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Articles Part - I

The Prevention of Sexual Harassment at Workplace Act: A Historical, Cultural, and Ethical Perspective — 56

CS (Dr.) Sudheendhra Putty, FCS

The article explores the significance of the Prevention of Sexual Harassment (PoSH) Act, 2013, in India, linking it to the country's historical and cultural values that emphasize respect for women. Citing episodes like Draupadi's disrobing in the Mahabharata and Lord Krishna's interventions, it illustrates how Indian traditions have long upheld women's dignity. Historical figures like Chhatrapati Shivaji Maharaj also exemplified this respect.

Balancing Due Process and Workplace Safety: Ethical Dilemmas for Effectively Implementing the PoSH Act — 60

Urvashi Saikumar Pathak, CS Nikhil Kalra, ACS

The legislative impetus for the PoSH Act arose from the landmark Vishaka judgment of 1997, where the Supreme Court of India provided essential guidelines for preventing sexual harassment in workplaces lacking specific legal provisions. This ruling was catalyzed by the tragic gang rape of Bhanwari Devi, a social worker in Rajasthan, underscoring the urgent need for a comprehensive legal framework to protect women's rights at work. This judgment was a pivotal step toward aligning national laws with global human rights standards, emphasizing the fundamental right of women to work in a safe and dignified environment.

Leveraging Artificial Intelligence for Robust PoSH Act Compliance in the Workplace — 65

CS (Dr.) Dipti Sharma, ACS

PoSH Act in 2013 ruling was crucial in safeguarding the rights of women and ensuring workplace safety. Despite 10 years since its implementation, the number of total PoSH complaints from 700 NSE-listed companies studied by The Udaiti Foundation rose from 1,807 in the fiscal year 2022-23 to 2,325 in 2023-24, representing a 29% uptick.

PoSH Legislation – Role of Professionals in Implementation — 68

Anjali Aggarwal, CS Shivam Singhal, ACS

While the Act provides a comprehensive legal structure, its success hinges on effective implementation. Merely having policies in place is not enough; a strong commitment to enforcement is essential to fostering a workplace culture that upholds respect and equality. Organizations are required not only to form Internal Complaints Committees (ICC) but also to conduct regular training and sensitization programs to ensure awareness across all levels of the workforce. The proper implementation of the PoSH Act is crucial in promoting an inclusive environment where employees feel empowered to raise concerns without fear of reprisal.

Transforming Workplace Culture: The Role and Impact of PoSH Legislations — 74

CS Soniya Sethi, ACS

This article explores the extensive implications of PoSH legislations, examining their legal and HR aspects, the benefits of adhering to the PoSH Standard, global perspectives, key landmark judgments, and the critical role of professionals in effective implementation.

Ensuring Gender inclusivity and Workplace Safety: The impact of PoSH Legislation in India — 80

CS Harshad Narsinhbhai Patel, ACS

This article delves into the key aspects of the PoSH Act, the importance of employee awareness, the employer's role in ensuring compliance, significant case laws that have shaped the application of the Act, and a comprehensive understanding of how organizations can cultivate a workplace environment that promotes gender inclusivity and safety.

Articles Part - II

Law & Procedure Relating to Adjudication of Penalties Under Companies Act, 2013 — 85

CS (Dr.) K R Chandratre, FCS

The gist of adjudication orders passed by the Registrars of Companies and Regional Director imposing penalty of lakhs of rupees, being published by 'Chartered Secretary', is the evidence of rampant adjudication cases under Section 454 of the Companies Act, 2013 ('the Act) lately, after the Companies (Amendment) Act, 2020 by which in several Sections of the Act 'penalty' has been substituted for 'punishment' thereby rendering for penalty on adjudication the company in respect of which a contravention of the relevant Sections and officers of the company who are in default. In a way, adjudication is a better statutory measure than punishment as it absolves the companies and their Directors and Directors/officers from the traumatic and (at times vexatious) trouble they have otherwise to undergo in prosecution in a criminal court; they go free by shelling out a few lakh rupees.

The Shift to Dematerialization: Challenges in Protecting Shareholder Rights for Private Companies — 93

CS Makarand Lele, FCS

This article explores the implications of this mandate on the restrictive rights traditionally enjoyed by shareholders in private limited companies and measures to be adopted by the companies to protect these rights in dematerialized regime with the help of professionals like Company Secretary (CS).

Resignation by a Director - Its Ramifications under the Law

97

CS Ramaswami Kalidas, FCS

Resignation by a Director is not an uncommon occurrence in the Corporate World. However, when the event happens it throws up several ramifications. In this exposition we shall endeavor to capture the quintessence of the consequences that follow.

Research Corner P-103

The PoSH Act: Developing Discourses in South Asian Countries and China

104

Kusha Tiwari, Manila Kohli

This paper has engaged contextual regulatory snippets and comparative vignette analysis including case contexts to compare and analyze the legislative provisions implemented in the six countries for regulating and curbing sexual harassment at workplace, and for safeguarding the rights and interests of employees with clearly defined responsibilities and roles of employers. The paper, finally, puts forward recommendations for further boosting the social and legal framework to address the issue of workplace sexual harassment.

Legal World P-121

- **LMJ 10:10:2024** The finding of fact recorded by the Special Court that there had been no allotment at all and it was sought to be made only after the second respondent was notified under the Act to avoid payment of money of a sum of Rs. 20 lakhs cannot be seriously disputed.[SC]
- **LW 71:10:2024** We find that the Appellant's inclusion of inflated interest rates, unsubstantiated reimbursements, and amounts that fall under the Section 10A period demonstrates a deliberate attempt to manipulate the figures to meet the threshold for initiating CIRP. This constitutes an abuse of the insolvency process, and the Adjudicating Authority was right in dismissing the Section 9 Petition.[NCLAT]
- **LW 72:10:2024** It cannot be the unilateral prerogative of the Applicant to elect when it chooses to cure the defects. The Applicant cannot be given any indulgence keeping in view that the IBC proceedings have stringent timelines to be followed and the proceedings have to be concluded in a time-bound manner.[NCLAT]
- **LW 73:10:2024** When the claim has to be filed on the liquidation commencement date any claims subsequent including any on the basis of assessment subsequent to the liquidation commencement date cannot be given any credence by the liquidator and no error was committed by liquidator in not accepting the claim of damages and interest consequent to the assessment paying in the year 2021.[NCLAT]
- **LW 74:10:2024** Vote share of the Prem Trading Company is only 2.48% and vote share for Prem Trading Company was not considered in favour of the approval of the Plan and the Plan was approved by 92.87% vote shares of HDFC Bank Ltd. the largest Financial Creditor.[NCLAT]
- **LW 75:10:2024** I am of the view that petitioner having submitted his letter seeking to withdraw the resignation much before the effective date, withdrawal of resignation ought to have been accepted by the respondents and continued the petitioner in service.[Del]
- **LW 76:10:2024** The learned Single Judge has rightly found merit in the grievance ventilated by the respondent that he had not received fair treatment at the hands of the appellant Bank and while co- delinquents had been given lesser punishments, he had been awarded the harshest punishment in service jurisprudence.[Del]
- **LW 77:10:2024** The Commission observes that it is a settled position that the provisions of the Act do not provide for inquiry into the cases of joint/collective dominance. Accordingly, no case of contravention under Section 4 of the Act has been established.[CCI]
- **LW 78:10:2024** The allegations that the Opposite Party is allegedly spreading mis- information/misstatements about the cost of such treatment do not fall within the ambit of the Competition Act, 2002.[CCI]

From The Government P-129

- The Companies (Accounts) Amendment Rules, 2024
- The Companies (Prospectus and Allotment of Securities) Amendment Rules, 2024
- Clarification on holding of Annual General Meeting (AGM) and EGM through Video Conference (VC) or Other Audio Visual Means (OAVM) and passing of Ordinary and Special resolutions by the companies under the Companies Act, 2013 read with Rues made thereunder -Extension of timeline-reg.
- Notification
- The Companies (Indian Accounting Standards) Second Amendment Rules, 2024
- The Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2024
- The Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Second Amendment Rules, 2024
- Operational Guidelines for Foreign Venture Capital Investors (FVCIs) and Designated Depository Participants (DDPs)
- Reduction in the timeline for listing of debt securities and Non-convertible Redeemable Preference Shares to T+3 working days from existing T + 6 working days (as an option to issuers for a period of one year and on a permanent basis thereafter such that all listings occur on a T+3 basis)
- Parameters for Performance Evaluation of Market Infrastructure Institutions
- Usage of UPI by individual investors for making an application in public issue of securities through intermediaries
- Ease of Doing Business in the context of Standard Operating Procedure for payment of "Financial Disincentives" by Market Infrastructure Institutions (MIIs) as a result of Technical Glitch
- Flexibility in participation of Mutual Funds in Credit Default Swaps (CDS)
- Modification in framework for valuation of investment portfolio of AIFs
- Enabling T+2 trading of Bonus shares where T is the record date
- Reporting by Foreign Venture Capital Investors (FVCIs)
- Optional mechanism for fee collection by SEBI registered Investment Advisers (IAs) and Research Analysts (RAs)
- Modifications in Guidelines for Business Continuity Plan (BCP) and Disaster Recovery (DR) of Market Infrastructure Institutions (MIIs)
- Allowing securities funded through cash collateral as maintenance margin for Margin Trading Facility (MTF)
- Modification in the timeline for submission of status regarding payment obligations to the stock exchanges by entities that have listed commercial paper
- Interest Equalization Scheme (IES) on Pre and Post Shipment Rupee Export Credit
- Implementation of Section 12A of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005: Designated List (Amendments)
- Liberalised Remittance Scheme (LRS) for Resident Individuals-Discontinuation of Reporting of monthly return
- Review of Extant Instructions – Withdrawal of Circulars

Other Highlights

- NEWS FROM THE INSTITUTE
- GST CORNER
- ETHICS IN PROFESSION
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