



ALL THINGS POSH

QUARTERLY NEWSLETTER | MAY TO AUG 2026 | VOLUME 1 · ISSUE 2

**RESPECT**

Treat everyone with dignity and respect at all times.

**SAFE ENVIRONMENT**

We maintain a zero tolerance policy towards harassment.

**SPEAK UP**

Report concerns without fear. Your voice matters here.

**SUPPORT**

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**CASE LAW UPDATES**

1

JURISDICTION: WHO QUALIFIES AS 'EMPLOYER' VS 'EMPLOYEE'**Prof. J. Sundaresan Pillai v. K.K. Seethalakshmi***2026 SCC OnLine Ker 4743 — Kerala High Court*

Issue: Whether the Director of the Integrated Rural Technology Centre (IRTC), accused in a sexual harassment complaint, was an "employer" under Section 2(g) (triable only by the Local Committee) or an "employee" under Section 2(f) (triable by the ICC).

Held: The Director functioned under the supervision and control of IRTC's Executive Committee and General Body, and was appointed by the Executive Committee. Despite holding overall managerial responsibility under the institution's rules, this authority was expressly subject to the Executive Committee/General Body's oversight. He therefore fell within the definition of "employee," not "employer."

Outcome: ICC's jurisdiction to inquire into the complaint against the Director was upheld.

Managerial title or designation alone does not make a person an "employer" under the POSH Act. The determining factor is where ultimate institutional control vests as per the entity's constitutional documents/ MoA.

2

NATURAL JUSTICE & THE 'REVERSE BIAS' CAUTION**X v. Y & Anr.***R/Special Civil Application No. 3285 of 2026 — Gujarat High Court*

Facts: A woman employee's sexual harassment complaint against the Managing Director and a woman official was dismissed by the ICC as false and baseless. A cross-complaint filed by the woman official against the petitioner was partly upheld and referred to police. The woman employee who initially filed the sexual harassment complaint was subsequently terminated.

Held: The ICC had complied with principles of natural justice, granted adequate hearing, and carefully assessed the evidence (including CCTV footage and police inputs) as required under Section 11 of the POSH Act. No bias was found in the ICC's decision-making.

Key observation: *The Court cautioned against "reverse bias" operating against male accused persons cautioning that excessive extension of statutory protections to complainants, if unchecked by adjudicating forums, could create more "glass ceilings" and unduly fetter the employment of genuinely competent employees.*

3

SCOPE OF 'WORKPLACE': EMPLOYER-PROVIDED TRANSPORT**Siddhesh Pradeep Satpute v. State Bank of India & Ors.***2026:BHC-OS:13187-DB — Bombay High Court, order dated 16 June 2026*

Facts: A bank employee was accused of inappropriately touching a woman commuter's bag while both were sharing a public autorickshaw from Kurla railway station to their respective offices at BKC, Mumbai. SBI's ICC found him guilty and recommended disciplinary action.

Held: Section 2(o)(v) of the POSH Act includes within "workplace" transportation undertaken during employment only if that transportation is provided by the employer. A shared, commercially hired autorickshaw arranged by the commuters themselves does not meet this test, even though both parties were travelling to their offices.

Outcome: Since the incident did not occur at a "workplace" as statutorily defined, the ICC lacked jurisdiction to entertain the complaint. The ICC's order recommending action was quashed.

**COMPLIANCE CORNER****QUARTERLY POSH CHECKLIST FOR EMPLOYERS**

- ✓ Review ICC constitution and tenure
- ✓ Verify external member appointment
- ✓ Conduct awareness sessions including remote workers
- ✓ Conduct capacity building sessions for ICC members
- ✓ Update POSH policy to include hybrid workplace conduct
- ✓ Ensure annual report readiness
- ✓ Display POSH notices prominently
- ✓ Familiarise employees with SHe-Box reporting

**FAQ SECTION****Q. Can a Director be tried by the ICC instead of the Local Committee?**

Yes, if the Director functions under the supervision and control of a higher governing body. Designation alone does not confer "employer" status under the POSH Act, as clarified in *Prof. J. Sundaresan Pillai v. K.K. Seethalakshmi*.

Q. Does a shared autorickshaw count as "workplace" under the POSH Act?

No. The Bombay High Court in *Satpute v. State Bank of India* held that Section 2(o)(v) covers only employer-provided transport. A commercially hired vehicle arranged by the employees themselves falls outside the definition.

Q. Can the ICC act against a person who instigated a false complaint?

No. Section 14 applies only to the complainant who filed the false complaint. Third-party instigators must be pursued through other legal avenues, as held in *Shrinivas Shinde v. Directorate of Skill Development*.

Q. Is SHe-Box 2.0 registration mandatory?

While positioned as a compliance facilitation tool, organisations that have not onboarded or kept their SHe-Box details current may become more visibly non-compliant as usage and visibility of the platform increases.



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CASE LAW UPDATES (CONTINUED)



SECTION 14 PENALTIES APPLY ONLY TO THE COMPLAINANT — NOT AN 'INSTIGATOR'

Shrinivas Shinde v. Directorate of Skill Development & Entrepreneurship

Writ Petition No. 15 of 2026; 2026 LiveLaw (Bom) 202 — Bombay High Court at Goa, decided 20 April 2026

Facts: The petitioner, a clerk, faced a sexual harassment complaint from a female colleague. The ICC closed the complaint on finding it false, noting the complainant had been "instigated" by an unnamed source. The complainant had told the ICC that the institute's Principal had drafted the complaint and forced/ threatened her into signing it. The clerk sought disciplinary action against the Principal under the POSH Act.

Held: Section 14 of the POSH Act empowers the ICC only to recommend action against the woman (or person) who filed a false or malicious complaint under Section 9, it does not extend to anyone who instigated or coerced that person into filing the complaint. The petitioner's remedy, if any, lay against the complainant herself, not the alleged instigator, under this provision.

Court's criticism: The Court criticised the ICC for describing the instigator as an "unknown source" when the complainant's own retraction letter had named the Principal. Selectively omitting a named individual was held to be unjustified.

Outcome: The ICC's report was directed to be amended to explicitly record that the named individual had instigated the complainant to file a false complaint. The petitioner was given liberty to pursue appropriate proceedings against that individual before any other appropriate forum (with due opportunity of hearing to that person), separate from the POSH Act framework.

POSH Act penal consequences under Section 14 are confined to the complainant/person who lodges the complaint; third-party instigators fall outside its punitive scope and must be pursued, if at all, through other legal avenues.

PART II — REGULATORY & GOVERNMENT BODY UPDATES

Beyond case law, several regulatory bodies have recently issued circulars, formats, and platform upgrades that reshape how POSH compliance is monitored and enforced. A snapshot for company reference:



Maharashtra WCD Department — Inspection Circular (14.05.2026)

What happened: The Women and Child Development Department, Maharashtra, issued a circular authorising designated government officers to conduct direct inspections of workplaces for POSH compliance.

Why it matters: For years, many organisations treated POSH compliance as a checkbox exercise like to adopt a policy, run training, submit annual reports etc. This circular signals a shift from checking boxes to checking results. This circular not only provides compliance inspection checklist for officials but also provides a compliance checklist for organisations to ensure compliance with the government circular.

INSPECTORS ARE NOW AUTHORISED TO VERIFY:

- Whether Internal Committees are actually functioning, or merely exist on paper?
- Whether complaints are being processed within statutory timelines?
- Whether IC constitution meets requirements at every office location?
- Whether records are being maintained that can withstand scrutiny?
- How employees are being supported during the complaint process?



IN THIS EDITION

CASE LAW AT A GLANCE

Prof. J. Sundaresan Pillai v. K.K. Seethalakshmi

Kerala High Court

Managerial designation alone does not make a person an "employer" — the test is where ultimate institutional control vests.

X v. Y & Anr.

Gujarat High Court

ICC's dismissal of a complaint upheld; Court cautioned against "reverse bias" operating against male accused persons.

Siddhesh Pradeep Satpute v. State Bank of India & Ors.

Bombay High Court

"Workplace" covers transportation during employment only if provided by the employer; a self-arranged shared autorickshaw does not qualify.

Shrinivas Shinde v. Directorate of Skill Development & Entrepreneurship

Bombay High Court at Goa

Section 14 penalties are confined to the complainant; instigators fall outside the POSH Act's punitive scope.



ACTION POINTS

ARISING FROM THIS EDITION

- Prepare for direct workplace inspections by Maharashtra WCD officers
- Revise annual report templates to the KSCW standardised format (Karnataka)
- Onboard and keep organisation details current on SHe-Box 2.0
- Verify IC functioning, timelines and records can withstand scrutiny



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REGULATORY UPDATES (CONTINUED)



Karnataka State Commission for Women — Standardised Annual Report Format

What happened: The Karnataka State Commission for Women (KSCW) has released a draft standardised format for filing the Annual Report under the POSH Act, 2013, aimed at strengthening oversight and consistency in reporting workplace sexual harassment data.

THE FORMAT REQUIRES EMPLOYERS TO DISCLOSE:

- ✓ Organisation & workforce details, including direct and indirect workforce
- ✓ Internal Committee information, including external member qualifications
- ✓ Training & awareness details — programmes conducted, participation, hours, and effectiveness
- ✓ Complaints & action taken — complaint-wise details, closure status, and outcomes

Why it matters: A standardised format makes it far easier for regulators to spot gaps (e.g., an IC without a qualified external member, or an annual report with no substantiated complaint-wise breakup).



SHe-Box 2.0 — Ministry of Women & Child Development Portal Upgrade

What happened: The Ministry of Women & Child Development has upgraded the SHe-Box portal (the central platform for registering workplace sexual harassment complaints), adding features aimed at greater transparency and visibility of workplace safety initiatives nationally.

NOTABLE NEW FEATURES:

- ✓ A "Take Pledge" campaign promoting safe and dignified workplaces
- ✓ A state-wise gallery showcasing POSH awareness initiatives across India
- ✓ Live statistics tracking IC orientation programs, employee awareness sessions, participant numbers, annual reports filed, Local Committees, and District Officers

Why it matters: The added transparency features suggest the government intends to use SHe-Box data publicly and comparatively — organisations that have not onboarded or kept their SHe-Box details current may become more visibly non-compliant as usage and visibility of the platform increases.

shebox.wcd.gov.in ↗



REGULATORY SNAPSHOT

THREE DEVELOPMENTS THIS QUARTER

Maharashtra — WCD Inspection Circular

Dated 14.05.2026

Designated government officers are now authorised to conduct direct workplace inspections for POSH compliance.

Karnataka — KSCW Annual Report Format

Draft standardised format

A uniform disclosure format covering workforce, IC composition, training, and complaint-wise details.

National — SHe-Box 2.0

MWCD portal upgrade

Pledge campaign, state-wise gallery, and live compliance statistics increase public visibility of workplace safety data.



REACH US

For assistance with POSH compliance, IC constitution, training programmes, or annual report preparation, write to us at info@eshwars.com

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KEY TAKEAWAYS



Maharashtra's inspection circular, Karnataka's standardised annual report format, and the upgraded SHe-Box 2.0 portal collectively signal a shift from checkbox-style POSH compliance (policy + training + annual reports) toward verifiable, and publicly visible compliance and to expect increased scrutiny of IC functionality, timelines, record-keeping, and complainant support going forward.



With Karnataka's standardised annual report format, organisations in Karnataka should expect their existing annual report templates to need revision.

