

# Unlocking Opportunities: Company Secretaries as POSH Trainers

The urgent need to safeguard and champion the rights and interests of women in every workplace. In the contemporary corporate world, fostering a safe and respectful environment is not just a legal obligation but a moral imperative. The Prevention of Sexual Harassment (POSH) Act stands as a powerful instrument in ensuring workplaces are free from harassment, and at its core lies the crucial role of POSH trainers. Among the array of professionals capable of undertaking this responsibility, Company Secretaries emerge as ideal candidates due to their unique skill set and expertise.



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## INTRODUCTION

As the sacred gates of Ram Mandir open in Ayodhya, symbolizing a new era and a commitment to righteousness, a parallel call to emulate Hanuman's protective spirit resonates in our corporate landscape. This echoes the urgent need to safeguard and champion the rights and interests of women in every workplace. In the contemporary corporate world, fostering a safe and respectful environment is not just a legal obligation but a moral imperative.

The Prevention of Sexual Harassment (POSH) Act stands as a powerful instrument in ensuring workplaces are free from harassment, and at its core lies the crucial role of POSH trainers. Among the array of professionals capable of undertaking this responsibility, Company Secretaries emerge as ideal candidates due to their unique skill set and expertise.

Compliance with the mandates of the POSH Act involves several crucial aspects, demanding organizations' diligent adherence. Key among these is the formulation of a comprehensive POSH policy, a responsibility that can be shouldered by either an external consultant or an in-house HR professional possessing the requisite knowledge. Similarly, the imperative task of conducting the POSH employee awareness program falls on the

shoulders of POSH trainers or HR personnel proficient in the subject matter.

While internal trainers or e-modules may suffice, ensuring comprehensive coverage of all five types of sexual harassment, the effectiveness of physical training is recommended. Given the sensitive nature of the topic, it becomes imperative to reach all employees, from top management to domestic workers, in a language that resonates with them.

The annual IC capacity-building workshop, a critical component of POSH compliance, should be skillfully facilitated by a hired POSH trainer. On the other hand, external consultants are entrusted with conducting quarterly IC review meetings and handling POSH case inquiries due to the sensitivity of the matters involved. It is essential to note that individuals not integrated into the Internal Committee (IC) team are precluded from managing such cases.

Furthermore, the IC team shoulders the responsibility of submitting the annual POSH report on the company letterhead to the Nodal officer, navigating through procedures that may vary across states.

The multifaceted role of a POSH external consultant encompasses formulating or reviewing the POSH policy, conducting case inquiries, quarterly reviews, and providing support in annual report submissions. Simultaneously, a POSH trainer plays an instrumental role in overseeing employee awareness and IC capacity-building training, ensuring comprehensive compliance with POSH regulations. As we draw inspiration from the protective spirit of Hanuman and the symbolism of Ram Mandir, let us reinforce our commitment to creating workplaces that are not just legally compliant but morally sound and respectful.

## HISTORY AND APPLICABILITY

In an era where workplaces are evolving to be more inclusive, the imperative of ensuring a respectful and secure environment is undeniable. The inception of the Prevention of Sexual Harassment (POSH) Act in 2013 signifies India's commitment to combatting workplace

sexual harassment. Originating from the tragic incident of Bhanwari Devi's assault in 1992, the Act emerged following a landmark case, Vishakha and Others v State of Rajasthan, where the Supreme Court laid down guidelines known as the "Vishakha Guidelines" in 1997. These guidelines acted as a de facto law until the formal legislation was enacted.

I aim to shed light on the critical dimensions of the POSH Act to establish a safe and conducive environment for all employees. Exploring its fundamental aspects, implications for the corporate sector, and the indispensable need for awareness and adherence to this law in modern enterprises is crucial.

The POSH Act is a robust framework designed to address and redress sexual harassment grievances in the workplace, fostering an environment conducive to all genders. It mandates the constitution of an Internal Complaints Committee (ICC) in organizations with 10 or more employees, serving as an in-house redressal forum. The ICC, comprising at least four members, with one-half being women, conducts investigations into sexual harassment complaints, ensuring prompt and fair resolutions.

Adhering to the POSH Act transcends legal compliance; it is about fostering a workplace where employees can work without fear. The Act prescribes stringent measures against perpetrators and outlines rights and remedies available to aggrieved individuals.

Compliance with the POSH Act necessitates a proactive approach. It covers not only employees but also customers, clients, and other individuals interacting with the organization. Establishing a harassment-free workplace is the collective responsibility of every individual within the organization.

Non-compliance with the Act can result in penalties, emphasizing the legal obligation for organizations to create a harmonious workplace culture.

Ensuring compliance involves forming an ICC, conducting regular training, establishing transparent reporting mechanisms, ensuring prompt complaint redressal, documenting proceedings, and engaging legal experts for consultation. Collaboration with external consultants and NGOs further enhances the organizational culture concerning sexual harassment prevention.

POSH Act embodies legal compliance, moral obligation, and corporate responsibility. It is about cultivating a work environment resonating with respect, equality, and justice—the hallmarks of a progressive corporate entity. While the journey towards a harassment-free workplace is challenging, the POSH Act serves as a guiding legal framework, propelling us toward a culture that rejects discrimination and celebrates diversity.



## ANOTHER LANDMARK JUDGEMENT IN MAY 2023

The recent landmark judgment by the Hon'ble Supreme Court of India regarding the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) is indeed noteworthy. The POSH Act, a comprehensive legislation, places the onus on employers to guarantee the safety of all employees, with a special emphasis on the protection of women in the workplace. It underscores the significance of proactively preventing and addressing sexual harassment, calling for regular awareness and sensitization programs to inform employees about their rights and foster a secure working environment.

The specific case in question, Aureliano Fernandes Vs. State of Goa and Others, presented a scenario where the Appellant faced termination from Goa University based on findings of sexual harassment by the internal committee under the POSH Act. The Hon'ble Supreme Court, upon reviewing the case, quashed the termination order, citing flaws in the inquiry that infringed upon principles of natural justice. The Court directed a fresh inquiry, emphasizing the need for the Appellant to have sufficient time for preparation and defense.

Furthermore, the Hon'ble Supreme Court issued crucial directives to the Union of India, State Governments, and Union Territories for the effective implementation of the POSH Act. These directives encompass the establishment of Internal Committees (ICs) or Local Committees (LCs) in compliance with the POSH Act, ensuring transparency in their composition, and providing accessible information on their constitution and functioning. The Court stressed the importance of familiarizing committee members with their duties and conducting regular orientation programs, workshops, and awareness sessions to enhance their skills and educate women employees about the Act's provisions.

The judgment and directives from the Honorable Supreme Court signify a substantial advancement in the battle against workplace sexual harassment. It demonstrates the Court's commitment to enforcing the POSH Act effectively and safeguarding the rights of women in the workplace. The clear emphasis on education, transparency, and fair inquiry procedures underscores the Court's dedication to fostering a workplace environment free from harassment and discrimination.

## CONSEQUENCES FOR EMPLOYER NON-COMPLIANCE WITH POSH ACT

Failure to adhere to the provisions of the Prevention of Sexual Harassment (POSH) Act can lead to severe consequences for employers. Monetary penalties, amounting to a maximum of INR 50,000, may be imposed for various violations, including:

### Non-constitution of IC Committee

Employers failing to establish the Internal Complaints (IC) committee as mandated by the POSH Act.

### Non-action on Committee Recommendations

Employers neglecting or refusing to act upon the recommendations provided by the IC committee in response to complaints.

### Failure to File Annual Report

Employers omitting to file the annual report with the District Officer as required by the POSH Act.

### Contravention of Act or Rules

Employers contravening, attempting to contravene, or aiding in the contravention of the provisions outlined in the Act or its associated Rules.

In addition to monetary penalties, the courts may also impose exemplary damages on the employer. Such consequences extend beyond financial implications and can significantly tarnish the company's reputation. Moreover, the aftermath of non-compliance contributes to fostering a hostile work environment, adversely affecting both employee morale and organizational culture. Therefore, adherence to the POSH Act is not only a legal obligation but a crucial element in maintaining a positive workplace atmosphere and upholding the company's standing in the broader community.

## WHO ARE POSH TRAINERS?

A POSH trainer is an individual responsible for conducting workshops, training sessions, and awareness programs on the Prevention of Sexual Harassment at the workplace. These trainers play a vital role in educating employees about the provisions of the POSH Act, promoting a safe and inclusive work culture, and addressing issues related to harassment.

In an era where workplaces are evolving to be more inclusive, the imperative of ensuring a respectful and secure environment is undeniable. The inception of the Prevention of Sexual Harassment (POSH) Act in 2013 signifies India's commitment to combatting workplace sexual harassment. Originating from the tragic incident of Bhanwari Devi's assault in 1992, the Act emerged following a landmark case, Vishakha and Others v State of Rajasthan, where the Supreme Court laid down guidelines known as the "Vishakha Guidelines" in 1997. These guidelines acted as a de facto law until the formal legislation was enacted.

## WHY COMPANY SECRETARIES AS POSH TRAINERS?

### Legal Expertise

Company Secretaries possess a deep understanding of corporate laws and compliance. The POSH Act involves legal intricacies, and having professionals well-versed in corporate legislation ensures accurate interpretation and application of the law.

### Ethical Governance

Governance and ethical conduct are integral to the role of Company Secretaries. Their expertise in promoting ethical practices aligns seamlessly with the objectives of the POSH Act, emphasizing the importance of a safe and ethical work environment.

### Confidentiality

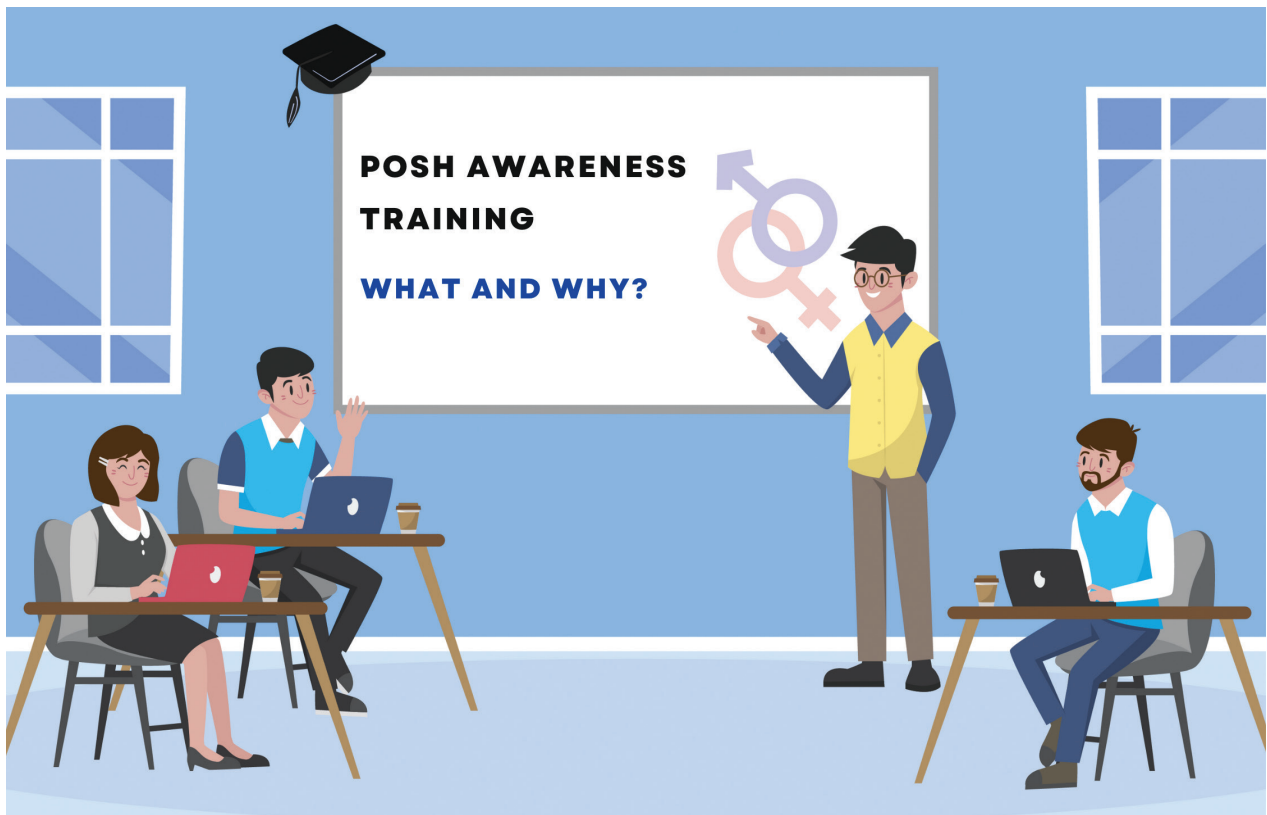
Company Secretaries are well-versed in handling sensitive and confidential information. In the context of POSH training, where discussions may involve personal experiences, having trainers who understand the nuances of confidentiality is crucial.

### Communication Skills

Effective communication is at the heart of POSH training. Company Secretaries, as communication experts, can articulate the complexities of the POSH Act in a clear and comprehensible manner, ensuring that employees grasp the significance of preventing sexual harassment.

### Essential Competencies for an Effective POSH Trainer

The Prevention of Sexual Harassment (POSH) Act has transformed workplace dynamics, emphasizing the importance of creating safe and respectful environments. For individuals undertaking the critical role of a POSH



trainer, possessing a diverse skill set is essential. In this article, we explore the key competencies required for an effective POSH trainer. Becoming an effective POSH trainer requires a multifaceted skill set that goes beyond a mere understanding of the legal framework. By incorporating compliance knowledge, training delivery skills, cultural sensitivity, and a commitment to continuous improvement, POSH trainers contribute significantly to building workplaces that prioritize safety, respect, and inclusivity. The role is dynamic, demanding adaptability and a genuine dedication to creating positive organizational cultures.

### Understanding of POSH Act

To be an effective POSH trainer, a comprehensive understanding of the POSH Act is paramount. Trainers should be well-versed in the legislation's provisions, intricacies, and nuances. This knowledge forms the foundation for delivering accurate information during training sessions and ensuring compliance with the legal framework.

### Compliance and Legal Awareness

A POSH trainer must have a strong background in compliance and legal awareness. Keeping abreast of any amendments or updates to the POSH Act is crucial to provide up-to-date and accurate information during training. This competency ensures that trainers can guide organizations in aligning their policies with the evolving legal landscape.

### Training Delivery Skills

Effective communication and training delivery skills are essential for a POSH trainer. The ability to convey complex information in a clear, engaging, and accessible manner is key to fostering understanding among diverse audiences. Trainers should employ various teaching methodologies to cater to different learning styles and ensure maximum retention of information.

### Creating a Safe and Respectful Workplace

Beyond imparting knowledge, a POSH trainer plays a pivotal role in instilling a culture of safety and respect in the workplace. Trainers should possess the ability to communicate the importance of a respectful environment, emphasizing the role of each employee in contributing to a positive workplace culture.

### Compliant Handling and Redressal

Trainers need to be well-versed in the procedures for handling and redressing complaints of sexual harassment. This includes knowledge of the internal complaint mechanisms, confidentiality measures, and the overall redressal process outlined in the POSH Act. Competence in guiding organizations through these processes is vital.

### Sensitivity and Cultural Awareness

A POSH trainer must exhibit high levels of sensitivity and cultural awareness. Workplaces are diverse, and trainers should be attuned to cultural nuances to ensure

that their training is inclusive and respectful of various backgrounds and perspectives.

### Case Studies and Practical Scenarios

The ability to present relevant case studies and practical scenarios enhances the effectiveness of POSH training. Trainers should draw upon real-world examples to illustrate the application of the POSH Act in different situations, facilitating a better understanding among participants.

### Evaluation and Continuous Improvement

A competent POSH trainer should be committed to continuous improvement. This involves regularly evaluating the effectiveness of training programs, seeking feedback, and incorporating learnings to enhance future sessions. This iterative approach ensures that training remains relevant and impactful.

## BLENDING THE ROLE OF A POSH TRAINER AND A SOFT SKILLS TRAINER

Combining the roles of a POSH (Prevention of Sexual Harassment) trainer and a soft skills trainer can be a powerful and comprehensive approach to workplace training. Let's elaborate on how these two roles can complement each other:

### 1. Communication Skills

**POSH Trainer:** A POSH trainer needs effective communication skills to convey legal information, policies, and procedures related to preventing and addressing sexual harassment.

**Soft Skills Trainer:** Soft skills trainers specialize in enhancing communication skills, ensuring employees can express themselves clearly, empathetically, and assertively.

### 2. Empathy and Sensitivity

**POSH Trainer:** Sensitivity is crucial when dealing with issues related to sexual harassment. A POSH trainer needs to convey information empathetically and create a safe space for discussion.

**Soft Skills Trainer:** Training in empathy and sensitivity is a core component of soft skills training, promoting better understanding and collaboration among colleagues.

### 3. Conflict Resolution

**POSH Trainer:** Dealing with complaints and conflicts related to sexual harassment requires conflict resolution skills, ensuring fair and just outcomes.

**Soft Skills Trainer:** Conflict resolution is a key soft skill. Soft skills training can equip employees with techniques to manage conflicts amicably and professionally.

### 4. Teamwork and Collaboration

**POSH Trainer:** Promoting a collaborative and supportive workplace culture is vital for preventing harassment. A POSH trainer may emphasize the importance of teamwork in creating a respectful environment.

**Soft Skills Trainer:** Teamwork and collaboration are central themes in soft skills training, fostering positive relationships and effective teamwork.

### 5. Building a Positive Workplace Culture

**POSH Trainer:** A POSH trainer contributes to creating a workplace culture that is free from harassment and discrimination.

**Soft Skills Trainer:** Soft skills training focuses on building a positive workplace culture by developing qualities such as respect, courtesy, and effective communication.

### 6. Holistic Employee Development

**Combining Roles:** The combined role of a POSH trainer and a soft skills trainer offers a holistic approach to employee development. It addresses legal compliance (POSH) while also nurturing essential interpersonal and behavioral skills (soft skills).

### 7. Training Effectiveness

**POSH Training:** The integration of soft skills training in POSH programs can enhance the overall effectiveness by making the sessions more engaging and relatable.

**Soft Skills Training:** Incorporating POSH awareness in soft skills training ensures that employees are not only developing interpersonal skills but are also aware of the legal and ethical aspects of workplace behavior.

Blending the roles of a POSH trainer and a soft skills trainer creates a training approach that goes beyond compliance, fostering a workplace where employees not only understand the legal framework but also develop the interpersonal skills needed for a respectful, inclusive, and harmonious work environment.

## CONCLUSION

As organizations prioritize compliance with the POSH Act, the role of POSH trainers becomes increasingly crucial. Company Secretaries, with their legal expertise, ethical governance principles, confidentiality, and excellent soft skills, are well-positioned to take on this responsibility. By leveraging their unique skill set, Company Secretaries can contribute significantly to building workplaces that are not only legally compliant but also respectful, safe, and inclusive.

