebox.wcd.gov.in>
- » **NGO Support:** NGOs mostly women rights groups offer holistic support including emergency care, counselling, legal aid, vocational training, shelter, and advocacy for survivors of violence or abuse. They can help guide you through the process, connect you to services, and support rehabilitation and empowerment

7. How to Make a Complaint?

If you decide to complain to the Local Committee (or an Internal Committee if your workplace has one and the complaint is not against the employer), you can follow points given here:

1. When to Complain:

- « You should make your complaint **within 3 months** from the date the incident of sexual harassment happened.

- « If there were many incidents (a series of incidents), you should complain within 3 months from the date of the last incident.
- « **If you are late:** If you have a strong and valid reason for not being able to complain within 3 months (for example, you were very ill, or too scared, or didn't know where to go), the LC may accept your complaint even after 3 months, but not later than 6 months from the incident. You will have to explain the reason for the delay, and the committee must record its reasons for allowing the delay.

2. How to Complain:

- « The complaint should be in **writing**.
- « **If you cannot write it yourself:** If you are unable to write the complaint (e.g., due to illiteracy, physical injury, or mental incapacity), you can tell your complaint to the Presiding Officer (Chairperson) or any member of the LC. They **must** provide all reasonable assistance to help you write it down.¹²
- « You can also take a friend, relative, co-worker, an officer of the National or State Commission for Women, or a social worker to help you make the complaint, with your consent.
- « If the aggrieved woman is unable to complain due to physical or mental incapacity or death, her legal heir or such other person as may be prescribed can make a complaint.

3. What to Write in the Complaint:

- « Your name and address, and contact details if any.
- « The name and address (if known) of the person you are complaining against (this person is called the "respondent").
- « A clear description of what happened: each incident of sexual harassment. Be as specific as possible.
- « Date(s) and time(s) of the incident(s).
- « Place(s) where the incident(s) happened.
- « The working relationship between you and the respondent (e.g., employer, supervisor, co-worker, client).
- « If there were any witnesses (people who saw or know about the harassment), their names and contact details if possible.
- « Any proof you might have (like messages, photos, recordings – but it's okay if you don't have these, your statement is very important).
- « What relief or action you are seeking from the committee.
- « You need to give about 6 copies of the complaint along with supporting documents.

Simple Complaint Information (Example to guide you):

This is just an idea for you, the LC or support person will help you write it properly.

- » My Name & Address:
- » Person I am complaining against (Name & Address if known):
- » What happened (describe the sexual harassment):
- » When it happened (Date/Time):
- » Where it happened (Place):
- » Who saw it (if anyone, their names):
- » What I want the committee to do:

8. What Happens After You Complain?

If you submit your complaint to the nodal officer, they are required to forward it to the concerned Local Committee (LC) within seven days of receipt.

Local Committee (LC) will look into your complaint. Here's what usually happens:

1. Conciliation- If YOU want it:

- a. Before starting a formal inquiry, the LC might ask if you want to try and settle the matter through discussion with the respondent (the person you complained against). This is called **conciliation**.
- b. This is **only if you agree to it**. The LC cannot force you to conciliate.

- c. **Important: No money can be exchanged** as a basis for this settlement. The settlement should be about stopping the harassment and ensuring a safe environment.
- d. If you reach an agreement through conciliation, the LC will write it down and give copies to you, the respondent, and the employer/District Officer. The employer/District Officer must then take action as per the settlement terms.
- e. If a settlement is reached and followed, there will be no further inquiry. However, if the respondent does not follow the terms of the settlement, you can inform the LC, and they will start a formal inquiry.

2. Inquiry:

- » If you do not want conciliation, or if conciliation fails or is breached, the LC will conduct a formal **inquiry** into your complaint. This is like an investigation.
- » The LC has powers like a civil court for the inquiry, they can call people (summon), ask for documents, etc..
- » They will give a copy of your complaint to the respondent, who will get a chance to reply.
- » Both you and the respondent will be given a chance to present your sides, submit evidence, and bring witnesses. The inquiry must follow principles of fairness (natural justice).

- » The inquiry should usually be **completed within 90 days** (about 3 months) from when it starts.

3. Interim Help During Inquiry:

While the inquiry is ongoing, if you make a written request, the Local Committee (LC) can recommend immediate relief measures to your employer.

For informal workers, the provision for up to three months of paid leave generally does not apply, as most do not have formal leave entitlements or regular wages. The POSH Act does not specifically provide for wages in lieu of leave for informal workers.

However, the LC can still recommend other protective measures, such as:

- » Transferring you or the respondent to another workplace (if possible).
- » Ensuring the respondent does not supervise or evaluate your work.
- » Restricting contact between you and the respondent during the inquiry period.
- » Providing a safe working environment or adjusting work arrangements to prevent further harassment.

These recommendations are intended to protect your well-being and ensure a fair inquiry process, even if wage compensation or paid leave is not available. The employer must act on these recommendations and report back to the LC.

4. Inquiry Report and Action:

After the inquiry is complete, the LC will prepare a report with its findings. This report must be given to you, the respondent, and the employer/District Officer within 10 days of completing the inquiry.

If harassment is proved:

The LC can recommend actions such as:

- i. Taking action against the harasser as a misconduct according to service rules (if any apply) or in a prescribed manner. This could include a warning, withholding promotion, termination of service, etc..
- ii. Asking the harasser (respondent) to pay **compensation** to you for the harm caused. The LC will decide the amount based on factors like:
 - « The mental trauma, pain, suffering, and emotional distress caused to you.
 - « Medical expenses you incurred for physical or psychiatric treatment
 - « The amount of compensation will also take into account how much the respondent earns and their overall financial capacity.
 - « Whether the compensation can be paid in a lump sum or in instalments.
- iii. The employer/District Officer can deduct this compensation from the respondent's salary. If that's

not possible, they can direct the respondent to pay or recover it as an arrear of land revenue.

- iv. If the Local Committee (LC) determines that the act of sexual harassment also constitutes a prima facie criminal offence, it must recommend that the employer or District Officer take appropriate action in accordance with criminal law, which includes forwarding the matter to the police for further investigation and action.

5. Appeal: If you (or the respondent) are not satisfied with the recommendations of the LC (for example, if harassment was not proved, or if you are not happy with the action taken or compensation), or if the recommendations are not implemented, you can file an appeal in a court or tribunal within 90 days.

9. Important Things to Remember

Your Complaint is Confidential: The law strictly says that your identity, the details of your complaint, the identity of the respondent and witnesses, information about conciliation or inquiry proceedings, and the recommendations/actions taken by the committee should **NOT** be published, communicated, or made known to the public, press, or media in any manner. This is to protect your privacy, dignity, and safety, and to encourage women to come forward without fear. There are penalties for anyone who breaks this confidentiality rule. However, information about the justice secured to a victim can be shared, but

without revealing her name, address, or any other details that could identify her or the witnesses.

Don't Be Afraid: It takes a lot of courage to speak up against harassment. Remember, this law is here to support you, and you are not alone. Many organizations can help you.

Protection from False or Malicious Complaints: The law also has provisions to deal with complaints that are found to be false or made with malicious intent (like to deliberately harm someone's reputation) or if someone gives false evidence or forged documents. If the LC finds this after an inquiry, it can recommend action against the person who made the false complaint or gave false evidence.

But remember this very carefully: Just because you are **not able to provide enough proof** for your complaint, or if witnesses don't support your claim, it **does NOT automatically mean your complaint is false or malicious**. The committee has to specifically find that you knew the complaint was false or made it with bad intent before recommending any action against you. So, if you have genuinely experienced harassment, you should not be afraid to complain even if you worry about "proof." Your testimony is important.

10. Frequently Asked Questions (FAQ)

Here are answers to some common questions:

Q1: What if the harassment happened a long time ago? Can I still complain?

A: You should try to complain within **3 months** of the incident (or the last incident in a series). The Local Committee can extend this time by another 3 months (making it 6 months in total from the incident) if they are satisfied that you had genuine reasons that prevented you from complaining earlier. You must explain these reasons to them.

Q2: What if I don't have any "proof" like messages or photos? Should I still complain?

A: Yes, you should still complain if you have experienced sexual harassment. Your written complaint and your statement (testimony) are very important pieces of evidence. Many times, sexual harassment happens in private or in ways that don't leave physical proof. The committee is supposed to investigate thoroughly. Lack of other "proof" does not automatically mean your complaint is false.

Q3: I am very scared of losing my work/job if I complain. What can I do?

A: This is a very real fear for many women, especially in the informal sector where work/jobs are not

secure. The law says you should be protected from retaliation (being punished for complaining). During the inquiry, you can ask the LC for interim relief, like being transferred (if possible) or getting leave. It is good to discuss these fears with a support organization (NGO, union) who can guide you on how to handle the situation and assert your rights.

Q4: Can I complain if the harasser is my direct employer (e.g., the owner of the house where I work as a domestic worker, or the owner of the small shop where I work)?

A: Yes, absolutely. If the complaint is against the employer themselves, you must complain to the Local Committee.

Q5: What if the Local Committee is not formed in my district, or I cannot find them, or they are not helpful?

A: This is a serious problem in many areas. If you face this, it is even more important to contact NGOs, women's rights groups, trade unions, or the District Legal Services Authority (DLSA). They can help you find out the status of the LC, advocate for its proper functioning, or guide you on other possible actions, including approaching higher authorities or the police if the harassment also amounts to a criminal offense.

Q6: I work in many different houses as a domestic worker. If harassment happens in one house, is that house my "workplace"?

A: Yes. For a domestic worker, each house or dwelling place where you are employed to do household work is considered a "workplace" under this law..

Q7: I am a street vendor, and the harassment often comes from local officials (like police or municipal officers) who demand "favors" or threaten to remove my stall. Is this covered?

A: Yes, this can be considered sexual harassment at your workplace. The place where you vend is your "workplace." Demanding sexual favors in return for allowing you to vend or not confiscating your goods, or creating a hostile environment through such demands, falls under sexual harassment. You should complain to the Local Committee. They have the power to inquire into such complaints, even against officials if the harassment is connected to your work.

Q8: I work on different construction sites that change every few months. There's no fixed "office" or HR department. Who is my "employer" and who do I complain to if I face harassment from a supervisor or co-worker?

A: Your "employer" could be the main contractor, the sub-contractor, or the specific individual (e.g., a "mistri" or head mason) who hired you and pays

your wages. The construction site itself, even if temporary, is your “workplace.” You can file a complaint with the Local Committee of the district where the construction site (where the harassment occurred) is located. If possible, try to identify the main construction company or contractor for the site, as they also have responsibilities to ensure a safe working environment.

Q9: As a waste-picker (or in a similar informal role), my “workplace” is often public streets or dumping grounds, and harassment can come from anyone like other waste-pickers, local residents, or even municipal sanitation staff. Who is responsible for my safety?

A: This is a challenging situation, but the law is meant to extend protection. Your “workplace” is indeed the area where you perform your work. If the harasser is also engaged in work at the same site or if they are creating a hostile environment that prevents you from working, you can approach the Local Committee. The LC can help determine the best course of action.

Q10: What if the harassment I face as a street vendor or home-based worker also involves someone blocking my access to customers, raw materials, or my usual spot, effectively stopping me from earning, because I refused their advances?

A: This is a very serious form of sexual harassment with direct economic consequences. When you complain to the Local Committee, make sure to explain how the harassment is impacting your livelihood. If harassment is proved, the Committee can recommend compensation, which can include losses incurred due to this interference with your ability to work and earn. During the inquiry, you can also ask for interim relief that might help you continue your work without such obstruction.

Q11: We are a group of women who work together at a market or a construction site. If one of us is harassed, can the rest of us support her complaint as witnesses even if we were not directly harassed ourselves but saw what happened?

A: Yes, absolutely. Witness testimonies are very important in inquiries. If you saw or heard the harassment, or if the harasser has a pattern of such behaviour that you are aware of, your statement can support the complainant's case. The law aims to protect witnesses as well, and confidentiality provisions apply to them too. Supporting each other can make the process less daunting for the woman who has been harassed.

Q12: What if the harasser is not my employer or a co-worker, but someone like a customer, a contractor's employee at the same site, or a local

official who troubles me at my place of work (like a market stall)?

A: The POSH Act primarily holds the employer responsible for providing a safe working environment. While the Act is mainly focused on action against an "employee" who harasses, the definition of "workplace" is broad. If you face harassment from third parties like customers or other individuals at your workplace, you should still report it to your employer (if you have one) or the Local Committee. Your employer has a duty to assist you and provide a safe environment. The Committee can advise on the course of action, which might include the employer taking steps to prevent such harassment or assisting you if you choose to file a police complaint against the third party if their actions constitute a criminal offense.

Q13: What kind of "compensation" can I get if harassment is proved?

A: If sexual harassment is proved, the Local Committee can recommend that the harasser pay you compensation. The amount is decided based on several factors, including the mental trauma, pain, suffering, and emotional distress caused to you; any loss in your career opportunity; medical expenses you had to bear; and the harasser's income. This is to help you recover from the harm caused.

Q14: Can I bring someone with me for support when I go to the Local Committee or during the inquiry?

A: Yes. When you go to make a complaint or during the inquiry process, you can usually bring someone for support, like a friend, relative, co-worker, or a social worker from an NGO. If you need help writing your complaint, the Committee members are also required to assist you.

Q15: What if the sexual harassment was very serious (e.g., assault, rape, threats)? What should I do?

A: Serious acts like physical assault, rape, or threats to your life are both sexual harassment under the POSH Act and serious criminal offenses under laws like the Indian Penal Code (IPC). You have the right to:

1. **File a complaint with the Local Committee (LC):** For workplace-related redressal (like inquiry and compensation).
2. **File an FIR with the Police:** For criminal investigation and prosecution of the offender.

These two processes can run simultaneously.

11. Where to Get Help

Important Contacts and Helplines

If you are facing sexual harassment or need information, here are some important contacts and resources:

District Level Contacts: Local Committee (LC):

This is the main body in every district to handle complaints from the informal sector or if the complaint is against the employer.

- » How to find them: You can ask at the office of the District Officer (District Magistrate/Collector/Deputy Collector). The District Officer is responsible for setting up the LC.
- » Nodal Officer: The District Officer also appoints a Nodal Officer in every block, taluka, tehsil (in rural areas) and ward or municipality (in urban areas). You can give your complaint to the Nodal Officer, who must send it to the LC within 7 days.

National and State Helplines:

- » **Women Helpline-181:** This is a 24x7 toll-free helpline for women in distress. They provide information about government schemes, and can connect you to police, One Stop Centres, hospitals, and legal aid.
- » **Emergency Response Support System (ERSS) - 112:** This is a single emergency number for police, fire, and medical emergencies across India.
- » **National Commission for Women (NCW) Helpline - 7827170170:** A 24x7 helpline for women.
- » **Childline - 1098:** If a child is in distress or needs help.
- » **Cyber Crime Helpline - 1930:** To report online harassment or cybercrimes.

Online Portal:

SHe-Box (Sexual Harassment electronic Box): This is an online portal by the Ministry of Women and Child Development (MoWCD) where any woman can file a complaint of sexual harassment at the workplace.

» **Website:** <https://shebox.wcd.gov.in>

Your complaint will be sent to the concerned Local Committee (LC) or Internal Committee (IC). The portal also has information, handbooks, and training material about the POSH Act in Hindi and English.

District Legal Services Authority (DLSA):

Every district has a DLSA, usually located in the District Court complex. They provide free legal advice and assistance to those who cannot afford it. You can approach them for help with your POSH complaint.

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ActionAid Association is an Indian organisation working for social and ecological justice in 24 states and two union territories. Together with supporters, allied organisations, communities, institutions and governments, we strive for equality, fraternity and liberty for all.