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The Impermissibility of Pre-ICC Ad Hoc Committees Under the PoSH Act: Insights from the Delhi High Court

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The jurisprudence surrounding workplace sexual harassment demands a delicate balance between specialized statutory frameworks and the administrative prerogatives of an employer. In the recent writ petition of Prof. Rasal Singh v. University of Delhi & Ors. [W.P.(C) 14760/2025], the Delhi High Court delivered a crucial ruling clarifying the boundaries of an educational institution's disciplinary powers. The judgment, pronounced by Justice Purushaindra Kumar Kaurav, addressed the legality of preliminary ad hoc fact-finding committees constituted outside the purview of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, commonly known as the PoSH Act. It further examined the inherent power of an employer to suspend a delinquent official pending an inquiry, alongside the legal standards required to prevent such suspension orders from becoming unlawfully stigmatic.

The factual matrix originated between March and April 2025, when three Assistant Professors at Ramanujan College, an affiliate of the University of Delhi, submitted formal complaints alleging acts of sexual harassment and professional misconduct against the College Principal, Prof. Rasal Singh. In response to these allegations, the Deputy Registrar (Colleges) of the University constituted an ad hoc fact-finding committee on May 5, 2025, to preliminarily examine the matter. This committee subsequently submitted a report asserting that the petitioner had created an environment of fear and intimidation. The committee further concluded that the allegations potentially constituted sexual harassment under the PoSH Act and recommended referring the matter to the statutory Internal Complaints Committee. Relying heavily on this ad hoc report and with the Vice-Chancellor's approval, the College's Governing Body issued an order on September 18, 2025, suspending the petitioner with immediate effect pending the formal Internal Complaints Committee inquiry. Aggrieved by this administrative action, the petitioner approached the High Court seeking relief.

The ensuing litigation brought forth three primary legal issues for the Court's determination. First, the Court had to ascertain whether the College possessed the inherent administrative power to suspend the petitioner in a PoSH-related matter, given that the PoSH Act itself does not explicitly list suspension as an interim statutory measure. Second, the Court examined the legal validity of the Deputy Registrar's decision to constitute a pre-inquiry ad hoc fact-finding committee pursuant to a complaint squarely falling under the PoSH Act. Finally, the Court scrutinized the specific phrasing of the suspension order to determine whether it was legally stigmatic and therefore violative of the petitioner's constitutional rights.

During the proceedings, the petitioner's counsel vehemently argued that the PoSH Act is a comprehensive and self-contained code. Consequently, the power to investigate and evaluate allegations of sexual harassment rests exclusively within the domain of the statutory Internal Complaints Committee. The petitioner contended that creating an extra-statutory ad hoc committee violated procedural mandates and the principles of natural justice, arguing that when a statute dictates a specific procedure, it must be followed strictly and exclusively. Furthermore, the petitioner submitted that the explicit language of the suspension order effectively pronounced him guilty of serious misconduct prior to any formal adjudication, thereby casting an irreparable stigma on his professional reputation.

Conversely, the respondents, comprising the University of Delhi and Ramanujan College, defended their actions by invoking the inherent powers of an employer. They argued that an employer retains a vested administrative right to suspend any employee pending an inquiry, irrespective of the PoSH Act's silence on the matter of suspension. The respondents further contended that there is no legal embargo preventing an institution from establishing a preliminary fact-finding committee to assist in administrative decision-making and to determine if a matter warrants an Internal Complaints Committee referral. They also maintained that suspension is merely an interim administrative measure, not a punitive sanction, and therefore, the concept of a stigmatic order is legally inapplicable in this context.

In analysing these rival contentions, the Court extensively reviewed the statutory provisions of the PoSH Act alongside established judicial precedents. Addressing the power to suspend, the Court observed that Section 12 of the Act, which details interim measures such as leave or transfer, does not expressly mention suspension. However, the Court relied heavily on Section 28 of the PoSH Act, which explicitly states that the Act's provisions are in addition to, and not in derogation of, any other prevailing laws. Citing apex court rulings in R.P. Kapur v. Union of India and Balvantrai Ratilal Patel v. State of Maharashtra, the Court affirmed that an employer's inherent right to suspend an employee under standard service rules remains fully intact and is not eclipsed by the procedural mechanisms of the PoSH Act.

However, the High Court strongly rebuked the University's constitution of an ad hoc fact-finding committee. The Court emphasized that the PoSH Act mandates strict procedural compliance and time-bound resolutions, as highlighted by the Supreme Court in Sohail Malik (Dr.) v. Union of India and Aureliano Fernandes v. State of Goa. Creating a parallel, pre-inquiry

committee delays justice, forces victims to recount sensitive trauma in unspecialized settings, and lacks statutory backing. Consequently, the Court declared the ad hoc committee entirely de hors the provisions of the PoSH Act and deemed its constitution legally impermissible.

Turning to the language of the suspension order, the Court found substantial merit in the petitioner's grievance. The impugned order explicitly cited complaints of "serious misconduct and harassment" and highlighted the "gravity of the matter." The Court held that while an employer holds the authority to suspend an employee, the order must be framed in neutral, administrative language. By characterizing the allegations as serious misconduct, the College made a premature editorial judgment. The Court ruled that such phrasing destroys the constitutional guarantee of the presumption of innocence, causing any reader to form a prejudicial opinion, thus rendering the order unlawfully stigmatic.

The Delhi High Court delivered a nuanced judgment that protected the statutory exclusivity of the PoSH Act while preserving essential employer prerogatives. The Court set aside the stigmatic suspension order dated September 18, 2025, owing to its prejudicial language and its foundation on an illegally constituted ad hoc committee's report. However, acknowledging the severe nature of the underlying sexual harassment allegations, the Court granted liberty to the College's Governing Body to issue a fresh, neutrally worded suspension order in accordance with the law. This ruling is a vital precedent, mandating that institutions must strictly adhere to the PoSH Act's procedural mechanisms without substituting them with arbitrary administrative bodies, while also ensuring that interim administrative actions remain strictly unbiased and non-stigmatic.

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