

# 3 REASONS WHY TRAINING OF ICC MEMBERS IS IMPORTANT



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## Introduction:

Every organization with 10 or more employees must have an Internal Complaints Committee (ICC) under the 'Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013' a.k.a POSH Act, to handle sexual harassment complaints. However, merely forming an ICC at your organization, as a compliance check is not enough. To ensure that the ICC functions effectively, proper training to all ICC members is essential for reasons as discussed below.

## Key Reasons ICC Members Need POSH Training

**A) Better understanding:** The POSH Act defines certain key terms such as "sexual harassment," "workplace," and "aggrieved woman," which determine whether any alleged act of harassment, falls under its purview[2]. Proper training ensures that ICC members clearly understand these definitions and their implications, enabling them to handle complaints effectively and in compliance with the law.

“Sexual Harassment” is defined in a non-exhaustive manner in the POSH Act, and thus the ICC is expected to apply itself properly to determine whether Sexual Harassment has taken place or not (or is it a consensual relationship), as a fact-finding body. As some of these situations have social connotation also, sometimes observations made by the ICC members may exceed jurisdiction and adversely impact the parties. The Delhi High Court has specifically cautioned the ICC in these respects in this case[3] wherein the Hon'ble Court elaborated on the aspect and stated that ICC should not indulge in moral policing.

[1] The article reflects the general work of the authors and the views expressed are personal. No reader should act on any statement contained herein without seeking detailed professional advice.

[2] [https://www.linkedin.com/posts/ynz-pros\\_posh-ynz-wednesday-wisdom-251224-activity-7277565781767278592-zpWK?](https://www.linkedin.com/posts/ynz-pros_posh-ynz-wednesday-wisdom-251224-activity-7277565781767278592-zpWK?utm_source=share&utm_medium=member_desktop&rcm=ACoAAAWNk1UB_BXaT6jMIQ7i6DlVSiVi9EQy11U)

utm\_source=share&utm\_medium=member\_desktop&rcm=ACoAAAWNk1UB\_BXaT6jMIQ7i6DlVSiVi9EQy11U

[3] Bibha Pandey vs Punjab National Bank & Ors : W.P.(C) 3249/2017 & CM APPL. 14126/2017

“Moral Policing” is not the job of the Management or of the ICC. Any consensual relationship among adults would not be the concern of the Management or of the ICC, so long as the said relationship does not affect the working and the discipline of the organisation and is not contrary to the Rules or code of conduct binding on the said employees. It is only if a complaint is made of sexual harassment under the Act that the Management can constitute the ICC to enquire into the same. The ICC cannot make comments on the personal conduct of the parties and the ICC's jurisdiction would be restricted to the allegations of sexual harassment and whether a complaint is made out or not, to that effect.”

Based on this observation, the Court further held that ICC's final recommendation regarding the parties' conduct and suggested disciplinary action is untenable and must be set aside.

**B) Proper Resolution:** Since ICC members may not always have in-depth knowledge of the POSH Act, training provides them with the necessary legal understanding and procedural insights to resolve complaints appropriately. Well-trained ICC members are less likely to mishandle cases, reducing the risk of legal liabilities, penalties, and reputational damage for the organization.

Let us understand this better with a recent case law: **Ms. X V/s ICC & Others** [4]

In this case, an appeal was filed by an aggrieved woman, an employee of Standard Chartered Bank, before Presiding Officer Industrial Tribunal-01, New Delhi. The aggrieved woman and alleged Respondent were employees at one of the branches of Standard Chartered Bank in New Delhi. The aggrieved woman challenged findings of ICC of Standard Chartered Bank, for dismissing her sexual harassment complaint. She contended that investigation/ inquiry conducted was biased and with procedural lapses, resulting into violations of natural justice by ICC.

The Tribunal found merit in the aggrieved woman's claims. Allowing the Appeal, it noted that the findings of ICC suffered from illegality and infirmity as despite holding the accused as guilty i.e. Respondent No. 3 and finding substance in the complaint of appellant, no punishment was awarded to the accused. There were several technical flaws and procedural lapses noticed by the Tribunal, and the Tribunal highlighted the crucial role of ICC in handling workplace sexual harassment complaints and the necessity for impartial and legally compliant proceedings. The Tribunal also awarded litigation expenses to the aggrieved woman, in this case.

[4]RCA DJ NO. 2/2 : industrial Tribunal : Delhi

### **C) Adherence to Rules through Fair & Confidential Redressal Process**

Proper training enhances ICC members' ability to handle complaints and conduct inquiries in an unbiased and confidential manner. While ICC is not strictly bound by the technical procedures, adherence to principles of natural justice is must[5]. Principles of natural justice[6] are generally understood to include the below:

- Right to be heard (Audi Alteram Partem) – Ensuring both parties get a fair chance to present their case
- Rule against bias (Nemo iudex in causa Sua) – Ensuring impartiality in proceedings
- Reasoned decision-making – Providing clear and justified outcome, based on evidence

One must note that the Respondent in POSH cases are not presumed to be guilty in any manner and always have a right to defend themselves properly.

To reiterate this better, the High Court of Kerala, recently set aside an ICC report in **Vineeth V V vs. Kerala State Electricity Board Ltd**[7], wherein the Respondent was neither given the copy of the complaint nor were the witnesses examined in his presence.

A complaint was filed against the Respondent on 19.12.2022 and proceedings were initiated by the ICC. However, copy of the complaint was not given to the Respondent. The Report was filed, and the Respondent was issued a charge memo on 27.06.2023 and a subsequent order was also passed on 10.08.2023, stating that one as the allegations raised against the Respondent was proved. The Respondent challenged these proceedings successfully, being in violation of POSH Rules and principles of natural justice and the Court directed fresh inquiry.

[5] Rule 7 (4) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules 2013

[6] More information on this can be obtained here: Microsoft Word - 15-Third article- Audi Alteram partem - 12th October\_Final.docx

[7] WP(C) NO. 9331 OF 2024 : Kerala High Court: judgement passed on 12th March 2024

## **Role of ICC Members: Building a Safe & Inclusive Workplace**

ICC members play a key role in fostering a workplace where employees feel safe about reporting harassment without fear of retaliation. Training helps them take proactive steps, such as:

- Implementing a zero-tolerance POSH policy
- Conducting awareness sessions for employees
- Establishing clear reporting mechanisms.

To take the objectives of the Act further, ICC should also understand and discuss the nature of the POSH Act, with the employees.

Sometimes it is noticed that complaints are filed due to misunderstanding amongst the Parties. Such misunderstandings may arise due to different work/ society/ culture/ geographies and such incidents may be avoided by proper trainings, dialogue and education to employees as well. Sexual harassment as an allegation is damaging to male counterpart's reputation if done recklessly.

### **Conclusion:**

A well-trained ICC is not just a legal necessity but also a foundation of a safe and inclusive workplace. Proper training provides ICC members with knowledge, skills, and confidence to handle complaints fairly, maintain confidentiality, and uphold justice. By ensuring compliance with the POSH Act and encouraging a culture of trust and respect, organizations can protect their employees, mitigate legal risks, and enhance their reputation as a responsible employer.

Training and education to ICC members is an investment not only towards workplace integrity, and long-term organizational success but will also uphold justice, fairness and surety to women employees regarding workplace security.

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