

A CASE STUDY OF LABOUR LAWS IN HARYANA WITH SPECIAL REFERENCE TO SONEPAT DISTRICT

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ABSTRACT

The concept of “Effectiveness of Labour laws” consists of diverse principles essential for the orderly growth and development of personality of every labour. The aim of labour legislation is to attain substantial degree of social, economic and political equality which is the legitimate expectation and constitutional goal. The implementation of fundamental rights and directive principles prevent the suffering of the poor, weak, dalits, tribals and deprived sections of the labour society and so elevate them to the level of equality to live a life with dignity of person, which was the object of the framers of the Indian Constitution behind incorporating labour laws with the chapter of fundamental rights and directive principles in the Indian Constitution.

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The Indian Constitution is a great labour evolutionary document aiming at transforming a medieval, hierarchical system into a modern egalitarian labour society. The majority of its provisions are either directly aimed at furthering and promoting the labour revolution of attempting to further this revolution by establishing the conditions necessary for its achievement.

The object of the people in establishing the Constitution was to promote justice, social and economic, liberty and equality. The modus operandi to achieve these objectives is to set out in Part-III and IV of the constitution. Both Part III and IV enumerate certain moral rights. Many of articles, whether in Part-III or Part-IV, represent moral rights which they have recognized, as inherent in every human being in this country. The task of protecting and realizing labour rights is imposed upon all the organs of the state, namely, legislative, executive and judicial.

Our constitution has been framed primarily to safeguard the freedom and dignity of the common man to protect his basic human rights from any erosion by the state. It intends to secure to all the citizens, Justice, Liberty, Equality and Fraternity.

FUNDAMENTAL RIGHTS:

Part – III of the Constitution contain a long list of Fundamental Rights. This chapter of the Constitution of India has very well been described as the Magna Carta of India. The inclusion of a chapter of Fundamental Rights in the Constitution of India is in accordance with the trend of modern democratic thought, the idea being to preserve that which is an indispensable condition of a free labour society. The aim of having a declaration of Fundamental Rights is that certain elementary rights of labour, such as, right to life, liberty, freedom of speech, freedom of faith and so on, should be regarded as inviolable under all conditions and legislature of the country should not interfere with these fundamental rights.

In People's Union for Democratic Rights Vs. Union of India, A.I.R. 1982 SC 1473 (1484), P.N. Bhagwati J., observed and directed that a writ petition would be maintainable where violation of various labour laws in which infringement of Fundamental Rights involved under Articles 14, 21, 23 and 24 of the Constitution of India.

In Maneka Gandhi vs. Union of India, Bhagawati J., observed: "These Fundamental Rights represent the basic values cherished by the people of this country since the Vedic times and these are calculated to protect the dignity of the individual and create condition in which every human being can develop his personality to the fullest extent".

Article 13 of the Indian Constitution is the key provision as it makes the Fundamental Rights justiciable. The effect of Article 13 is that Fundamental Rights cannot be infringed by the government either by enacting a law or through administrative actions. Article 13 makes the judiciary, and especially the Apex Courts, as the guardian, protector and the interpreter of Fundamental Rights. The Courts perform the arduous task of declaring a law unconstitutional if it infringes a Fundamental Rights.

DIRECTIVE PRINCIPLES:

The Directive Principles of state policy are contained under Article 36 to 51 in Part IV of the Constitution. These Directive Principles set out the aims and objectives to be taken up by the states in the governance of the country. The idea of labour welfare state envisaged by our constitution can only be achieved if the states endeavour to implement these Directive Principles.

The Directive Principles are the ideals which the Union and State Government must keep in mind while they formulate policy or pass a law. They lay down certain social, economic and political principles, suitable to peculiar conditions prevailing in India. The main object in enacting the Directive Principles is to set standards of achievements before the Legislature and Executive, the local and other authorities by which their success or failure can be judged. It was also hoped that those failing to implement the directives might receive a rude awakening at the polls.

The Article 37 of the Constitution states: "The provision contained in this part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the state to apply these principles in making laws". If any Government ignores them, they will certainly have to answer for them before the electorate at the time of election.

The judiciary has now taken itself the responsibility of implementing the Directive Principles. In the recent Judgments the Court has declared many directives e.g. equal pay for equal work, free legal aid to poor, protection of children from exploitation, abolition of child labour, free and compulsory education of children below the age of 14 years, protection of working women from sexual harassment etc., as fundamental rights and have enforced them. Thus, because of the implementation of the Directive Principles the concept of effectiveness of labour laws can be achieved.

The Bonded Labour System (Abolition) Act 1976 prevents the economic and physical exploitation of the weaker sections of the people and implies the infringement of the basic

human rights and destruction of the dignity of human labour. Article 23 of the Constitution prohibits beggar and other similar forms of forced labour.

The Child Labour (Prohibition and Regulation) Act 1986 prohibits the engagement of children in certain employments and regulates the conditions of work of children in certain other employments and it bans the employment of children who have not completed their 14 years, in specified occupations and processes and it regulates the conditions of work of children in employments where they are not prohibited from working.

The Contract Labour (Regulation and Abolition) Act 1970 regulates the employment of contract labour in certain establishments and provides for its abolition in certain circumstances and aims at the abolition of contract labour in respect of such categories as may be notified by the appropriate Government in the light of certain criteria that have been laid down, and also aims at regulating the service conditions of contract labour where abolition is not possible.

The Employees State Insurance Act 1948 provides for certain benefits in the event of sickness, maternity and employment injury to workmen employed in or in connection with the work in factories other than seasonal factories. The insurance fund will be mainly derived from contributions from employers and workmen. The workmen will also be entitled to receive medical care and treatment at such hospitals, dispensaries or other institutions to which the factory in which he is employed may be allotted. Women workers will be entitled to receive a maternity benefit. The workmen will also be entitled to medical aid and a workman disabled by employment injury will receive for the period of disablement or life depending on whether the disablement is temporary or full and permanent, as the case may be a monthly pension equivalent to half of his average wages during the previous 12 months, subject to maximum and minimum. In case of death resulting from employment injury the pension will be payable to the widow or widow's minor sons and minor and unmarried daughters.

The Environment (Protection) Act 1986 provides for the protection and improvement of environment and the prevention of hazards to human beings, other living creatures, plants and property and it focuses on specific types of pollution or on specific categories of hazardous substances as the right to live, a fundamental right under Article 21 of the Constitution, includes the right of enjoyment of pollution free water and air for full enjoyment of life.

The Equal Remuneration Act 1976 provides for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment. Article 39 of the Constitution envisages that the State

shall direct its policy, among other things, towards securing that there is equal pay for equal work for both men and women doing the same or similar work and stipulating that no discrimination should be made between men and women in recruitment, promotions, trainings, transfers etc.

The Factories Act 1948 provides the law regulating labour in factories. The provisions for the safety, health and welfare of workers are generally found to be inadequate and unsatisfactory. The main object of the Act is to ensure adequate safety measures and to promote the health and welfare of the workers employed in factories.

The Industrial Disputes Act 1947 was enacted inter alia for settlement of industrial disputes and for certain other purposes. The maintenance of industrial peace by way of settlement of disputes is one of the objects of this legislation and it removes causes of friction between the employer and workmen in the day to day working of the establishment and it promotes measures for securing amity and good relations between them. This Act also ensures progress of industry by bringing about harmony and cordial relationship between the employers and employees and it makes the investigation and settlement of industrial disputes between employers and employees, employers and workmen, or workmen and workmen.

The Maternity Benefit Act 1961 regulates the employment of women in certain establishments for certain period before and after child birth and it provides for maternity benefit and certain other benefits. The provisions of the Act are wholly in consonance with the Directive Principles of State policy, as set out in Article 39 and in other Articles, especially Article 42 of the Constitution. A woman employee, at the time of advanced pregnancy cannot be compelled to undertake hard labour as it would be detrimental to her health and also to the health of foetus. The women workmen would also be entitled to maternity leave for certain periods prior to and after delivery.

The Payment of Wages Act 1936 was intended to ensure that wages actually disburseable to workers covered by the Act are disbursed within the prescribed wage period and employees can get their full wages without any deductions which are not specially authorized by the law.

The Trade Unions Act 1926 provides for the registration of trade unions and in certain respects to define the law relating to registered Trade Unions and it lays down a detailed procedure for the registration and working of Trade Unions. Any group of persons whether workers or employers, can unite themselves to protect their interest, economic or otherwise and for ventilation of their views and grievances. Thus, all provisions have been made to ensure a healthy trade union movement in India.

CONCLUSION:

The Constitution envisages the establishment of a labour welfare state at the federal level as well as the state level. In a labour welfare state the primary duty of the Government is to secure the welfare of the labour.

The Fundamental Rights seek to introduce an egalitarian labour society and ensure liberty for all. The Directive Principles seek to achieve a labour welfare state. The two i.e. Fundamental Rights and Directive Principles together constitute the conscience of the Constitution. The Fundamental Rights and Directive Principles aim at the same goal of bringing about a labour revolution and establishment of labour welfare state.

The concept of “Effectiveness of Labour laws” consists of diverse principles essential for the orderly growth and development of personality of every labour. The aim of labour legislation is to attain substantial degree of social, economic and political equality which is the legitimate expectation and constitutional goal. The implementation of Fundamental Rights and Directive Principles prevent the suffering of the poor, weak, dalits, tribals and deprived sections of the labour society and so elevate them to the level of equality to live a life with dignity of person, which was the object of the framers of the Indian Constitution behind incorporating labour laws with the chapter of Fundamental Rights and Directive Principles in the Indian Constitution.

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