

Accused / Respondents Rights – under PoSH Act

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A male respondent (who can also be called as an accused or delinquent or person on who is facing charges) has the following rights, while a sexual harassment case was filed on him, by an aggrieved woman:

1. Until the Management takes the decision of Conviction and action to be taken, he is only a Respondent and not a convicted individual
2. Management and Internal Committee has to ensure that the (a) Complaint (b) aggrieved woman's name (c) respondent's name and (d) witnesses, if any, are to be kept confidential, through-out
3. Respondent is to be given a copy of complaint, within 7 days of such Complaint is received by them from an aggrieved woman
4. He can reply to the complaint – upto 10 days of receipt of the same
5. Option of Conciliation rests with the aggrieved woman and Internal Committee to decide on that
6. Once a settlement is made out of a Conciliation (non-monetary settlement), the case is closed and cannot be reopened for any reason, unless otherwise, that any term or condition of the settlement has not been complied with, by the respondent
7. Respondent cannot hire an Advocate to represent him before the Internal Committee, but he can consult one, confidentially
8. He has every right to discuss the case and represent with an appropriate reply to the complaint, which can be beneficial to him
9. The Respondent cannot just like make a request to set-aside the Complaint, thinking that the complaint has no basis as the incident was a regular, normal one
10. Respondent cannot be lethargic, believing it is a false, malicious and he had not done anything wrong. Besides, it is his duty to protect his interest and cannot expect the internal committee, to find everything to prove the complaint is false
11. Respondent has to prepare his reply, his list of witnesses to prove the complaint is wrong and any documentation to protect himself

12. Respondent – beware – that it is his total responsibility to safeguard himself, as the Internal Committee may consist of ‘employees’ who are (mostly) non-legal professional. They will look into complaint, basis – A SMOOTH WORKPLACE for WOMEN TO PERFORM
13. Notwithstanding, the INTENT of the Respondent may be different and the IMPACT it had made on the aggrieved woman, only will be considered during inquiry. The action or behaviour would have been unwelcome (with sexual intent) by the aggrieved woman, invading or stepping-in into the personal boundary of the woman.
14. Respondent can seek copies of all records / documents / recordings, etc
15. Respondent has the right to cross examine the witnesses of the aggrieved woman
16. Respondent has no rights, unless otherwise it is agreed by the aggrieved woman, to cross examine the complainant aggrieved woman.
17. On the other hand, Respondent can cross examine through a questionnaire, which will be taken forward to the complainant by the Internal Committee
18. It is Respondent’s duty to check his reply and copies of documents in his favour, before submission to the Inquiry Committee. Further documents, if needed can be requisitioned during the course of inquiry
19. He and the complainant has to sign all the enquiry recordings and final recommendations by the Internal Committee to the Management
20. Respondent has the right to get copy of the same
21. Respondent has every right to appeal, if convicted, in the higher legal forum

PRINCIPLE OF NATURAL JUSTICE – Each party should be given Fair chance to defend themselves, which includes the Respondent

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