

JSA Prism Employment Law

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Supreme Court of India clarifies the jurisdiction of Internal Committees in interdepartmental complaints under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

In a significant judgment, the Hon'ble Supreme Court of India ("Supreme Court"), in *Dr. Sohail Malik vs. Union of India and Anr.*¹, clarified the jurisdiction of Internal Committees ("IC") under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("PoSH Act") in cases involving inter-departmental complaints. The Supreme Court held that an IC constituted at the workplace of the aggrieved woman can validly entertain a complaint against a respondent employed in a different department.

Brief facts

The appellant (i.e. the individual accused of sexual harassment) was a 2010 batch officer of the Indian Revenue Service who, at the relevant time, was posted as an Officer on Special Duty (Investigation), Central Board of Direct Taxes, New Delhi. The complainant was a 2004 batch Indian Administrative Service officer who was serving as Joint Secretary in the Department of Food and Public Distribution. The complainant alleged that on May 15, 2023, she was sexually harassed at her workplace in Krishi Bhawan, New Delhi.

An FIR was registered against the appellant on May 16, 2023. Thereafter, on May 24, 2023, the complainant filed a complaint under the PoSH Act before the IC constituted in her department, i.e., the Department of Food and Public Distribution.

Pursuant to the complaint, the IC issued a notice dated June 13, 2023, directing the Appellant to appear on June 22, 2023 and submit his response. At this stage, the Appellant approached the Central Administrative Tribunal, Principal Bench, New Delhi ("CAT") seeking to quash the IC notice dated June 13, 2023 and all consequential proceedings. The CAT dismissed the same, and the said order was also upheld by the High Court of Delhi. Upon the Appellant preferring the present appeal, the Supreme Court, permitted the inquiry to continue, while directing that the final outcome be kept in a sealed cover.

Issues

1. Whether the IC constituted at a certain department of the Government of India can entertain a complaint under the PoSH Act against the appellant who was working at a different department of the Government of India?

¹ 2025 INSC 1415 (decided on December 10, 2025)

2. Whether the use of the words "*where the respondent is an employee*" as contained in Section 11 of the PoSH Act would mandate that IC proceedings must be instituted and carried out at the workplace of the 'respondent' instead of the workplace of the aggrieved woman where incident occurred and complaint was made?
3. If Issue No. 2 is answered in the negative, under the scheme of Section 13 of the PoSH Act, how is action supposed to be taken by the department of the 'respondent' in pursuance of the findings of the IC constituted at the aggrieved woman's department?
4. Whether the proceedings of the IC constituted at the workplace of the aggrieved woman, in the present case, have caused any prejudice to the Appellant, warranting interference by the Supreme Court?

Findings and analysis

Issues 1 and 2

The Supreme Court held that where the meaning of statutory language is capable of more than one interpretation, it is a settled principle that such language must be construed in a manner that advances the object and purpose of the statute. Textual interpretation cannot be divorced from context, intent, and purpose, particularly when the legislation in question is a social welfare statute such as the PoSH Act.

The Supreme Court examined the language of Section 11(1)² of the PoSH Act, the judicial precedents on statutory interpretation, and the grammatical role of the word 'where' as used therein. It was held that the term 'where' does not denote a physical location or workplace; rather, it is used in the sense of 'if' or 'whenever', signifying a condition or situation.

On a plain and contextual reading, Section 11(1) of the PoSH Act contemplates 3 (three) distinct contingencies, each prescribing the procedure to be followed for inquiry:

1. where the respondent is an employee, the IC will conduct the inquiry in accordance with the service rules applicable to the respondent;
2. where no such service rules exist, the IC will conduct the inquiry in the manner prescribed under the PoSH Act;
3. or where the respondent is a domestic worker, the Local Committee will, upon a *prima facie* satisfaction, forward the complaint to the police.

The Supreme Court observed that the word 'where' in the first and second contingency clearly operates as a conditional conjunction, denoting alternative factual situations, and not as a jurisdictional limitation. The first and second contingency operate in an either-or framework applicable when the respondent is an employee, while the third contingency applies to a distinct class of respondents, namely domestic workers. The use of the word 'or' further reinforces this construction.

Thus, the grammatical and contextual function of the word 'where' in Section 11(1) of the PoSH Act is to prescribe the manner of inquiry, not to determine which IC has jurisdiction.

The Supreme Court then examined the statutory definitions. The term 'respondent' under Section 2(m) of the PoSH Act is defined as "*a person against whom the aggrieved woman has made a complaint under Section 9.*" The legislature has consciously used the expression 'a person', without any limitation that such person must be employed at the same workplace as the aggrieved woman.

Similarly, the term 'employee' under Section 2(f) of the PoSH Act means a person employed at a workplace, while the definition of 'workplace' under Section 2(o) of the PoSH Act has been given an intentionally wide and inclusive

² "Subject to the provisions of section 10, the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent and where no such rules exist, in such manner as may be prescribed, or in case of a domestic worker, the Local Committee shall, if a *prima facie* case exists, forward the complaint to the police..."

meaning. In particular, Section 2(o)(v) of the PoSH Act includes *any place visited by the employee arising out of or during the course of employment*, thereby extending the reach of the statute beyond the formal premises of an employer.

These expansive definitions make it clear that the IC constituted at the workplace of the aggrieved woman is not divested of jurisdiction merely because the respondent belongs to a different department or workplace. The scheme of the PoSH Act does not require the respondent to be employed at the same workplace as the aggrieved woman. Once a complaint is filed under Section 9 of the PoSH Act before the IC of the aggrieved woman's workplace, the person complained against becomes a 'respondent' for the purposes of the PoSH Act.

The Supreme Court also rejected the contention based on Section 19(h) of the PoSH Act, which casts a duty on the employer to facilitate initiation of criminal proceedings if the aggrieved woman so desires. It was held that this provision is supplementary and cannot be read as being in derogation of or exclusionary to the remedial mechanism provided under the PoSH Act.

Emphasising the social welfare character of the PoSH Act, the Supreme Court held that requiring an aggrieved woman to approach the IC constituted at the workplace of the respondent in cases of inter-departmental or third-party harassment would substantially defeat the object of the statute. Such an interpretation would compel the aggrieved woman to pursue her remedy before an alien workplace, thereby creating serious practical and procedural barriers.

A narrow construction confining jurisdiction solely to the IC of the respondent's workplace, irrespective of where the incident occurred or where the aggrieved woman works, would undermine the remedial and protective intent of the PoSH Act. The statute must therefore be interpreted in a manner that facilitates access to justice for the aggrieved woman, rather than imposing avoidable obstacles.

Issue 3

The Supreme Court clarified that while the IC constituted at the workplace of the aggrieved woman, does not possess the authority to impose disciplinary penalties on the respondent under the PoSH Act, the findings and recommendations of such IC are nevertheless binding in effect and can validly be acted upon by the employer of the respondent. This construction flows directly from the scheme of Section 13 of the PoSH Act.

Under Section 13 of the PoSH Act, the IC is mandated to forward its inquiry report along with recommendations to the employer, who is statutorily obligated to act upon the same within 60 (sixty) days. The role of the IC is thus confined to conducting a factual inquiry into the allegations of sexual harassment. The PoSH Act does not contemplate the IC itself imposing punishment on the respondent. Disciplinary action, where warranted, must be taken by the employer in accordance with the service rules applicable to the respondent.

The Supreme Court emphasised that the mere fact that the IC is constituted in a department different from that of the respondent does not dilute the legal efficacy of its findings. Once a factual conclusion is reached by the IC at the aggrieved woman's workplace, such findings can be legitimately transmitted to, and acted upon by, the respondent's employer, even if it is a different department or establishment.

In support of this interpretation, the Supreme Court placed reliance on the Office Memorandum dated July 16, 2015 ("OM") issued by the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, titled 'Steps for conducting inquiry in case of allegation of Sexual Harassment'. which was issued after the coming into force of the PoSH Act. The OM clarifies the dual role of the IC and envisages a 2 (two) stage inquiry mechanism for Central Government employees.

As per the OM, the first stage involves the IC conducting a preliminary or fact-finding inquiry under the PoSH Act to assess the veracity of the complaint. Upon completion of this inquiry, the IC is required to submit its report and recommendations to the disciplinary authority. The disciplinary authority then examines the report and decides whether the material on record warrants initiation of formal disciplinary proceedings by issuance of a chargesheet to the respondent.

The Supreme Court observed that nothing in the PoSH Act, particularly Section 13 of the PoSH Act, precludes the IC at the aggrieved woman's workplace from conducting the first-stage fact-finding inquiry, even where the respondent is employed in a different department. Upon completion of this preliminary inquiry, the IC is fully empowered to forward its report and recommendations to the employer of the respondent.

Specific reliance was placed on Section 13(3)(i) of the PoSH Act, which expressly provides that where the IC concludes that the allegations against the respondent are proved, it will recommend to the employer that disciplinary action be taken in accordance with the service rules applicable to the respondent. This provision itself recognises that the authority to impose punishment vests not in the IC, but in the employer or disciplinary authority governing the respondent's service.

The Supreme Court ultimately held that the proceedings conducted by the IC at the aggrieved woman's department constitute the first stage of inquiry. Thereafter, the employer or department of the respondent, upon receipt of the IC's report, may initiate disciplinary proceedings in accordance with applicable service rules. During such proceedings, the IC constituted at the respondent's workplace may rely upon and give due weight to the factual findings recorded by the IC at the aggrieved woman's workplace.

This interpretation, the Supreme Court noted, furthers the protective and remedial objectives of the PoSH Act, without imposing impractical burdens on the aggrieved woman.

Issue 4

The Supreme Court addressed the concern that since the appellant was employed in a different department, the IC constituted at the aggrieved woman's workplace would lack access to relevant information such as the respondent's scope of duties, work profile, and service records, thereby causing prejudice to the appellant.

Upon careful examination, the Supreme Court found this apprehension to be unfounded. A bare perusal of the inquiry report revealed that the IC at the aggrieved woman's workplace had, in fact, communicated with the respondent's employer, sought relevant information pertaining to the respondent's role, and had received the requisite details. The respondent's department had duly cooperated with the IC in this regard.

The Supreme Court acknowledged that, in certain cases, there may be a possibility of administrative delay or lack of cooperation from the department of the respondent, which could impede the progress of the inquiry being conducted by the IC at the aggrieved woman's workplace. However, the Supreme Court held that such a contingency cannot be a ground to question the jurisdiction or validity of the proceedings. In this context, the Supreme Court underscored that cooperation with the IC is a statutory obligation imposed on the employer under Section 19(f) of the PoSH Act.

Accordingly, the Supreme Court held that no procedural unfairness or prejudice had been caused to the Appellant by the inquiry being conducted by the IC at the aggrieved woman's workplace.

Conclusion

In this case, the Supreme Court has provided much-needed clarity on the jurisdictional scope of ICs under the PoSH Act, reinforcing the legislative intent of ensuring accessible and effective redressal for workplace sexual harassment.

By holding that an IC at the aggrieved woman's workplace can inquire into complaints against respondents from other departments, the Supreme Court recognised the PoSH Act's broad and inclusive definition of 'respondent', ensuring that any person against whom a complaint is made can be held accountable, regardless of departmental boundaries.

At the same time, the judgment strengthens the practical efficacy of the PoSH Act and underscores the dual role of ICs in conducting fact-finding inquiries while enabling disciplinary action through the respondent's employer, thereby maintaining a practical harmony that upholds the principles of natural justice.

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 minimize 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

This Prism is prepared by:



Preetha Soman
Partner



Rebecca Thomas
Associate

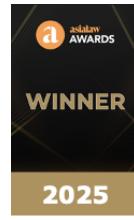


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