



December 2023

EMPOWERING TIMES



THINKING ALOUD
An Inclusive and Safe
Workplace
Jay

PODIUM
Dr. Bharat Nain
PoSH Consultant, Arbitrator
& Founder-Director of United
Resource Consultants



WE RECOMMEND
FAQs on the PoSH Act
Dr. Bharat Nain

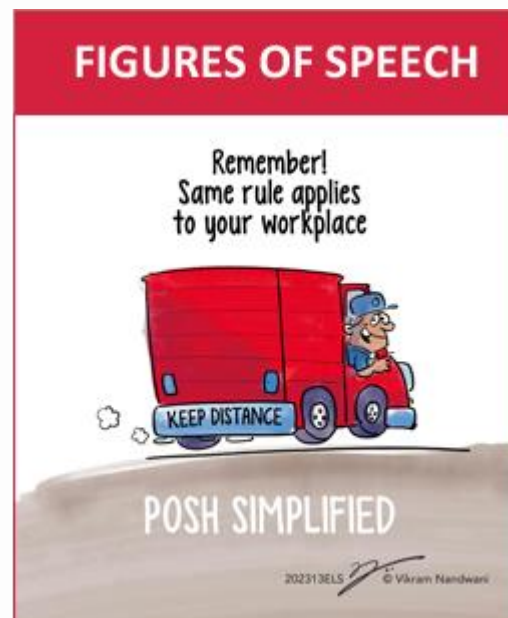
Dear Reader,

In the ever-evolving landscape of corporate culture, fostering a healthy work environment goes beyond ergonomic furniture and wellness programs. It delves into the fundamental aspects of interpersonal relationships and respect within the workplace. The Prevention of Sexual Harassment (PoSH) Act, 2013 emerges as a pivotal instrument in nurturing workplace wellness by addressing the right to work in an environment free from harassment.

Implementing the PoSH Act is a proactive step toward building a culture of respect and dignity within organizations. By clearly defining what constitutes sexual harassment and establishing mechanisms for reporting and redressal, the Act ensures an environment where employees feel secure and valued. As workplaces evolve and prioritize diversity and inclusion, the PoSH Act has gained even more significance and contributes to break down traditional power dynamics, fostering an atmosphere where everyone can thrive, ultimately enhancing the overall wellness of the workplace.

The theme for **ET** this month is ***'The Crucial Role of PoSH in Workplace Wellness.'***

In the **Thinking Aloud** section, **Jay** emphasizes the need for a safe and inclusive environment, addressing challenges in reporting, misreporting concerns, and the expanding scope of inclusion to incorporate the LGBTQ+ community. On the **Podium**, **Dr. Bharat Nain**, a PoSH consultant and advocate of arbitration, emphasizes the PoSH Act's role in fostering a safe workplace environment by addressing sexual misconduct, promoting zero tolerance, and encouraging leadership involvement. In the **We Recommend** section, we review **FAQs on the PoSH Act** by **Dr. Bharat Nain**, which is a handbook for handling sexual harassment issues at the workplace and how to implement the PoSH Act.

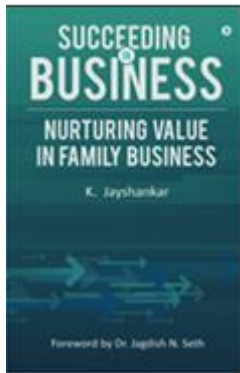


In **Figures of Speech**, **Vikram's** toon cruises the posh way!

As we start 2024, team ELS would like to wish our readers a Happy New Year!

Please also [Click Here](#) to check out our Special issue of ET, which is a collation of selected themes that were featured over the years highlighting the changing landscape of the business world. This special edition has been well received and can be [Downloaded Here](#) for easy reading and is a collector's item.

As always, we value your opinion, so do let us know how you liked this issue. To read our previous issues, do visit the Resources section on the website or simply [Click Here](#). You can also follow us on [Facebook](#), [LinkedIn](#), [X](#), [Threads](#) & [Instagram](#) - where you can join our community to continue the dialogue with us!



Out Now!

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THINKING ALOUD

An Inclusive and Safe Workplace

Jay

When Larry Nassar was finally sentenced in 2018 to over 150 years in prison, it marked a milestone as it brought justice to over 250 female gymnasts who had been sexually abused for nearly two decades in the award winning US Gymnastics team. Labelled as a case of 'medals over morals', action then followed on other leading officials of Michigan State University, US Gymnastics, etc. It has become a classic case where in the quest for medals glory at the podium, the organisation's leaders sacrificed their moral duty and victimised innocent children. The pervert, Dr. Nassar, is in prison now and has recently survived a violent attempt on his life in prison, reportedly after making some unrepentant comments about female sportswomen.

Closer to home we know that female wrestlers in India are still awaiting justice after their charges against the Wrestling Federation of India's (WFI) officials. After violent and dramatic protests of over 6 months, they have had to suspend their agitation when the judicial machinery finally began to grind, though ever so slowly. The primary target of their ire is Brij Bhushan Sharan Singh, long-running President of WFI, and a powerful politician in his own right, belonging to the ruling party, who has been charged with sexual harassment and degenerate behaviour. Interestingly, when investigations were held, it revealed that the WFI was in flagrant violation of the Prevention of Sexual Harassment (PoSH) Act 2013, as the Internal Complaints Committee (ICC) had four men and one woman as against the legal requirement that it should be led by a woman and have more than 50% women committee members. It is sad to note that the long delayed elections of the Federation, when they were finally held in December, has only reinforced the grip of the strong man who ensured that his proxies have been elected to office, thereby stymieing fair probe. The matter is still under investigation, and it is safe to predict that progress in this

matter will largely depend on next year's national election results, as it is quite common in India that politics trumps the letter of the law.

However, these events from the world of sports highlights the social malaise that has long existed globally: the unequal treatment of women in any organisation. Traditionally male dominated, the female voice has been out-voted, over-ruled and even drowned in the vociferous and raucous crowd of men that society has placed in pedestals of power. The call for equal financial returns is now getting louder in the field of sports, with some of the most popular global sports federations becoming responsive (case in point cricket, tennis, and US soccer). Others too are paying heed to this demand and wondering how to resolve the financial challenge. Be that as it may, the business world too is seeing some changes. For the first time ever, Fortune declared in January 2023 that women CEOs run more than 10% of Fortune 500 firms, breaking the long-held barrier of 8%. The gender pay gap for female CEOs, however, continues, as some studies indicate.

The biggest challenge for women at the workplace continues to be sexual harassment. A recent report for the UK revealed that almost two-thirds of young women have faced such situations, and yet the fear of destroying workplace relationship or hurting their career prospects prevent victims from reporting such incidents. Recent data from the Maharashtra State Commission for Women (MSCW) also indicates that sexual harassment cases have increased by 68 percent over the last six years, though the number of cases reported is still very small (37). Similarly, a study in the private sector also indicated that the post-covid workplace has seen a rise in cases registered from 595 in FY20 to 759 in FY 22.

While large corporates have raised employee awareness of sexual harassment after the implementation of the PoSH Act, and enforced fair work practices, there were also concerns of misreporting as cases of harassment were being filed to cause malice of the so-called abuser. In other words, while there has to be zero tolerance for sexual harassment, this Act should not get weaponised in the hands of workplace malcontents seeking to settle scores. The situation in the unorganised sector, as in most other cases, continues to be challenging as both awareness and adherence to the law is suspect.

The cost of harassment goes beyond the economic damage for a firm. There is a huge psychological price paid by the victim even if she does not actually raise a formal complaint. Bottling up emotions causes severe distress and more often than not, it permeates into the workplace as toxic predators constantly seek new prey. And, as in the case of deviant Nassar, and his accomplices who knowingly turned a Nelson's eye, the culture of results at any cost

creates a tormented universe of victims who suffer in silence until one day the explosion shatters the organisation. This was more than evident when the flood of #MeToo cases swept around the world once the tipping point was reached in 2017. A liberating movement that empowered many reticent sufferers to speak out, the campaign gathered tremendous speed and became an international force. Beyond the Hollywood celebrities, and the media figures, the movement gathered steam all over the world, and perhaps the most well-known casualty of the movement in India is MJ Akbar, former Minister and legendary editor of many publications. Akbar lost his judicial battle to Priya Ramani and his case is in appeal at present. And there have been others in this roster of villains, from film industry personalities to business leaders (Phaneesh Murthy), media (Tarun Tejpal), NGOs & Academic centres (RK Pachauri), etc. The naming, shaming and volleys of accusations have abated and it would be good if some lessons have been learned by those in power.

In the midst of this push for creating a safe space for women employees, we now find that the arena for inclusion has expanded. With the LGBTQ+ community no longer in hiding, Indian businesses are attempting to widen the definition of sexual harassment to go beyond the legal interpretation offered by the 2013 law. There is no clarity yet and the transition to a new world leads to multiple interpretations. Changing mind-sets goes beyond redrafting statutes and calls for inclusive behaviour from leaders. In a polarised world, such as now, ambiguity is the norm. For a business to survive, there should be no deviation from the quest to achieve targets today. However, for a business to sustain itself and thrive, leaders need to reinvent its processes to adapt to environmental challenges. One of these changes is the acceptance of a rainbow world and its natural presence at the workplace. With the backlash on 'Woke-ness', there is a tendency to hark back to the old era of dual tone, black and white. That cannot work any longer. The ask today is to transcend differences and unite members to the common purpose which a business intends to create, and that begins by focusing on building a safe and inclusive workplace for all.

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Podium

Dr. Bharat Nain

PoSH Consultant, Arbitrator & Founder-Director of United Resource Consultants



Dr. Bharat Nain is a non-judicial corporate professional with over 40 years' experience across the corporate work spectrum in India and globally. Dr. Nain is an Engineer, holds an MBA degree and has completed the Fellowship in International Arbitration from the Singapore Institute of Arbitrators. He also holds a membership from the Chartered Institute of Arbitrators, London.

Dr. Nain is a Marshall Goldsmith Executive Coach. Alongside practicing as an arbitrator, he is a proponent of ZERO TOLERANCE of sexual misconduct at the workplace and is a PoSH Advisor & trainer for various organisations. His approach is to demystifying both the PoSH Act and the practice of arbitration in India. He has a non-legal, business-centric approach to both the topics. His overriding passion is nurturing, facilitating & empowering youth.

ET: At the onset, what is Prevention of Sexual Harassment (PoSH) policy and how does it help in creating a safe and inclusive work environment?

BN: The objective of the PoSH Act, 2013 is to provide protection against sexual harassment of women at the workplace, ensure adequate protection and provide a redressal mechanism for complaints of sexual misconduct and any other matters connected to the same. Inappropriate behaviour could be direct, indirect, implied, or subtle, including both verbal and physical, by any individual in the organisation against any woman in the organisation.

The Act helps create a safe and inclusive working environment by providing the modality to address complaints of sexual misconduct, and also encourages training of all stakeholders to bring about more awareness to prevent sexual harassment of women.

ET: The digital era has introduced new challenges in the realm of workplace harassment. How can organisations address cyber sexual harassment and ensure a safe online working environment?

BN: The core of preventing sexual harassment at the workplace whether direct, indirect or cyber sexual harassment is by propagating & actively encouraging a policy of ZERO TOLERANCE at the workplace. Such a policy forms the bedrock of a safe working environment, free from sexual harassment whether physically and online. Equally importantly, organisations need to ensure that reported cases of sexual harassment are dealt with firmly, in line with the provisions of the PoSH Act.

ET: What role can leadership and top management play in fostering a culture of zero-tolerance towards sexual harassment and championing the implementation of PoSH policies within their organisations?

BN: The responsibility to ensure a workplace free of sexual misconduct and harassment lies not only with the employees or HR, but with the leadership of an organisation to ensure that their participation, both in framing and implementation of the policy is seen by employees across all levels. The top management and leadership need to actively participate and encourage ongoing prevention and training initiatives to avoid sexual misconduct at the workplace. Any sexual harassment policy or implementation of the PoSH Act is deemed for failure, unless it has active participation by the top management at all times.

ET: From your experience, please share a few examples of how PoSH has been used to resolve organisational disputes.

BN: PoSH is not an Act or a tool to resolve organisational disputes but is a tool to ensure a conducive working environment where all employees participate towards a common goal to ensure an environment free of sexual misconduct. The training initiatives for PoSH also provide a platform for bonding amongst employees, and inculcation of respect for their women colleagues. All such initiatives play a positive role towards a dispute free organisational culture.

ET: You have been a strong advocate of arbitration in India and a PoSH Consultant. Please tell us about your book called 'FAQs on the PoSH Act'.

BN: The aim of both the books, 'FAQs on Arbitration in India' and 'FAQs on the PoSH Act' is to demystify the topics for easy understanding of the lay corporate professional / employee. The PoSH book, like the earlier book on Arbitration, has been written in simple language with no legal jargon & covers both the practical and regulatory aspects of the PoSH Act in simple language. The overriding objective of the PoSH book is to bring about an awareness and acceptance of the culture of ZERO TOLERANCE towards sexual misconduct at the workplace.

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We Recommend

FAQs on the PoSH Act

Dr. Bharat Nain



FAQs on the PoSH Act by Dr. Bharat Nain is a book that simplifies and demystifies the intricacies of the Prevention of Sexual Harassment at Workplace Act, 2013 (PoSH Act). In a professional landscape where addressing issues of sexual harassment is important, Dr. Nain's book emerges as a guiding force, offering a blend of legal insight and practical guidance.

The book's question-and-answer format dissects the legal complexities of the PoSH Act, presenting them in a digestible manner that caters to individuals with varying levels of legal expertise. From defining sexual harassment to delineating complaint procedures and internal committee composition, the book covers every facet of the legislation with clarity and conciseness.

Dr. Nain doesn't confine himself to the realm of legal explanation; he anticipates reader concerns and equips them with actionable solutions. By incorporating illustrative scenarios, he bridges the gap between legal theory and real-world application. The book delves into the social and ethical dimensions of sexual harassment. Dr. Nain underscores the adverse impact of such behaviour on individuals and organisational culture. He advocates for a shift from reactive compliance to proactive prevention, emphasizing the importance of fostering a safe and respectful work environment. This human-centric perspective adds a layer of depth to the book, urging organisations to prioritize more than just meeting legal requirements.

The inclusion of readily available templates and resources further enhances the book's value. Dr. Nain provides a draft Prevention of Sexual Harassment Policy that organisations can adapt, alongside informative infographics that succinctly summarize key concepts. These practical tools make the implementation of the PoSH Act more accessible, rendering the book an indispensable tool for HR professionals and organisational leaders.

The read is a comprehensive and accessible guide that successfully breaks down the complexities of Indian legislation on sexual harassment. Dr. Nain's practical approach, coupled with valuable resources, positions the book as an indispensable tool for employers, employees, and anyone invested in fostering a safe and inclusive work environment. This book equips readers with the knowledge and tools to address sexual harassment proactively. In a world grappling with power and gender dynamics, FAQs on the PoSH Act provides a critical roadmap for creating workplaces where everyone feels safe and valued.

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THROUGH THE LENS



Our in-house photographer, **Rupesh Balsara** spots the African Scops Owl - a distinctive tiny hunter, barely bigger than a robin. These curious owls sport big, golden eyes and love perching on branches, keeping watch with their swivelling heads. Not native to India, birdwatchers in certain areas of India have reported sightings of the African Scops owl, adding a touch of exoticism to the local bird population.

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