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WHAT IS SEXUAL HARASSMENT?

Sexual harassment is **unwanted or unwelcome** sexual conduct that is humiliating, offensive, or intimidating. It can be written, spoken, or physical, and it can take place in person or online.

Nowadays, both men and women experience sexual harassment, that occurs under various circumstances including a professional setting.



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Indian Laws on Sexual Harassment

Indian Constitution

[Art. 14 - Equality, 19 – Right to profession/ work & 21- Right to life/ liberty/ dignity]

The Bharatiya Nyaya Sanhita, (previously the Indian Penal Code,1860)

[Sec. 75 – upto 3 years of rigorous imprisonment/ fine/ both]

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

[POSH Act]

Vishaka Guidelines

[Supreme Court Case]

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Sexual Harassment at Work

Workplace sexual harassment refers to any unwelcome behavior of a sexual nature that violates the dignity of an individual at work. Most working individuals, especially women experience this type of violence from their coworkers, supervisors, or employers at some point in their careers.

It is important to note that sexual harassment is **gender-neutral—anyone, regardless of gender, can be a victim or perpetrator**.

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What is the Workplace?

A workplace includes any place where you are present because of your work

This can include places such as:

- Company guest houses
- Hotels during business trips
- Client locations or project sites
- Remote work locations, such as home offices
- Virtual meeting platforms like video calls or Work- related chats

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Elements of Workplace Sexual Harassment

Workplace Sexual Harassment is behaviour that is:

- **UNWELCOME**
- **SEXUAL** in nature
- A **SUBJECTIVE** experience

<u>What matters is IMPACT not INTENT</u>

Often occurs in a matrix of power.

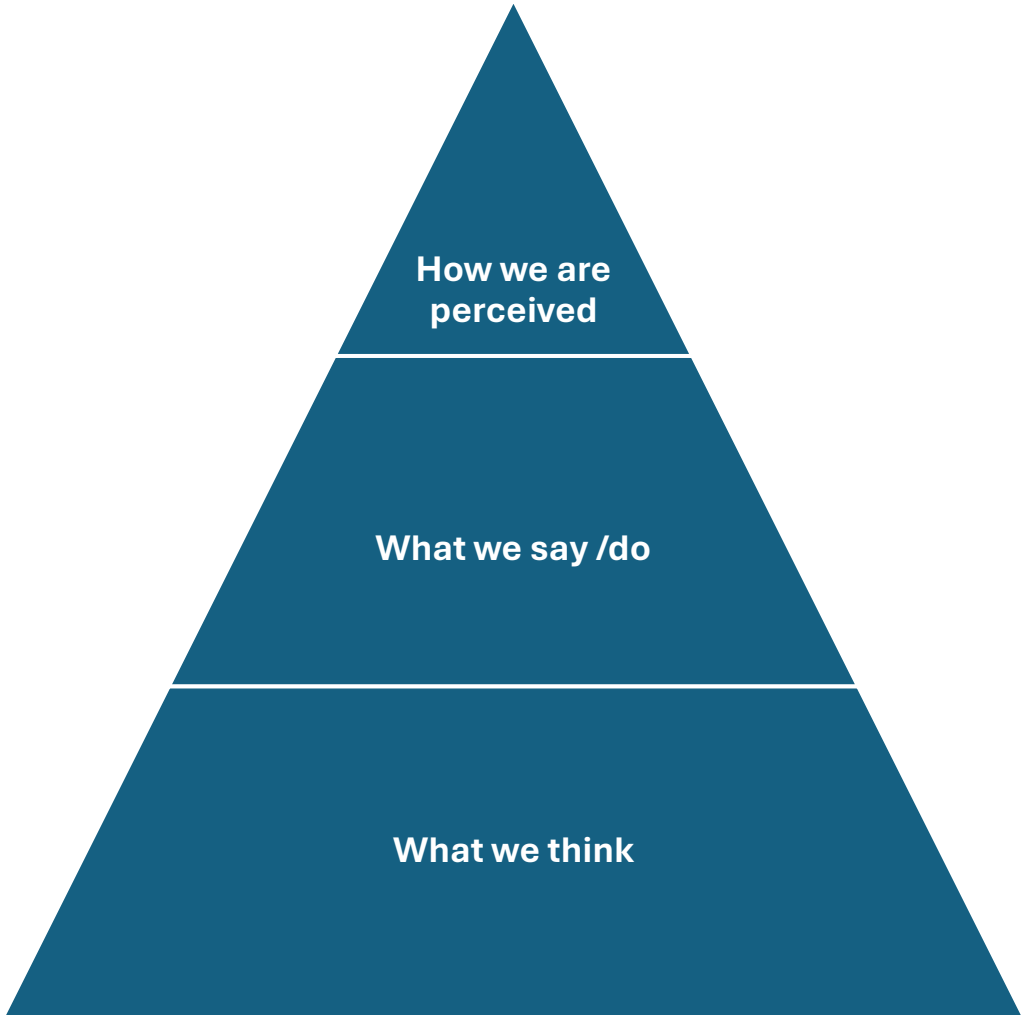


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Sexual Harassment - Impact versus Intent

Important aspects to be determined while investigating a POSH complaint:

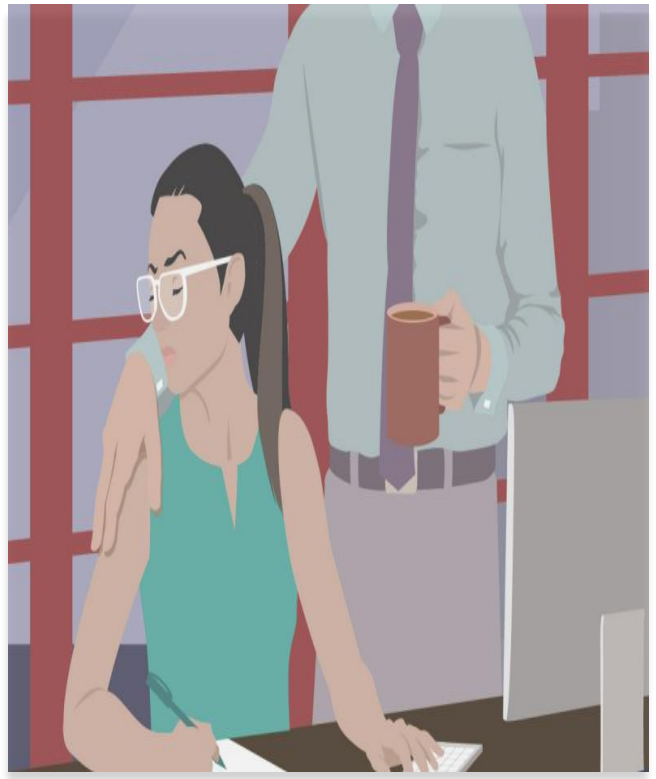
- Facts
- Context
- Impact of the behaviour of the accused on the complainant (not the intent of the accused).



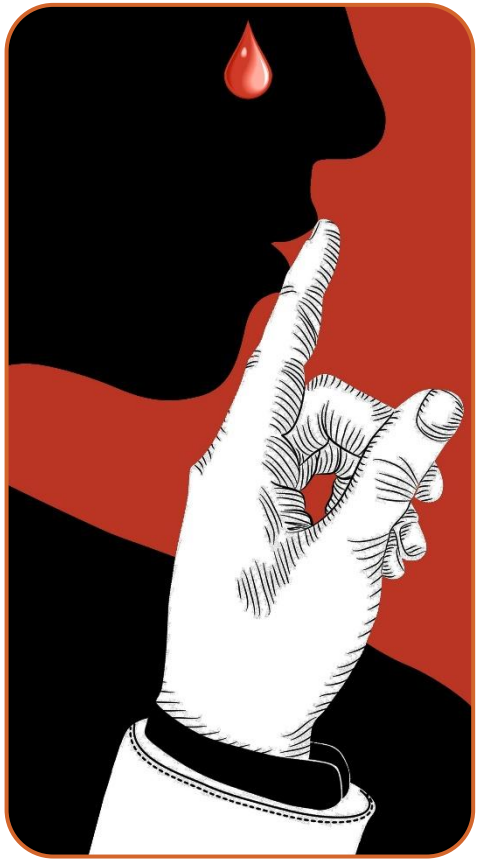
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What is meant by "Unwelcome"?

- "Unwelcome" refers to any conduct or behavior that the recipient does not consent to and finds offensive.
- The absence of a complaint does not mean the behavior is welcome.
- Certain comments or advances that are blatant and crude are inherently offensive and almost always considered unwelcome.



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What Constitutes Sexual harassment?

- Making unwelcome physical contact - Touching, patting, pinching, or brushing against the body intentionally.
- Demand/ Threats/ Requests for sexual favours - Any form of coercion or pressure for sexual acts in exchange for work benefits.
- Verbal conduct of Sexual Nature – Lewd jokes, snide remarks based on sexual orientation of individuals, marital/ relationship status, sarcastic comments to taunt someone's private life.
- Non-Verbal Conduct of a Sexual Nature - Whistling, leering, gestures, or suggestive body language, showing unwanted sexually explicit photos, emails, texts containing materials of a sexual nature, porn, posters or pamphlets containing indecent representation of men/ women.
- Sexually coloured remarks - Comments, jokes, or innuendos with sexual undertones or hidden meaning.

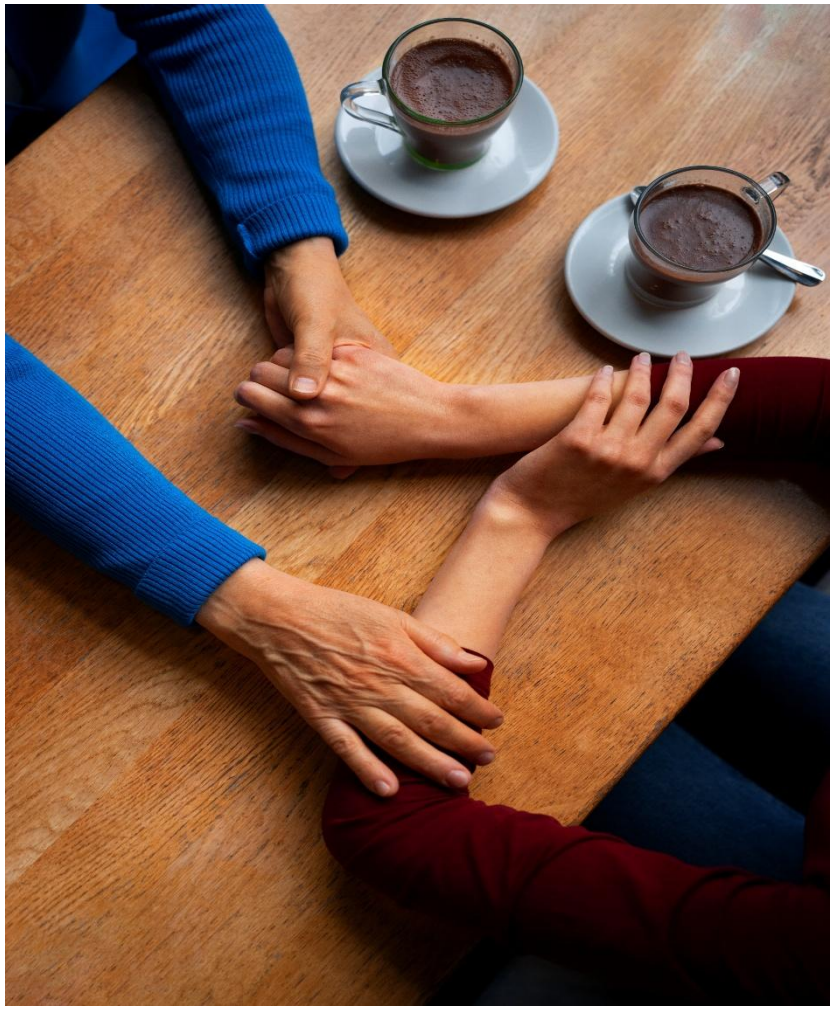
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Consensual Relationships

- Consensual relationships are not harassment if they are welcomed by the person involved.
- However, if such behaviour is unwelcome, such behaviour is considered creating a hostile environment.

If a consensual relationship ceases to exist-

- Conduct once considered welcome may later be seen as unwelcome.
- Either person may end the relationship, at any point in time, without fear of retaliation at the job.
- Behaviour that was welcome within a consensual relationship becomes unwelcome and it will be treated as sexual harassment



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Is this Sexual Harassment or not?





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Illustration 1

Aisha was introduced to Rohit during a training program. During the training, Aisha and Rohit started talking and to Aisha's delight she found that Rohit was from the training division—the department she was planning to move to. Rohit asked Aisha to send him her resume after the training program. Aisha sent her profile to Rohit and was excited to hear that he had an opening for her. Aisha joined Rohit's team.

Rohit asked Aisha out for dinner a few times and she agreed willingly. Slowly, the workload increased and once when Rohit asked Aisha out to dinner, she refused. At this, Rohit insisted that Aisha go out for dinner with him as she "owed it to him." Aisha then told Rohit that from then on their relationship was to be strictly professional.

Rohit kept calling her and sending her emails. Aisha begged Rohit to stop, but he didn't, and she started taking time off from work to avoid him.

Aisha is not a victim of sexual harassment because her relationship with Rohit was consensual. True or False?

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Illustration 2

Shreya sent across pictures of some scantily clad women to Bhargav. Bhargav requested Shreya not to send him such obscene pictures in the future as he was not comfortable with the same. But Shreya continued.

Is this an example of hostile environment sexual harassment?

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Illustration 3

As she was entering the elevator in the office, Arjunn walked by Shruti, tapped her on the shoulder, and told her how hot she looked in her dress. This made Shruti uncomfortable and she looked at Arjunn disapprovingly. She promptly asked him to keep his hands off her and use discretion in his language. Arjunn apologized, and it never happened again.

Is Shruti being sexually harassed by Arjunn?

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Illustration 4

Pradeep was attracted to his co-worker, Nancy. He asked her out several times, but she always said no. The last time Pradeep asked, Nancy told him clearly that she was not interested and wanted him to stop asking her out.

Although Pradeep stopped asking her out, he began watching her constantly. He stared at her during meetings, in the elevator, and whenever she walked around the office. He appeared to watch her all the time, and when Nancy caught him staring, he didn't even try to look away. This continued for a couple of weeks.

Is this an example of hostile environment sexual harassment?

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Illustration 5

Ananya is a trainee who has just finished her training and is waiting for a project. One day her manager, Rohit, calls her to his cabin and tells her about the onsite assignment he is planning to assign her to. Ananya is delighted at the thought.

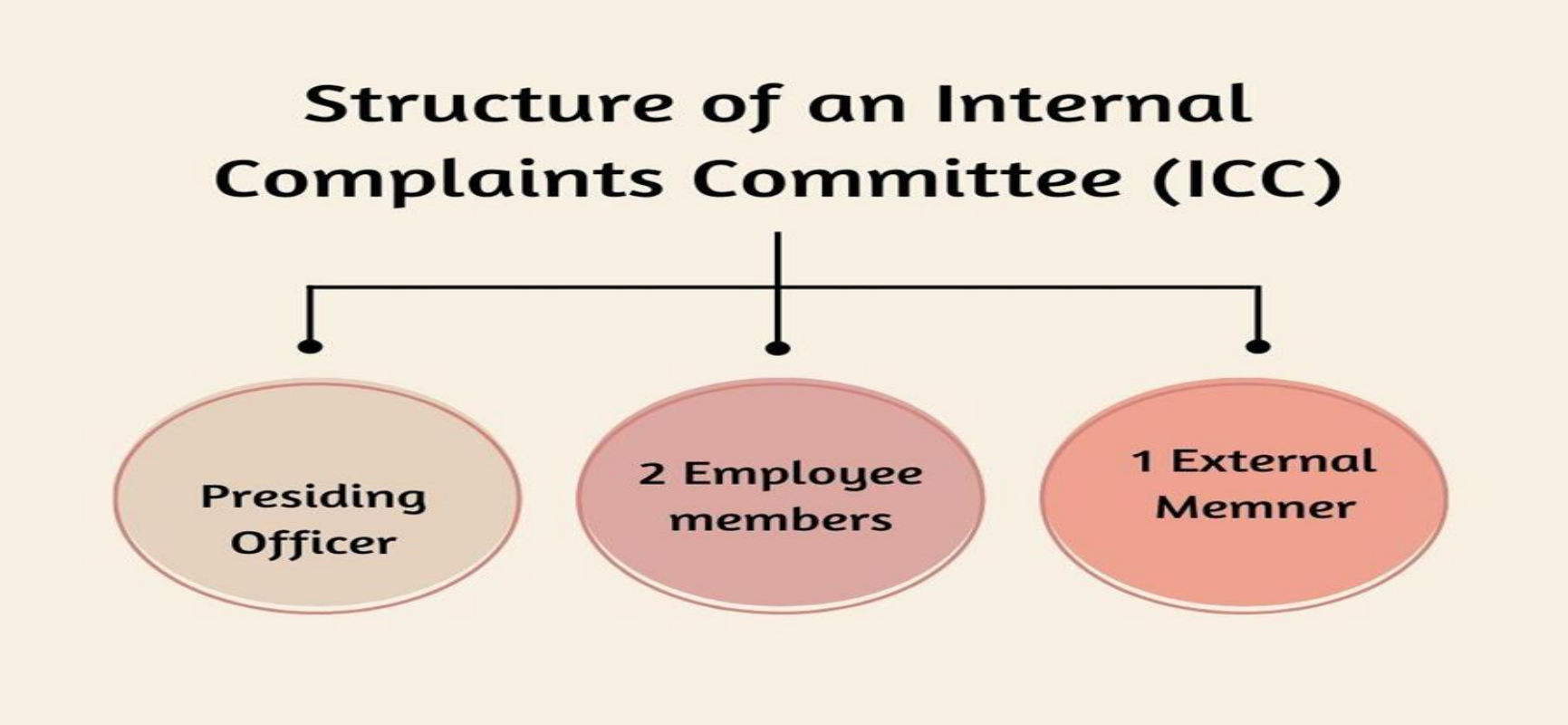
Then Rohit suggests that they go to his farmhouse over the weekend. When Ananya refuses to comply, he threatens her by saying that she may not be positioned for the project.

Does Rohit's actions constitute sexual harassment?

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Where to make a Complaint

Internal Committee



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WHERE TO FILE A COMPLAINT IN THE FORUM?

The Act mandates the establishment of an Internal Committee (IC) in each office of an organization or institution with **more than ten employees** to investigate and adjudicate complaints of sexual harassment.

Where fewer than ten workers are in an organization, the Act mandates the District Officer to form a Local Committee for the aggrieved woman to make a complaint. The committee investigating such allegations should have the same authority as a civil court.

At least half of the IC members must be female. Members of the IC serve for **no longer than three years**. Minimum of three members of the IC, including the presiding officer, must be present to conduct the inquiry.



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WHEN TO FILE A COMPLAINT?

A woman/ man may file a written complaint with the IC/LC **within three months of the date of the incident, or within three months of the most recent incident** in the case of a series.

The committee may grant an **extension of up to three months** if the complaint was filed late. If the victim is physically or mentally incapacitated, his/ her legal heirs or another individual may file a complaint on her behalf.

The Complaint should be in writing. IC will take necessary steps to take/ record the complaint in writing if the aggrieved person is unable to do so.



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MANNER OF INQUIRY INTO THE COMPLAINT

- Upon receiving the complaint, the IC shall forward a copy of the same to the respondent within 7 working days.
- Respondent shall be provided with not exceeding 10 working days to file his written reply against the complaint.
- IC shall make inquiry into the complaint in accordance with the principles of natural justice.
- The inquiry must be completed within 90 days of the Complaint.
- The IC shall provide a report of its findings to the employer within 10 days of completion of inquiry.
- The employer shall act upon the recommendation within 60 days of its receipt by him.

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ACTIONS PENDING INQUIRY

At the request of the aggrieved woman, the IC may recommend to the Employer, the following actions:

- Granting Leave of Absence to the aggrieved woman
- Transfer to any other workplace – aggrieved woman or the respondent
- Restraining respondent from reporting on the performance of aggrieved woman.
- Such other reliefs as may be necessary and reasonable.



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Actions that may be taken – If proved

- If harassment is confirmed, swift and appropriate remedial action will be implemented. The IC may recommend the following actions:

❖ written apology

❖ Oral warning

❖ reprimand or censure

❖ withholding of promotion

❖ withholding of pay rise or increments

❖ terminating the respondent from service

❖ undergoing a counselling session

❖ carrying out community service.

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False/ Malicious complaints

- IC will recommend similar actions as that of recommended for proven sexual harassment complaint –

  - If the complainant makes a false or malicious complaint against the respondent;
  - If any person to the proceedings submits false or misleading document or evidence.

- Failure to prove the complaint does not attract ‘false or malicious complaint’.

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Breach of Confidentiality

- Strict confidentiality shall be maintained throughout the POSH inquiry and in case of any breach, the concerned contravener shall be liable to pay Rs. 5,000/- to the employer.

Non- retaliation

- No sort of retaliation is allowed against the complainant, witnesses or the respondent and in case of any retaliation found, the IC shall recommend suitable actions to be taken against the offender, which shall be implemented by the Employer.

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Mode of Conciliation

- If the complainant opts for the *informal process*, the designated person/Complaints Committee must explore appropriate ways to address the complaint to resolve the matter through conciliation.

- When an informal resolution is successful, it must be documented by the conciliator and forwarded to the ICC/LCC which then sends it to the employer/District Officer for necessary action;

- The final choice between informal and formal processes always rests with the complainant, even if the person managing the complaint believes that the issue could be resolved informally.



She-BOX COMPLAINT MECHANISM

- A dedicated platform for women to report sexual harassment swiftly and securely.

All women, regardless of their work status—be it in organized or unorganized sectors—can utilize this platform for lodging complaints.

- SHe-Box offers a streamlined process for women to report sexual harassment complaints, ensuring accessibility and ease of use.

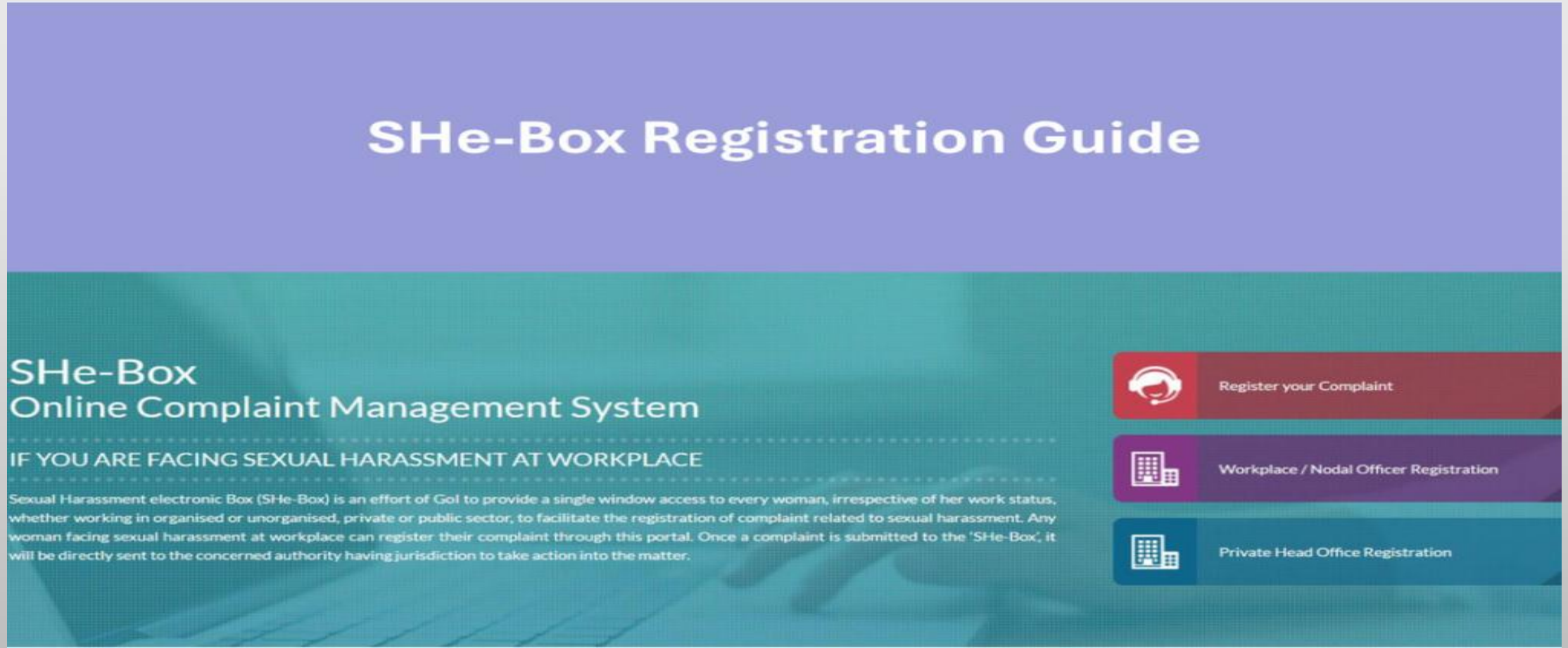
  The online platform allows for round-the-clock access, enabling immediate reporting of incidents.

HOW TO FILE A COMPLAINT USING She-BOX

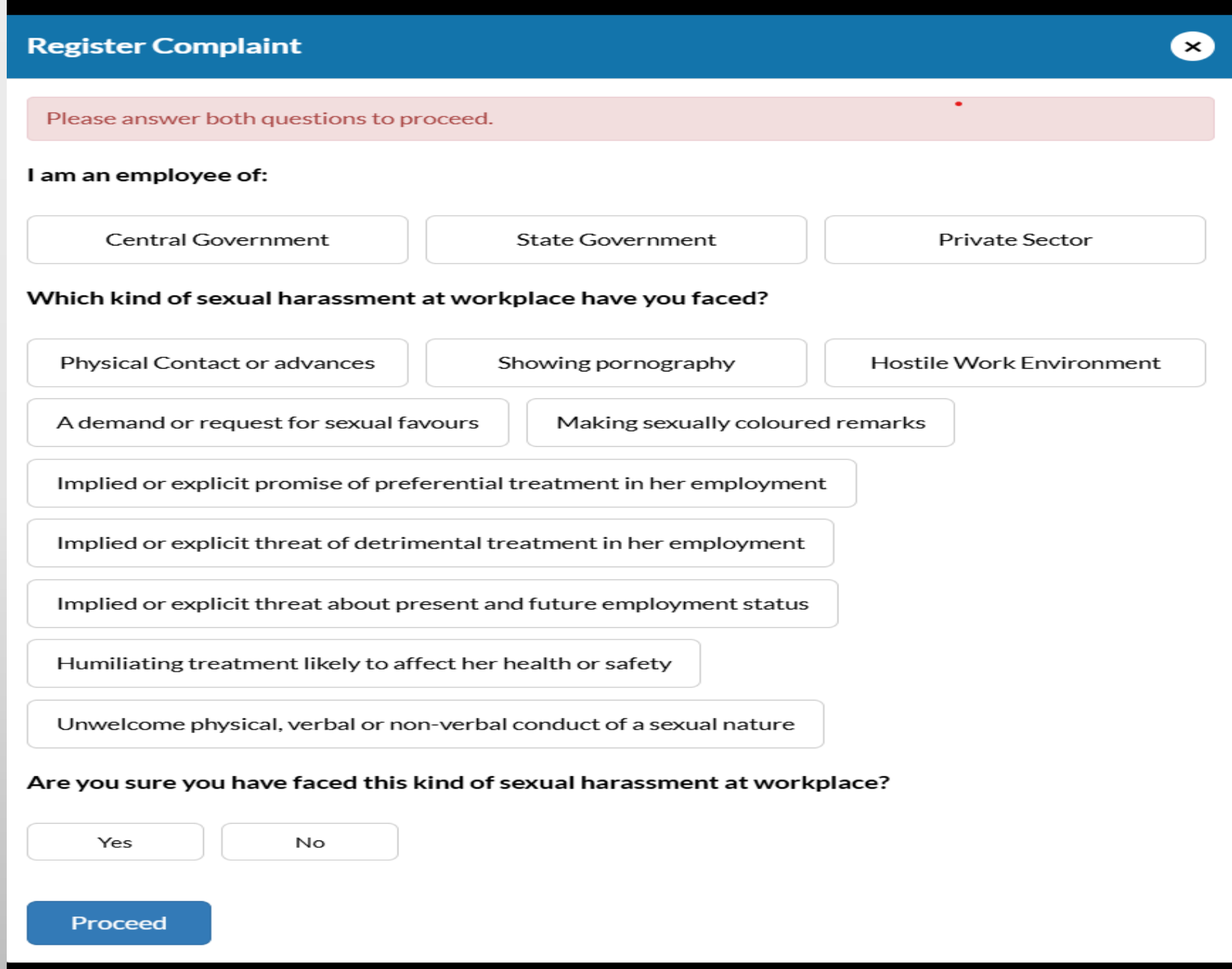
1. Enter the URL https://shebox.wcd.gov.in/ in the address bar of your browser.

2. On the homepage of the portal, click on “Register your Complaint”.

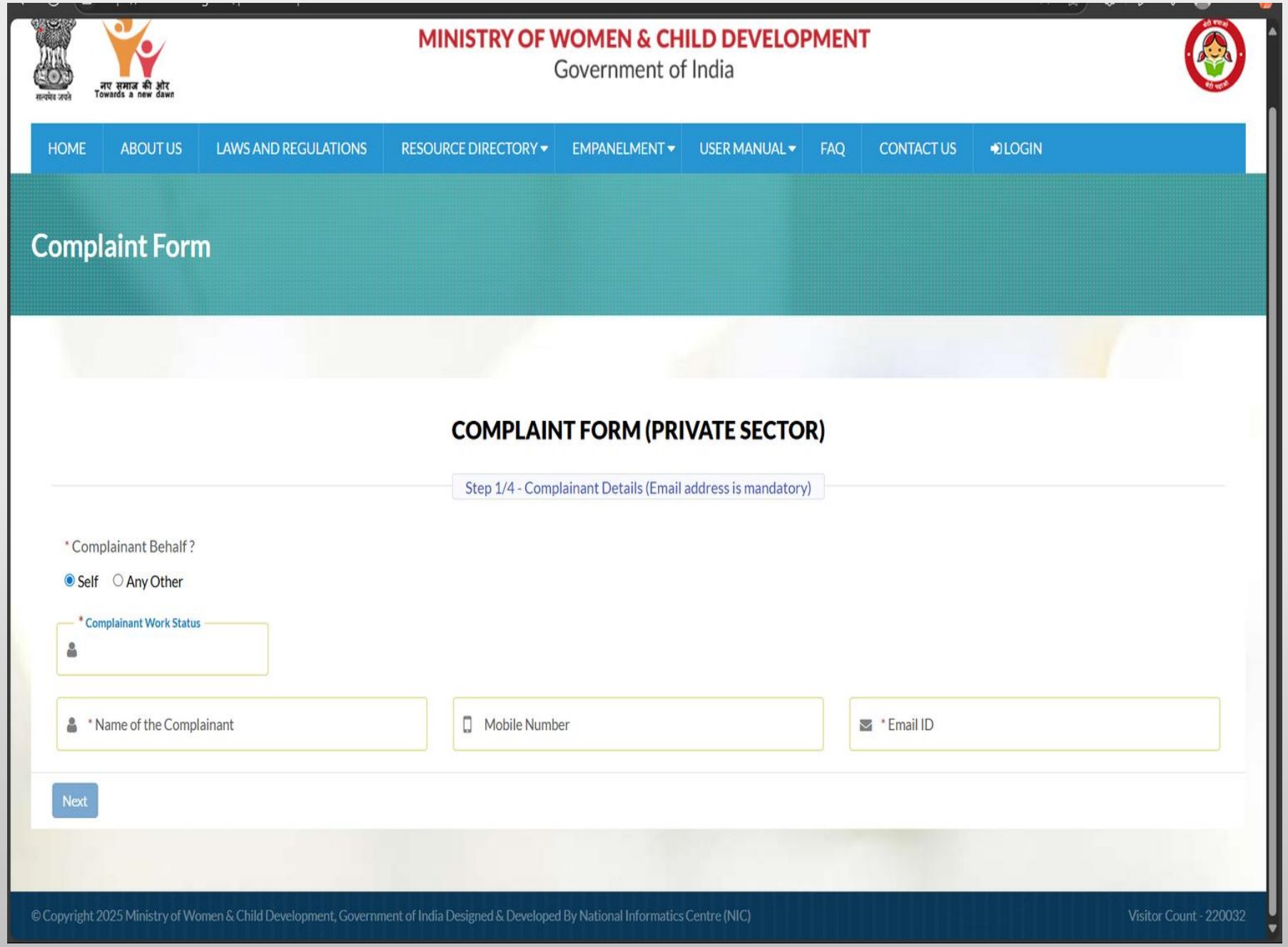
3. Fill out the form, ensuring all mandatory details are added.



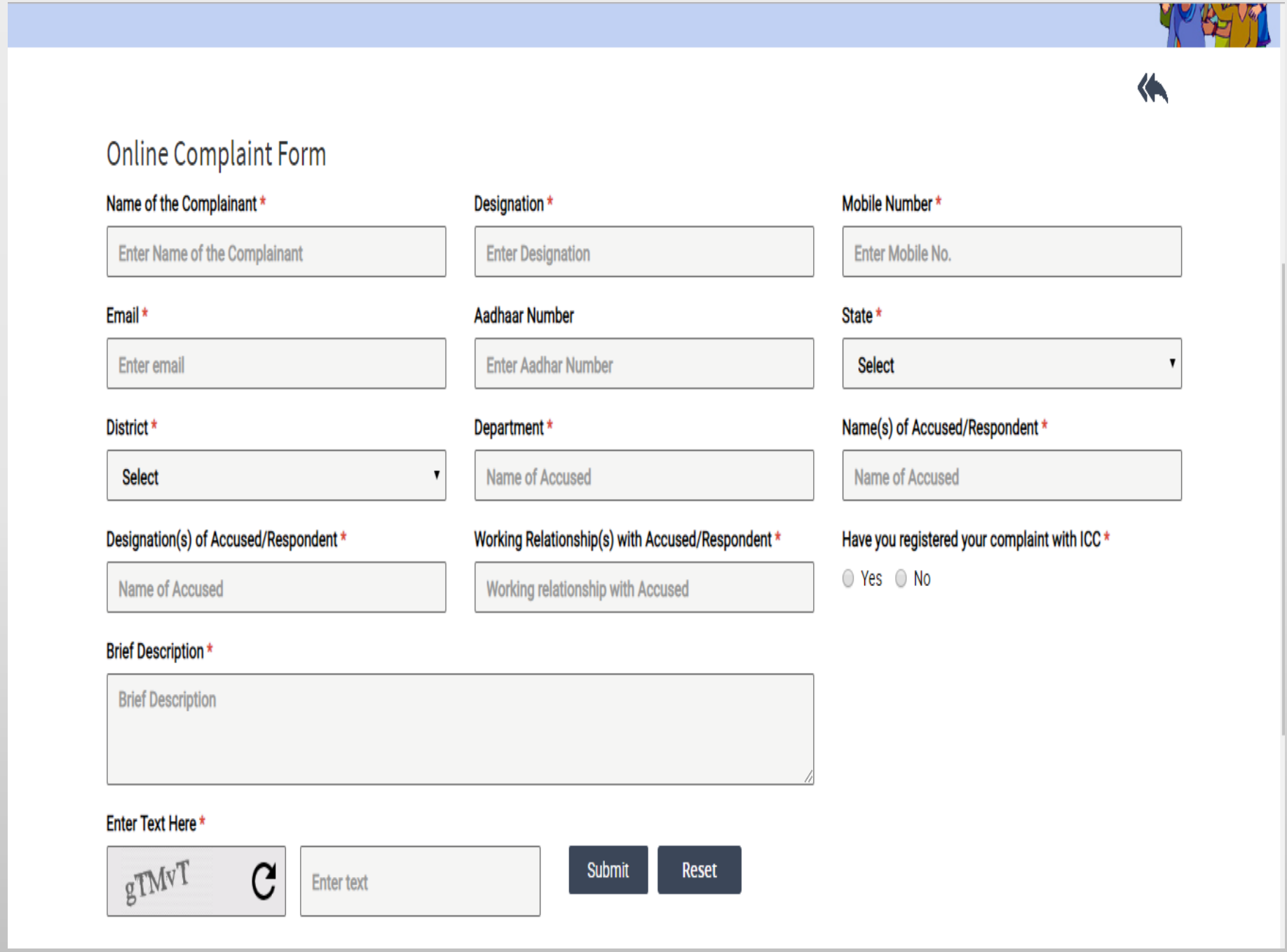
4. Choose the complaint and the organization.



5. Fill in details in the form such as the Name and Work Status of the complainant, mobile number, email address, nature of work, etc.

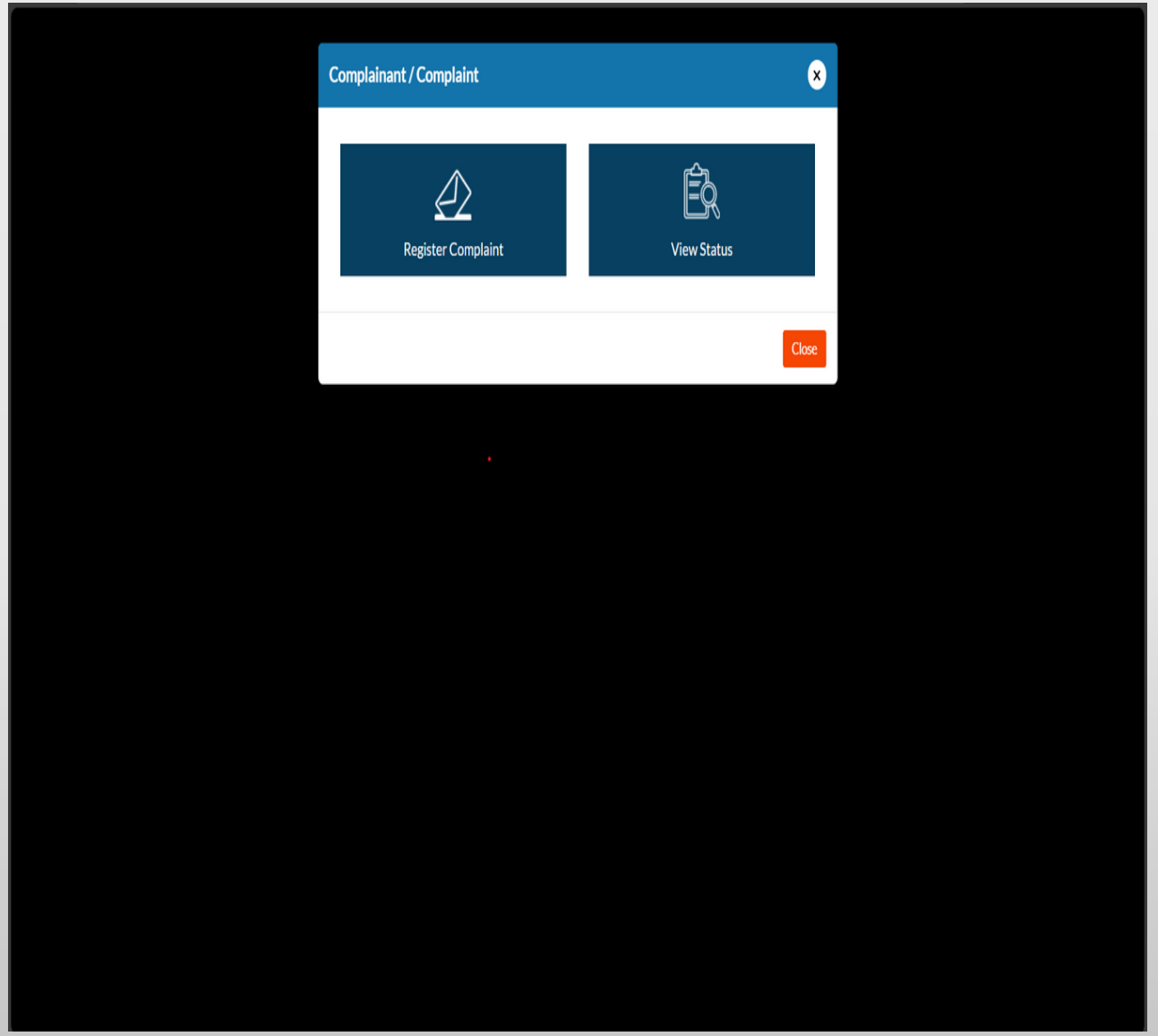


6. The next page asks for details of the Respondent such as their name, email address, working relationship between the complainant and the respondent, and additional details, depending on whether the Respondent is employed in the Public or Private Sector.



7. After ensuring all mandatory details are filled, submit the complaint.

8. The portal also allows one to check the status of the complaint.



TN POSH ACT SOP’s 2025

The **Standard Operating Procedure (SOP)** introduced in 2025, in Tamil Nadu, provide a comprehensive framework to delineate the roles and responsibilities of stakeholders in the implementation of the POSH Act. This ensures a systematic approach to prevent and address incidents of sexual harassment, fostering a safer workplace environment for women.

Tamil Nadu has now issued detailed **Standard Operating Procedure (SOP)** to ensure uniform and effective implementation across all Departments/Establishments, as per **G.O.(Ms) No.64 dated 18.06.2025.**

TN POSH ACT SOP’s

- **Key Requirements under SOP**
- Gender-Neutral Application: Though the Act covers only women, SOPs permit internal policies to extend protections to all genders.
- Training Mandates: Induction training for new employees & Periodic sensitization for existing staff.
- Minors’ Complaints: If the victim is a minor, the case must be reported under POCSO.
- Consent as Key Determinant: Lack of consent is central to determining sexual harassment.
- Workplace Definition Expanded: Includes online spaces, transport, offsite locations, and unorganized sectors.

TN POSH ACT SOP’s

Committees and Roles

- Internal Complaints Committee (ICC): Mandatory at every administrative unit/workplace.
- Local Committee (LC): Set up at the district level for organizations with <10 employees or when the complaint is against the employer.
- Nodal Officers appointed across all taluks, blocks, urban zones for effective complaint forwarding.

Timelines:

- Complaint to be filed within 3 months (extendable to 6 months).
- Inquiry to be completed within 90 days.
- Confidentiality, neutrality, and fairness to be maintained throughout.

TN POSH ACT SOP's

Recommendations after Inquiry

- If harassment is proved: Disciplinary action (e.g., termination, censure, compensation).
- If not proved: No action.
- If false complaint/witness: Action under Section 14, but only with proof of malice.

Monitoring and Reporting

- Annual Report to be submitted by 31st January every year.
- To include complaint count, action taken, pending cases, training conducted.
- Inspections: Government can inspect workplaces and records for compliance.

Penalties

- First-time Non-Compliance- Fine up to ₹50,000.
- Repeated Violations- Fine up to ₹1,00,000 & Cancellation/Withdrawal of registration/license of the establishment.

TN POSH ACT SOP’s

GRIEVANCE REDRESSAL

- While the redressal mechanism under the POSH Act is only applicable to women, persons of other genders may seek redressal under:
- human resource policy, if any; and
- other civil/criminal remedies.
- A transgender person may seek redressal through complaints officer under Section 11 of the Transgender Persons (Protection of Rights Act), 2019.

Dr. Malabika Bhattacharjee V. Internal Complaints Committee, Vivekananda College (2025)

Background of the case:

- Dr. Malabika, the Petitioner, was accused of sexual harassment by a colleague at Vivekananda College. Both the complainant and the accused were of the same gender (two women).

- Acting on the complaint, the college authorities entertained the grievance under the POSH Act, 2013 and initiated proceedings through the ICC constituted under the relevant UGC act.

- Malabika approached the Calcutta High Court through a Writ Petition, challenging the jurisdiction of the ICC to entertain the complaint.

- Her allegations essentially pertained to vilification and defamation in public, which, accordingly, did not fall within the statutory definition of "sexual harassment" under Section 2(n) of the Act.

Issue before the Court:

1. Whether a complaint of sexual harassment under the POSH Act is maintainable when both the complainant and the respondent are of the same gender?

2. Whether the allegations made in the complaint fall within the definition of "sexual harassment" under Section 2(n) of the POSH Act?

3. Whether the Internal Complaints Committee acted without jurisdiction in entertaining the complaint against the petitioner?

Dr. Malabika Bhattacharjee V. Internal Complaints Committee, Vivekananda College (2025)

Court's Reasoning:

- The Court examined, particularly Sections 2(m), (n), 3, and 9, and held that the term "respondent" clearly includes any person, irrespective of gender. It observed that nothing in the Act expressly bars same-gender complaints.

- The Court rejected the argument that sexual harassment must necessarily involve persons of different genders.

- It emphasized that sexual harassment is intrinsically linked to the dignity, modesty, and sexuality of an individual, and that a hostile or humiliating work environment may be created by any person of any gender.

Judgment:

- The writ petition was dismissed.

- The Court held that the complaint of sexual harassment was maintainable under the POSH Act.

- It was clarified that the ICC was free to decide the matter independently.

- The petitioner was granted a further opportunity to cross-examine the complainant.

- No order as to costs was passed.

Frequently Asked Questions (FAQ's)

1. Does the act constituting sexual harassment have to occur at work?

No. The act does not necessarily have to occur at workplace only. It could occur in any of the following places:

- social event organized by your employer,
- during work-related travel,
- at a client or customer's premises,
- at training events, business lunches or dinners, promotional campaigns or public relations events with clients, customers or prospective partners or
- during the course of work-related phone conversations or communications via electronic media.

Frequently Asked Questions (FAQ's)

2. If I am a victim of sexual harassment, what should I do?

- If you feel comfortable in approaching the harasser yourself, you could directly tell the perpetrator that you find his behavior unwelcome or inappropriate and ask him not to repeat.

(Or)

- You can approach the Internal Complaints Committee established within your organization under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (the SH Act), 2013 with a written complaint.

(Or)

- In case, your organization does not have ICC or if you want to make a complaint against the employer himself or if you work in the capacity of domestic help, then you can lodge your complaint with Local Complaints Committee established in your respective district under the SH Act.

(Or)

- You can contact the nearest police station to lodge an FIR against the perpetrator.

Frequently Asked Questions (FAQ's)

3. How to locate ICC within your organization?

As per the Act, the employer is obligated to display the order constituting ICC at any conspicuous place in the workplace. However, if this is not done, then one can contact the employer/head of the department/human resource department to obtain information about the ICC constituted under the SH Act.

4. How to locate LCC in a particular district?

For locating LCC or one of its members, one can adopt following measures:

- Contact the District Officer's office
- Contact One Stop Centre/Women Helpline (toll free thorugh 181, 100 etc.) functioning in your district/State
- Contact the State Commission for Women
- Contact the State Department of Women and Child Development/department looking after women issues.

Frequently Asked Questions (FAQ's)

5. What if ICC/LCC is not constituted in the organization/district?

- Non constitution of Complaints Committee is punishable with a fine of Rs. 50,000/- and repeat offenders will be punished with cancellation/withdrawal of license/registration required for carrying on business activities. The aggrieved can approach the court to complain about the same.

6. What will the Complaints Committee do when a complaint is submitted to it?

- The Complaints Committee (ICC/LCC) will conduct an inquiry into the complaint by calling all the concerned parties i.e. complainant, respondent [the person(s) against whom complaint is being made], witnesses etc.
- Later, on the basis of the testimonies of the concerned parties and evidences (documentary or otherwise) gathered, the Committee will frame its findings, which will be shared with the employer.
- If the Committee comes to the conclusion that the allegations against the respondent are genuine, it shall recommend action that needs to be taken by the employer against such person.
- However, if the Committee concludes after inquiry that no case is being made against the respondent, it shall recommend that no action to be taken against the respondent

Frequently Asked Questions (FAQ's)

7. Can the complainant ask for some interim relief during the inquiry from ICC?

- During the inquiry, at the written request of complainant, ICC can provide following interim reliefs to the complainant:
- Transfer the complainant or respondent to any other place
- Grant leave to the complainant for up to 3 months in addition to her entitled leave
- Restrain the respondent from reporting on the work performance/ writing confidential report of aggrieved
- Restrain the respondent from supervising academic activities of aggrieved

8. What about maintaining confidentiality of the cases related to sexual harassment at workplace?

The Act prohibits the disclosure of:

- Identity and address of complainant, respondent and witnesses
- Information pertaining to conciliatory/ inquiry proceedings or recommendation of ICC or action taken by the employer.
- Breach of confidentially will invite a penalty of Rs. 5,000/- which will be collected by the employer.
- Exception: Dissemination of information regarding the justice secured without disclosure of name, address, identity and particulars of complainant or witnesses.

Frequently Asked Questions (FAQ’s)

9. Can I register both FIR and lodge complaint with Complaints Committee at the same time?

Yes, a woman if she chooses to do so may both file the FIR with the police and complaint with Complaints Committee simultaneously

Supreme Court's Observations

Constitutional Right Emphasis:	Workplace safety is a constitutional right flowing from Article 21 (Right to Life and Dignity).
Grave Concern Over Gaps:	The Court noted widespread ignorance and lack of will to enforce POSH norms.
Need for Third-Party Oversight:	ICs should not be mere formalities; independent external members must ensure fairness.
Transparency & Audit Mechanism:	Called for periodic audits of POSH compliance. Sought public disclosure of data on IC constitution, number of complaints received/resolved.
Direction to Respondents:	Issued notice to Union and all State Governments.
Asked them to file affidavits detailing:	Number of ICs formed, Number of complaints handled, Compliance and awareness initiatives.

CONCLUSION

The companies must also take few steps for ensuring the safety :

- Include POSH Obligations in Third-Party Contracts
- Prohibit and Penalize Retaliation
- Ensure Timely and Fair Inquiry
- Set Up a Confidential Complaint Mechanism
- Frame & Display a Robust POSH Policy



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THANK YOU