



Appealability of Internal Committee communications without an inquiry under Section 18 of the POSH Act

Authors: [Avik Biswas](#), [Ivana Chatterjee](#), and [Mridula Ponappa](#)

Whether a communication of an Internal Committee, without holding an inquiry, is considered an appealable 'recommendation' under Section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

In the case of *Mr Anup Vikal and Ors v State of Maharashtra and Ors* (Writ Petition No. 7430 of 2026), the Bombay High Court (Civil Appellate Jurisdiction) considered a batch of writ petitions challenging the Industrial Court, Mumbai's order dismissing objections to the maintainability of an appeal under Section 18 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 ("POSH Act") against a communication issued by the Internal Committee ("IC") on 30 October 2023.

In this case, the Respondent is an employee of Maple Infra InvIT Investment Manager Private Limited ("Company") who joined the services of the organisation on 1 August 2023 as its General Counsel. On 28 October 2023, the Respondent filed a complaint with the Internal Committee of the Company alleging that a statement made to her by one of the Petitioners to the effect that she should keep the other Petitioner happy at all costs had a sexual tone to it. As the Respondent objected to the participation of one of the IC members on the grounds of conflict of interest, her complaint was forwarded to an external member of the Company's IC and the same was communicated to the Respondent by email dated 30 October 2023. Within 23 minutes thereafter, the external member responded to the email stating that members of the IC had determined that the nature of allegations did not have any sexual element and that the complaint would not be within the jurisdiction of the IC to undertake an inquiry.

Aggrieved by the decision of the IC, the Respondent filed an appeal before the Industrial Court, Mumbai under Section 18(1) of the POSH Act challenging the IC's email dated 30 October 2023.

1 Contentions by the parties

The Petitioners contended that a 'recommendation' under Section 13(2) of the POSH Act can be issued by the IC only upon completion of an inquiry, and that Section 18 of the POSH Act permits an appeal only against such a recommendation or its non-implementation; accordingly, since the IC had not conducted an inquiry, its communication dated 30 October 2023 could not be regarded as an appealable 'recommendation'.

In contrast, the Respondents submitted that the IC is a fact-finding body and any conclusion reached by it, including a conclusion without an inquiry that the allegations are not sexual in nature, constitutes a 'recommendation' under Section 13(2) and is appealable under Section 18 of the POSH Act. They further argued that, as a piece of social welfare legislation, the POSH Act must be construed liberally and excluding such IC decisions from the appellate remedy would undermine the legislation's protective purpose.

2 Observations by the High Court

- **Whether the communication of the IC dated 30 October 2023 is a 'recommendation' under Section 13(2) of the POSH Act.**

The High Court acknowledged that on a standalone reading of the provisions of Section 13(1) and (2) of the POSH Act, it would appear that a recommendation can only be made after



conducting and completing an inquiry, as the IC needs to provide a report of the findings to the employer within a period of 10 days from the date of completion of the inquiry.

However, the High Court observed that Section 13(2) of the POSH Act should not be read in isolation and must be read along with the provisions of Section 11 of the POSH Act, wherein it is mandatory for the IC to conduct the inquiry, as the word used is 'shall'. Section 11(1) of the POSH Act provides that "the Internal Committee or the Local Committee, as the case may be, shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the respondent". Further, the High Court observed that even if the service rules or the manner prescribed is not followed when giving a response to the complaint, the response will still have to be treated as a 'recommendation' for the limited purpose of making available the remedy of appeal to the aggrieved woman.

Additionally, the High Court observed that if the IC, upon receipt of a complaint of sexual harassment at the workplace, rules that the complaint does not constitute sexual harassment of the complainant, such ruling by the IC would also assume the characteristics of a 'recommendation' made under Section 13(2) of the POSH Act as the employer acts on such decision of the IC and does not take any further action.

Therefore, the High Court held that the ruling by the IC that a complaint does not constitute sexual harassment at the workplace, which is arrived at without holding any inquiry, would still be a 'recommendation' within the meaning of Section 13(2) of the POSH Act.

- **Whether the appeal against the communication of the IC dated 30 October 2023 is maintainable.**

The High Court observed that once a complaint is made alleging sexual harassment at a workplace and the same is forwarded by the employer to the IC and the IC, upon deliberation amongst members, rules that the complaint does not involve an element of sexual harassment, the aggrieved woman must have some remedy against such decision of the IC.

Therefore, the High Court held that the appeal under Section 18 of the POSH Act is maintainable against the communication dated 30 October 2023 of the IC.

3 Key Considerations for Human Resources and In-house Counsel

The IC of every organisation must ensure that it follows the due process of law when it determines a complaint does not constitute sexual harassment at the workplace. Any such decision must be clearly documented in the form of a report along with reasons for arriving at the decision, and such report must be made available to the complainant. The report should also inform the complainant of his/her right to appeal the decision through the appellate mechanism available under the POSH Act. Organisations may consider revisiting their POSH policies and providing refresher training to the IC members on the rights conferred on and obligations imposed on parties under the POSH Act.