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## **BOMBAY HIGH COURT ON CONFIDENTIALITY GUIDELINES IN POSH MATTERS**

### **A. Background**

1. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“**Act**”) was enacted with the aim to provide protection to women against sexual harassment at workplace and ensuring right to equality at work.
2. Under the Act, the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (“**Rules**”) were framed thereunder.
3. In *P v. A*<sup>1</sup> (“**Order**”), the Bombay High Court, while hearing a matter concerning sexual harassment at workplace (“**POSH Matters**”), established guidelines to protect disclosure of identities of the parties involved (“**Guidelines**”).
4. The Court has clarified that these Guidelines are:
  - a. Working protocol for future hearings and case file management for proceedings related to sexual harassment and orders; and
  - b. The bare minimum to maintain confidentiality and are subject to revision or modification as needed.

### **B. Order**

In the Guidelines, the Court has laid down the following:

#### **I. Guidelines on Anonymity and Personal Information**

1. Order sheet to be anonymized to read as *A v. B* or *P v. D* etc.
2. Parties to be referred only as ‘Plaintiff’, ‘Defendant’, etc.
3. No mention of personally identifiable information (“**PII**”) of the parties involved, including name and address of witnesses.
4. No document containing PII to be retained by the Registry after filing.
5. The Registry can verify documents containing PII but not retain them on file.
6. Parties must continue to use anonymized titles in all further court documents.
7. Registry not to record PII in Case Information System.
8. No objection to be raised by Certified Copy Section for anonymized title.
9. Absolute prohibition on disclosure of PII including those already in the public domain.

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<sup>1</sup> Ordinary Original Civil Jurisdiction, Suit No. 142 of 2021 decided on 24th September 2021  
([https://www.livelaw.in/pdf\\_upload/posh-case-judgments-reporting-guidelines-bombay-high-court-401420.pdf](https://www.livelaw.in/pdf_upload/posh-case-judgments-reporting-guidelines-bombay-high-court-401420.pdf))

## II. Guidelines for Institution of Suit and Manner of Proceedings

1. All orders and judgments to be delivered in private, in chambers or *in-camera*.
2. Only Advocate-on-Record with a valid *vakalatnama* to be allowed to inspect filing or order.
3. Record to be kept sealed and not to be disclosed without Court order.
4. Fresh filings to be kept sealed with the main record.
5. Record not to be digitized by any third-party without Court order.
6. No online or hybrid hearing facilities. All hearings must be by physical attendance.
7. No other person other than advocates and parties to be permitted to attend hearings.
8. All staff other than Court Master/Associate or *sheristedar* or stenographer not to be allowed to be present at the hearing.
9. Parties to function using an ordinary, authenticated or digitally signed copy of the Court's order.
10. Witnesses to be bound by a non-disclosure and confidentiality agreement in addition to the usual oath.
11. Recording and transcribing of proceedings is strictly forbidden.
12. Guidelines must be adopted in matters pending before Industrial Court or Labour Court.

## III. Guidelines for Public Disclosure

1. Orders/judgments on merits not to be uploaded.
2. Witness depositions not to be uploaded.
3. Only anonymized orders to be released in the public domain after receiving court order to that effect.
4. All parties are prohibited from disclosing the contents relating to the court proceedings without specific leave of the court.

## C. Conclusion

The Order mandates that failure to comply with the Guidelines by any person including by the media will be treated as an offence amounting to contempt of court and the offender will be punished accordingly. The Guidelines are not merely prescriptive but have a binding force.

This Order may be made note of by employers when their POSH matters are taken up before courts. Also, these Guidelines can be usefully referred by Internal Committees when handling POSH matters.

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