

Gauhati High Court re-affirms employer's disciplinary powers: Conciliation under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 does not bar departmental proceedings

In a pivotal judgment in *Airports Authority of India vs. Praveen VS and Anr*¹, the Hon'ble High Court of Gauhati ("Gauhati HC") has provided crucial clarity on the interplay between conciliation under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("PoSH Act") and an employer's inherent disciplinary authority. The Gauhati HC unequivocally held that the bar contained in Section 10(4)² of the PoSH Act, which stipulates that no further inquiry can be conducted after a conciliation settlement, is exclusively limited to proceedings before the Internal Committee ("IC") or the local committee established under the PoSH Act.

In other words, this statutory provision does not curtail or extinguish the employer's independent right to initiate disciplinary proceedings against the accused employee under the applicable service rules. The Gauhati HC underscored the enduring statutory obligation of employers to foster and maintain a safe working environment, affirming their prerogative to take appropriate disciplinary action when circumstances demand.

Brief facts

The case originated from a complaint of sexual harassment lodged by a Lady Officer ("Aggrieved Woman"), against her Supervisor ("Accused Employee"). The complaint was placed before the IC constituted under the PoSH Act.

Initially both the Aggrieved Woman and the Accused Employee expressed their willingness to resolve the matter through conciliation. This process culminated in a limited settlement, whereby both parties mutually agreed not to work in proximity.

Following this, the IC conducted a limited and curtailed inquiry. Based on the material then available, the IC recorded a conclusion in its report that there was no sufficient evidence to substantiate the allegations of sexual harassment against the Accused Employee. Thereafter, the Aggrieved Woman raised objections to the observations contained in the IC report, particularly to the finding that there was no evidence of sexual harassment. In support of her objection, she produced a screenshot of an objectionable message allegedly sent by the Accused Employee, which had not been considered earlier during the IC proceedings.

¹ 2025 SCC OnLine Gau 4993 (decided on December 9, 2025)

² Section 10(4) of the PoSH Act stipulates that once a settlement is arrived at through conciliation, no further inquiry can be conducted by the IC or the local committee.

In light of this development, the matter was placed again before the IC. However, the IC declined to reopen or revisit the proceedings, asserting that the issue had already been concluded pursuant to the conciliation process.

Faced with the emergence of new material relating to the workplace conduct of the Accused Employee, the appellant-employer decided to initiate independent departmental disciplinary proceedings against the Accused Employee under the applicable service rules.

Aggrieved by the initiation of the departmental proceedings, the Accused Employee filed a writ petition challenging the disciplinary action. The learned Single Judge of the Gauhati HC, by the impugned order, allowed the writ petition and set aside the departmental proceedings. The learned Single Judge also held that the employer was not justified in initiating an independent departmental inquiry against the Accused Employee, primarily relying upon Section 10(4) of the PoSH Act, which governs the consequences of conciliation. In addition, the learned Single Judge expunged the first paragraph of the conclusion in the IC inquiry report, which had recorded that there was no evidence of sexual harassment by the Accused Employee.

Issue

The central issue before the Gauhati HC was whether a settlement reached through conciliation under Section 10 of the PoSH Act legally bars an employer from initiating independent departmental disciplinary proceedings against the accused employee under the applicable service rules, particularly in view of the restriction contained in Section 10(4) of the PoSH Act.

Analysis and findings

The Gauhati HC meticulously examined Section 10(4) of the PoSH Act which stipulates that once a settlement is arrived at through conciliation between the aggrieved woman and the respondent, no further inquiry can be conducted by the IC or the local committee.

1. **Limited scope of Section 10(4) of the PoSH Act:** The Gauhati HC observed that a plain and purposive reading of Section 10(4) clearly indicates that the statutory bar is confined solely to the continuation of proceedings by the IC or the local committee within the specific framework of the PoSH Act. This provision is designed to bring finality to the IC's inquiry once parties have voluntarily settled. Crucially, the Gauhati HC clarified that this provision does not extend to, nor does it in any way curtail, the employer's independent disciplinary powers derived from their own service rules or standing orders.
2. **Employer's overarching duty:** The Gauhati HC further emphasised that the PoSH Act's framework must be interpreted harmoniously with the employer's broader obligations under Section 19 of the PoSH Act, which mandates the provision and maintenance of a safe working environment. The Gauhati HC reasoned that an employer's fundamental duty to ensure workplace safety and address employee misconduct cannot be rendered ineffective or nullified merely because a complainant initially agreed to conciliation, especially when new and pertinent material subsequently emerges regarding the accused employee's conduct.
3. **PoSH Act as minimum safeguard:** The Gauhati HC reiterated that proceedings before the IC do not supersede or override the employer's disciplinary jurisdiction, unless the service rules explicitly state otherwise. The PoSH Act functions as a minimum protective framework to address sexual harassment complaints; it does not restrict an employer from taking more stringent or appropriate disciplinary action under its own established service rules.
4. **Upholding workplace safety:** Accordingly, the Gauhati HC concluded that interpreting Section 10(4) of the PoSH Act as a blanket prohibition on departmental proceedings would fundamentally undermine the very objective of ensuring safe and secure workplaces. It therefore directed the employer to proceed with the disciplinary inquiry in accordance with the applicable service rules.
5. **IC's findings upheld:** Regarding the learned Single Judge's decision to expunge the first paragraph of the IC's conclusion (which recorded a lack of evidence of sexual harassment), the Gauhati HC deemed such interference

unwarranted. The IC had made its observation based on the material presented at that specific time, and its inquiry had not progressed further precisely because the parties had opted for conciliation to avoid workplace discord.

Conclusion

This landmark judgment offers critical clarity for employers. The Gauhati HC held that Section 10(4) of the PoSH Act only bars the IC or local committee from conducting further inquiry after a conciliation settlement. It does not impede the employer's independent authority to initiate disciplinary proceedings under their applicable service rules. Consequently, the order of the learned Single Judge quashing the departmental proceedings was set aside, and the employer was permitted to proceed with the disciplinary inquiry in accordance with the governing service rules.

This judgment clarifies that the conciliation mechanism under the PoSH Act does not extinguish the employer's broader responsibility to regulate employee conduct and maintain workplace discipline. Employers retain the authority to initiate departmental proceedings where circumstances so warrant, even if the parties had earlier opted for conciliation before the IC.

The ruling also reinforces that the PoSH Act establishes a minimum statutory safeguard and does not override or replace disciplinary mechanisms available under service rules. For employers, this is a vital clarification, ensuring that workplace misconduct can still be addressed through robust internal disciplinary processes, particularly in situations where new evidence surfaces or where the conduct of the employee raises concerns affecting overall workplace safety, ethics or organisational integrity.

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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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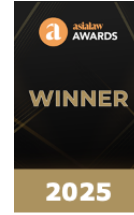
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