



## JSA Prism Employment Law

July 2025

### Procedural framework issued by the Tamil Nadu Government for the prevention and redressal of sexual harassment of women at workplace

The Tamil Nadu Government (“**TN Government**”), through its Social Welfare and Women Empowerment Department had earlier issued an order<sup>1</sup> dated November 11, 2016, appointing District Collectors as the officers under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“**POSH Act**”), to exercise powers and discharge functions under the same in the relevant districts. This was supplemented by the order<sup>2</sup> dated November 23, 2017, through which the TN Government appointed the Commissioner of Social Welfare (“**Commissioner**”) as the state nodal officer to oversee the implementation of the POSH Act. The Commissioner, *vide* letter dated November 29, 2024, shared a draft Standard Operating Procedures (“**SOP**”) for its approval. In furtherance thereof, after careful consideration the TN Government, *vide* order<sup>3</sup> dated June 18, 2025, issued the SOP to be followed by all departments/establishments in the state of Tamil Nadu for proper and effective implementation of the POSH Act. The SOP aims to provide clear guidelines for the implementation of the POSH Act, clarity on the roles of stakeholders and streamline the process.

### Findings and analysis

#### Scope

The SOP covers various aspects, including actions to be taken for:

1. prevention of sexual harassment;
2. formation of Internal Complaints Committee (“**ICC**”) under Section 4 of the POSH Act;
3. receipt of complaints under Section 9 of the POSH Act;
4. inquiry and reliefs possible to be directed under Sections 11 and Section 15 of the POSH Act; and
5. statutory filings to be complied with under the POSH Act.

The SOP has identified prevention and redressal as the 2 (two) core facets of the POSH Act and provide detailed guidelines for stakeholders involved within the purview of the POSH Act to ensure its effective implementation.

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<sup>1</sup> G.O. (Ms) No. 80.

<sup>2</sup> G.O (D) No. 249.

<sup>3</sup> G.O.(Ms) No. 64.

## Preventive measures

Besides the statutory safeguards provided for women under legislations *inter-alia* such as Factories Act, 1948, the Tamil Nadu Shops and Establishments Act, 1947, the Payment of Wages Act, 1936 and Equal Remuneration Act, 1976 etc. that will have to be complied with by companies, the SOP also stipulates that the human resource departments of the companies must create policies on safe working space for women providing *inter-alia* the following:

1. declare that sexual harassment will not be tolerated or condoned under any circumstances (zero tolerance policy);
2. what actions/behaviour constitutes sexual harassment attracting punishment in a time-bound manner;
3. encourage all employees to report sexual harassment as early as possible and educate all employees about the redressal mechanisms; and
4. steps taken to prevent sexual harassment and promote a gender-equal workplace;

The employer must also conduct periodic training for its existing staff to sensitise and create awareness of the internal policies, besides the statutory requirement per Section 11 of the POSH Act.

The SOP has also clarified that the internal policy of a private institution can address harassment of all genders.

## Grievance redressal under the POSH Act

While the redressal mechanism under the POSH Act is only applicable to women, persons of other genders may seek redressal under:

1. human resource policy, if any; and
2. other civil/criminal remedies.

A transgender person may seek redressal through complaints officer under Section 11 of the Transgender Persons (Protection of Rights Act), 2019.

The POSH Act includes 'minors' within the definition of an 'aggrieved woman' and if a complaint is received, it must be mandatorily reported to the local police per Section 19 of the Protection of Children from Sexual Offences Act, 2012, ("**POCSO Act**") as failure to report this constitutes an offence under the POCSO Act.

The POSH Act provides for formation of quasi-judicial bodies namely for grievance redressal:

1. the ICC that is formed in every workplace or administrative unit; and
2. the Local Committee ("**LC**") that is formed at the district level, headed by the Collector.

Both committees are required to have 50% women representation.

## Receipt of complaints

1. Complaint can *inter alia* be submitted by an aggrieved woman/any person having knowledge of the incident with written consent of the aggrieved woman/legal heirs (in cases of death of aggrieved woman)/relative or friend, co-worker, special educator, qualified psychiatrist (in cases of physical and mental incapacitation).
2. The POSH Act can only consider complaints that is duly signed with identification of the author of the complaint.
3. The perpetrator can be of any gender.
4. All complaints must be addressed within 90 (ninety) days from the receipt of the complaint.

## Inquiry mechanism

The SOP sets out a detailed inquiry mechanism.

1. **Step 1 – Conciliation:** Upon receipt of complaint, the ICC must attempt conciliation between the parties if the aggrieved woman wants to mediate/settle the matter. The 2 (two) main requirements for conciliation is: (a) conciliation can be initiated only upon request from an aggrieved woman; and (b) no monetary compensation is paid as a form of conciliation.

The aggrieved woman can seek to initiate enquiry if the terms of the settlement are not complied with.

2. **Step 2 – Inquiry procedure as per Section 11 of the POSH Act:** If the aggrieved woman does not wish to attempt conciliation or in the event conciliation fails, the ICC can if the respondent is an employee take action as per the service rules and if there are no service rules, then follow the principles of natural justice. If the respondent is not an employee, inform the respondent's employer and seek their co-operation in conduct of inquiry, approach the LC if the respondent is not employed, assist the complainant with criminal complaint if the complainant chooses to do so.
3. The ICC must forward the complaint to the Respondent within 7 (seven) days of its receipt. The Respondent must tender their written response along with documents and witnesses within 10 (ten) days from their receipt of complaint.
4. **Step 3 – Interim orders:** The ICC will have the power to take the following interim measures pending inquiry:
  - a) transfer of aggrieved woman/ respondent to any other workplace;
  - b) grant of leave to the aggrieved woman for up to 3 (three) months; and
  - c) where the respondent is in a supervisory position, the ICC/LC may restrain the respondent from reporting on the work performance or writing the confidential report of the aggrieved woman. In educational institutions, this protection extends to restraining the respondent from supervising any academic activity of the aggrieved woman.
5. **Step 4 – Conducting Inquiry:**
  - a) The ICC sends a written notice to the complainant (aggrieved woman) indicating the date, time, and venue of the inquiry hearing. If the complainant does not appear, a second and third notice (for 3 (three) consecutive hearings) are issued.
  - b) If the complainant remains absent after 3 (three) notices, a final notice is sent granting a 15 (fifteen) day grace period, warning that failure to appear may lead to the termination of the inquiry due to non-appearance.
  - c) If the respondent is absent for 3 (three) consecutive hearings, a 15 (fifteen) day notice is issued informing them that the proceedings will continue ex parte. The complainant and respondent are not required to appear together in the same room before the ICC. The respondent can submit a list of questions for cross-examination; these questions are posed by the ICC rather than directly, or the respondent can nominate someone to conduct the cross. The ICC has discretion to reject irrelevant or repetitive questions and must record reasons for doing so.
  - d) If witnesses are cited by either party, they are summoned, and cross-questions are submitted in advance for the ICC to review and ask as appropriate. Both parties are prohibited from engaging legal counsel for representation during the inquiry. Where service rules exist, they must be followed. Otherwise, the inquiry must comply with the principles of natural justice, ensuring a fair hearing and opportunity for response for both parties.
6. **Step 5 – Inquiry Report as per Section 13 of the POSH Act:** The inquiry report, signed by the presiding officer, must summarise dates, evidence, findings, witness accounts, and reasoning. The employer is provided with 2 (two) copies of the inquiry report, one of which is also forwarded to the District Social Welfare Officer. Other copies are shared with both the complainant and respondent if both are employees.

## Standard of proof

The inquiry follows the 'preponderance of probability' standard guided by the 'reasonable woman' standard, whereby the effect of the conduct on the aggrieved woman is determinative, rather than the intent of the respondent.

The inquiry report must provide a clear, reasoned, and structured account. It must include: (a) chronology of the case; (b) evidentiary details; (c) reasoning for decisions; and (d) standard of proof.

The 'preponderance of probability' standard is applied, meaning that the finding is based on whether, on a balance of the evidence, it is more likely than not that the alleged acts occurred.

The 'reasonable woman standard' mandates an assessment from the perspective of a reasonable woman placed in circumstances similar to those of the aggrieved woman, rather than focusing on the alleged perpetrator's intent.

If sexual harassment is not proved, no action is taken against the respondent. If sexual harassment is proved: (a) service rules are applicable; and (b) if no service rules exist, the ICC/LC may recommend written apology, warning or reprimand, censure, withholding promotion, pay rise, or increments, termination from service, mandatory counselling sessions, or community service. Compensation may also be recommended for the complainant.

## Appeal

Any party aggrieved by the recommendations or non-implementation of the ICC/ LC's recommendations may appeal as per service rules or to the appropriate Appellate Authority under the Industrial Employment (Standing Orders) Act, within 90 (ninety) days from the date of recommendation.

## Statutory filings under the POSH Act

The employer must mandatorily submit annual reports for every calendar year on or before January 31 of the next year providing details of:

1. number of complaints received;
2. number of complaints disposed off;
3. number of cases pending more than 90 (ninety) days;
4. number of awareness programmes carried; and
5. nature of action taken by the employer/district officer.

The SOP has clarified that withdrawn complaint details as well as absence of complaints will be included/indicated, as may be applicable, in the annual report.

The TN Government, if necessary in the interest of public or of women employees, can order the following in writing:

1. direct the employer or collector to furnish information relating to sexual harassment as may be required; and
2. authorise any officer to conduct inspection or records or workplace and have a report be submitted in a time-bound manner.

## Penalties under the POSH Act

The employer is liable to pay a penalty of up to INR 50,000 (Indian Rupees fifty thousand) in case of committing the following contraventions:

1. failing to constitute an ICC;
2. fails to act upon the recommendation of the ICC;

3. fails to file the annual report before the District Officer; and
4. contravene or attempt to or abet contravention of the POSH Act or rules thereunder.

The employer will be liable to pay twice the penalty if convicted for the second time or more, including cancellation/withdrawal/non-renewal or registration/license required for carrying on business.

## Conclusion

The SOP ensures a comprehensive, standardised framework for prevention, reporting, inquiry, and redressal of sexual harassment allegations at the workplace, emphasising fairness, timeliness, and the protection of complainants' rights. It comprehensively addresses both prevention and redressal aspects, ensuring that all stakeholders including employers, employees, committees, and government bodies, understand their roles and responsibilities. Through detailed procedures for complaint submission, inquiry, interim measures, and outcome enforcement, the SOP prioritises fairness, procedural integrity, and the protection of aggrieved women. It also sets forth strong penalties for non-compliance, reinforcing the seriousness with which these obligations should be taken.

## Employment Practice

JSA has a team of experienced employment law specialists who work with clients from a wide range of sectors, to tackle local and cross-border, contentious and non-contentious employment law issues. Our key areas of advice include (a) advising on boardroom disputes including issues with directors, both executive and non-executive; (b) providing support for business restructuring and turnaround transactions, addressing employment and labour aspects of a deal, to minimise associated risks and ensure legal compliance; (c) providing transaction support with reference to employment law aspects of all corporate finance transactions, including the transfer of undertakings, transfer of accumulated employee benefits of outgoing employees to a new employer, redundancies, and dismissals; (d) advising on compliance and investigations, including creating compliance programs and policy, compliance evaluation assessment, procedure development and providing support for conducting internal investigations into alleged wrongful conduct; (e) designing, documenting, reviewing, and operating all types of employee benefit plans and arrangements, including incentive, bonus and severance programs; and (f) advising on international employment issues, including immigration, residency, social security benefits, taxation issues, Indian laws applicable to spouses and children of expatriates, and other legal requirements that arise when sending employees to India and recruiting from India, including body shopping situations.

JSA also has significant experience in assisting employers to ensure that they provide focused and proactive counselling to comply with the obligations placed on employees under the prevention of sexual harassment regime in India. We advise and assist clients in cases involving sexual harassment at the workplace, intra-office consensual relationships, including drafting of prevention of sexual harassment (POSH) policies, participating in POSH proceedings, conducting training for employees as well as Internal Complaints Committee members, and acting as external members of POSH Committees.

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18 Practices and  
41 Ranked Lawyers



7 Ranked Practices,  
21 Ranked Lawyers



14 Practices and  
12 Ranked Lawyers



12 Practices and 50 Ranked  
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