‘Workplace’ under POSH Act

Mains: *GS II - Governance.*

Why in News?

Recently, the Bombay High Court (June 2026) ruled that a shared autorickshaw is not a workplace under POSH unless the employer provides the transport.

What is the POSH Act?

- **POSH act** – The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- **Enacted in –** 2013
- **Objectives –** To provide legal protection against sexual harassment of women in the workplace.
- To ensure the prevention of and redress for complaints related to sexual harassment.
- **Constitutional Basis –** It safeguards fundamental rights, including:
  - **Articles 14 and 15 –** Guarantee equality and prohibit discrimination.
  - **Article 19 (1) (g) –** Right to profession or occupation which entitlement to a safe working environment free from harassment.
  - **Article 21 –** Ensures the right to life and personal dignity.
- **International Commitment –** It recognizes protection against sexual harassment as a universal human right.
- Aligns with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
  - *India ratified CEDAW* on 25 June 1993.

What constitutes a workplace under the POSH Act?

- **Government sector** – Departments, organizations, enterprises, institutions, offices, branches, and units that are funded or controlled by the government, local authorities, corporations, or cooperatives.
- **Private sector –** Companies, ventures, non-governmental organizations (NGOs), trusts, societies, and service providers engaged in commercial, professional, vocational, educational, entertainment, industrial, health, or financial activities.
- **Extended spaces –** It include hospitals, nursing homes, sports institutes, stadiums, complexes, and competition venues, whether residential or non-residential.
- **Employment-linked places –** It refer to any location visited in the course of employment, including transportation provided by the employer.
- **Domestic work –** The workplace includes dwelling places or houses where domestic

workers are employed.

- **Unorganised sector –** The workplace refers to enterprises with fewer than ten workers, typically owned by individuals or self-employed persons.

Section 2(o) (v), *POSH Act defines "workplace"*

- **Virtual and Digital Workspaces**
  - **Judicial interpretations –** These have broadened the definition of workplace to encompass virtual platforms and digital interactions.
  - **Social media –** Online communications conducted through platforms such as WhatsApp, Messenger, and Facebook may be considered as constituting workplace harassment.

What are the judicial precedents on the POSH act?

- **Vishaka v. State of Rajasthan (Supreme Court) –** The court established guidelines to promote gender equality and ensure safe workplaces under Articles 14, 15, 19(1) (g) and 21 of the Constitution of India.
- **Saurabh Kumar Mallick (Delhi High Court) –** The court held that the definition of workplace should not be interpreted narrowly and must include atypical or unconventional spaces.
- **Sanjeev Mishra (Rajasthan High Court) –** The court recognized that digital platforms qualify as workplaces, even when participants are located in different physical locations.
- **Jahid Ali (Delhi High Court) –** The court determined that harassment occurring on social media platforms falls within the definition of workplace harassment.
- **Sanchayani Sharma (Delhi High Court) –** The court held that harassment encompasses verbal and non-verbal conduct, in addition to physical acts.
- **Bombay High Court Ruling (2026) –** The Court determined that shared or private commuting does not constitute a workplace under the POSH Act.
- However, if transportation is arranged by the employer, it is regarded as part of the workplace.

What are ethical implications of restrictive legal interpretation?

- **Ethical Dilemma –** The Bombay High Court ruling on commuting highlights a substantial ethical dilemma.
- Limiting the definition of workplace scope can heighten the vulnerability of women in everyday contexts.
- **Safety over Boundaries –** Ethically, protective measures ought to prioritize individual safety over rigid adherence to technical boundaries.
- This approach helps to prevent gaps in the administration of justice.

What are the significances of the broad workplace definition?

- **Protection Beyond Traditional Office Spaces –** The definition extends legal safeguards to environments outside conventional office settings.
- **Digital Environments –** The definition encompasses harassment occurring on platforms such as WhatsApp, social media, and other online environments.
- **Non-Traditional Settings –** Harassment experienced during training sessions, work-related travel, and employer-provided transportation is also recognized.
- **Employer Responsibility –** The expanded definition reinforces employer accountability across a range of work environments.

What are the challenges in implementation of POSH Act?

- **Ambiguity in Scope –** The applicability of protections to commuting scenarios remains insufficiently defined.
- **Lack of Awareness –** A significant proportion of employees remain unaware of their legal rights and protections.
- **Compliance Challenges –** Smaller organizations often face difficulties in establishing Internal Complaints Committees (ICCs).
- **Cultural Barriers –** Stigma and fear of retaliation continue to discourage the reporting of incidents.

What lies ahead?

- Relevant legislation should more clearly define commuting and third-party spaces.
- Targeted campaigns should educate employees and employers about their rights and responsibilities.
- Efforts should focus on strengthening Internal Complaints Committees (ICCs), especially in small enterprises.
- Stronger protections are needed to address harassment in online environments.

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References

1. **THE HINDU | What constitutes a 'workplace' under POSH Act?**
2. **eLearnPOSH**

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