

## Why Inquiry process is sensitive in PoSH complaints?

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Sexual Harassment at workplace is always a THREAT to both aggrieved Woman and the Establishment.

Since #MeToo movement, the number of complaints is on the Rise - directly to the IC of an Establishment or to the Government. As per the recent initiative by the Government of India, the Ministry of Home Affairs, which heads the Group of Ministers, is revisiting the regulations to prevent the sexual harassment at workplace.



Prevalence of Sexual Harassment at workplace is disruptive and brings down the performance of the Team & their productivity. Notwithstanding, the growing high instances in India is bringing bad repute to the Organizations.

Woman employees do have a reservation in joining such Organizations where the

1. awareness is low
2. prevalence of sexual harassment is high
3. performance of IC is unexpectedly poor and
4. there are appeals in the higher Judicial forums against the decisions of the IC.

In India, the Establishments are still thinking that, if they do a periodical assessment, having "Green Tick mark" of Compliance Portfolio, it is suffice.

Conformation of Provisions of Legislation, is much more than what they think.

There are 2 areas, where the Management has to be significantly contributed, to enhance the sensitivity.

- 1 Awareness programs for all employees & Capacity building programs for IC members
- 2 Conduct of Inquiry upon receipt of complaint and Right recommendation by the Internal Committee

The Internal Committee (IC) is having a Judicial power, but in many establishments, there are not many employees are having a knowledge of Judicial process in conducting the Inquiry. Those IC members from internal employees are from different segments of production or Administration (and limited to a person from a company's legal department). Not all the external members are from Legal fraternity. Where the requirement under the provision is to have the Presiding Officer as a Senior Woman Employee and 50% of representation is to be Women, it is more challenging for an establishment to constitute the "Right IC".

Why atleast one member of the IC should be a person having basic process knowledge from Judiciary? The reason is simple because - if the inquiry recommendations or outcome is not acceptable by either, the aggrieved woman or the respondent, then there are every chance that they can go for an appeal. And the appeal will be in a Judicial forum, where they will scrutinize the process followed by the IC is to the expectation or not.

Mostly the process shall include the following, among the other things:

1. Receipt of application from the aggrieved woman – to peruse the admissibility of the complaint – Written & signed complaint, Respondent name, Date/s, Time and nature of sexual harassment, Attached witness name, Documents in support, etc
2. Copy of the same to be shared to the Respondent within the stipulated time-line
3. Discussion with aggrieved woman – for conciliation
4. If yes, proceed for conciliation, else follow the process of Inquiry
5. Enquiry process – with Aggrieved Woman and her witness/es
6. Enquiry process – with Respondent and his witness/es
7. Enquiry process – Cross examination of witness by IC members and/or by the opposite parties through a questionnaire
8. Recording of the entire process and documentation
9. Perusal of any other supporting documents, evidences or records/registers to support in providing the right recommendation in the specific case
10. Ensure attendance of all – aggrieved woman, respondent, witness/es
11. Ensure the corum of IC members
12. Ensure right representation from both parties
13. Ensure confidentiality of the persons, process, witness, enquiry, recommendation and action taken
14. Ensure copies of action taken is shared to both parties, and many other
15. Ensure the time-lines are duly complied throughout the process

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