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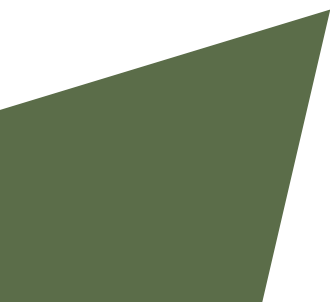
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Labour issue as a concern during Lockdown

Meera R Menon

ABSTRACT

One of the most contemporary socio legal issues is the labour issues during the lockdown. The world is facing another pandemic in this current era. The spread of COVID-19 has made the government to take a stern decision to prevent the spread of the same. This would be a new experience where people are in their homes as they are supposed to protect their as well as others' health. In this scenario it is important to note that even countries like the US are fighting hard against this. It is the time for us also. There is a duty upon each and every citizen to be inside their houses in order to prevent this deadly virus. There are many challenges before the government in this situation. Our constitution guarantees rights to all citizens of the country. Even the freedom of movement is restricted as a precautionary step now. It is high time for us to abide the rules laid by the authorities and protect our fellow beings. One of the major challenges related to this is the issues related to labours. This can only be resolved with the help of all citizens including employers and employees. This paper aims to analyze the issues related to the labours along with their rights amidst of the lockdown due to the outbreak of corona virus otherwise called the COVID-19. Certain suggestions have been made as result of the research of this paper to tackle this situation.

Keywords: COVID-19, Labour issues, Human rights, lockdown, positive impacts, negative impacts

INTRODUCTION

Nature is always a mystery. If we check upon the history of pandemics globally, we can understand that these happens every 100 years. It had been in the form of plague, small pox and now as COVID-19 better known as corona virus. All of these had and has an impact globally. Especially, our economy is in high repercussion. The outbreak of corona and the lockdown as a result of this has both positive and negative impacts. Positive impact is mainly the reduction in crime rates and pollution. On the other hand, there is an increase in the crime rate of domestic violence. Every time when a pandemic occurs, the aftermath of that would be a balance in the population and mobilization of resources. In our country one of the major issues which arised due to the lockdown is the issues related to the labours. Our government has pleaded the citizens to continue the payment to the employees who would suffer due to this ongoing situation. It is a matter of duty rather than a charitable good to provide income to household staffs by the individual employers. The obligations corporations would bear as an employer is more stringent than those which might be placed on individuals. A welfare state should aim at the overall welfare of its citizens. In this ongoing situation more emphasise must be given upon the labours. In a country like ours, household staff enjoy less previlleges when compared to others. For some or the other reason the citizens must have an obligation to protect their household staff however, it needs adequate scrutiny.

The issues labours face in this current scenario and certain suggestions which can be implemented is briefly described in this paper.

RESEARCH OBJECTIVES

This paper aims to analyze:

- i) The outbreak of COVID-19 – Positive and negative impacts
- ii) Labour issues faced
- iii) Labour rights

RESEARCH METHODOLOGY

This paper analyzes the labour issues during lockdown period in a descriptive manner. The data and other facts are collected through online portals, journals, articles etc.

OUTBREAK OF COVID-19

Novel Covid-19 is a deadly virus which has already made global destruction. As per the reports, it was first spread from bats to humans in Wuhan market (China). Till date lakhs of persons died due to this deadly virus globally. The outbreak of this virus affected the lives of people in all aspects. The most powerful country which is none other than the US has the highest death toll now. This shows how dangerous this virus is. It has mainly 4 stages of spreading. The most dangerous stages are 3rd and 4th. The best way to prevent the spreading of this virus in those stages is nothing but social distancing. Now the best way to show love and respect to the fellow beings is by keeping a distance rather than the usual gestures of hand shake.

Everything has changed within days. From busy roads to calm, from showing love by visiting loved ones to not visiting them. This happened due to the lockdown of the country. Many countries have taken this step to prevent the spread including India. Those people who come from outside the state or country are supposed to observe 14 days of home quarantine. In many states the outbreak started from somebody who came from abroad. This suggests that the people who come from outside should strictly follow the guidelines laid by the concerned authorities. In our country both central and state government is working hard to somehow prevent the spread of this deadly virus.

Now it has become the duty of each citizen to abide by the rules laid by both the governments. This lockdown of more than a month has both positive and negative impacts. The lives of many people have been affected due to this. All the aspects including economy is in trouble. Apart from that the positive impact is that if we compare these days with that of 2019, then there is a high reduction of crime rates. Last year, it was 21 cases during these days. This quarantine has made the domestic relations more stronger. People spend more time with their own families. Most importantly, the pollution rate is also decreased globally.

As every coin has two sides, this lockdown period also has its negative aspects. One of the major issue is with daily wage labours. Many states have laid down rules stating that the wages of daily workers must be given by the employers even though they are not in work during this lockdown period. In states like Kerala, where there are more number of workers from other state the scenario is different. These workers will be working on a contractual basis which made them jobless during this lockdown period. Without job they cannot earn money which ultimately lead to starvation. To overcome this issue, community kitchen has started its working to provide them with the food they like. In the capital city many workers along with families tries to cross the state border of Uttar Pradesh to reach their own home towns. The

result of such kinds of activities is that this can lead to the spread of virus. This made the labour issues stronger during the lockdown. The government has taken steps to tackle the same.

LABOUR ISSUES

Indian government has come up with certain rules regarding the employees. The employers are advised to instruct about the hygienic practices. The Ministry of labour and employment issued a notification on March 2, 2020 advising all employers to refrain from terminating the employment or deducting wages of the employment¹. The notification mentions that even if a place of employment is nonoperational, the employee is deemed to be on duty. In case of claim of wrongful termination by employees, the courts will surely rule in favour of the employees. The court has taken many issues in favour of the working class in the past.

Even the shortage of labours is also a problem when it comes to supply of necessities. If this lockdown period continues to extent then the situation of migrant labours globally will become worse. There are certain rights which prevails for the employees and there is the duty on the employer to ensure the same. All the state governments are taking appropriate steps to protect the needs of those labours in during this period. Another important fact is that we cannot force employers to provide everything since they also do not have money during this period. Somehow, the authorities have to support them also. Salary challenge, the reduction in salary of the MPs in India are good initiatives towards this.

This labour issues can be clubbed with the human rights. Human rights can in other words be termed as birth rights. In India, Right to Life² is guaranteed by our constitution. Right to life includes all basic rights to live. Right to health and other human rights are included in this. Labours are also humans and their rights cannot be denied in a situation like this. In the month of January 202, the Jharkhand HC held that mere prudency of criminal case could not justify denial of gratuity³. Recently in March 2020, Bombay HC held that accident compensation will be payable on death due to snake bite while on duty⁴. The constitution of India safeguards the interests of all sections of people.

¹ Corona Breakdown: what are the implications for Indian employees , Published in Business Today on April 7, 2020

² Art 21 of The Constitution of India, 1950

³ Jhar.HC 29, 2020

⁴ Bom.HC 285, 2020

LABOUR RIGHTS

The labour rights are being laid in the constitution itself. In India there is a high protection for the rights of labours. The evolution of labour rights starts from the Indian Slavery Act, 1843. After the independence the labour rights are embedded in the Constitution of India, 1950 articles 14-16, 19(1)(c), 23-24, 38 and 41-43. There lies a distinction between people who work in organized sector and unorganized sector in Indian laws. A major update in the labour laws of India happened after the introduction of Industrial Disputes Act 1947. The Employees' Provident Funds and Miscellaneous Provisions Act 1952, provides for compulsory contributory fund for the future of an employee after his/her retirement or for his/her dependents in case of employees' early death.

Moreover, to eradicate gender discrimination Article 39(d) of the constitution provides that men and women should receive equal pay for equal work. The Equal Remuneration act 1976 implemented the same principle in the legislation. In *Randhir Singh v union of India*⁵, the Supreme court held that the principle of equal pay for equal work is a constitutional goal and therefore capable of enforcement through constitutional remedies under Article 32 of the constitution. Comparisons should focus on similarity of skill, effort and responsibility when performed under similar conditions was held in the case of *State of MP v Pramod Baratiya*⁶.

In the case of *State of AP v Sreenivasa Rao*⁷, it was held that equal pay for equal work does not mean that all the members of the same cadre must receive the same pay packet irrespective of their seniority, source of recruitment, educational qualifications and various other incidents of service. All these judgements favour labours in one way or the other. It suggests that our country had been always with the working class. All of these are significant in this scenario of lockdown. This also shows that the employees are not a class to be thrown out without rights simply. In this period also it is important to protect their interests and rights for the sake of a welfare state.

SUGGESTIONS

The global pandemic has already started causing economic repercussions. Indian business are also facing unprecedented issues including employee related issue. Taking into account all these matters, the employee related issues can be resolved by various initiatives. **Work from home** is such an initiative. Even though, it is not new to the Indian business nowhere the

⁵ *Randhir Singh v UOI*, 1982 AIR 879

⁶ *State of MP v Pramod Bharatiya*, AIR 1993 SC(286)

⁷ *State of AP v Sreenivasa Rao*, 1989 SCR(1)1000

definition of the same has been mentioned. However, the statutory provisions related to working hours, overtime payment etc. shall continue to apply as if the employee has been working from the office premises. As social distancing is the only effective weapon against this pandemic, both central and state governments have time to time issued notifications to promote work from home.

Another aspect is regarding **Lay off** which is nothing but the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or for any connected reason to give employment to a workman⁸. In a reduced pay the workman will be employed under the employer during this lay off period. The process for lay off differ from one establishment to other depending on number of workmen employed and nature of activity undertaken. For a non-workmen category the terms and conditions of this must be mutually agreed upon.

In the midst of situations arising due to COVID-19 in certain industries like Aviation and Tourism, the employer and employees have agreed upon the standardized **pay cut** across the board. This should be applied in a universal manner. Termination or retrenchment must be considered as the option of last resort. In case of official travel during this lockdown, the employees must be provided with all safety measures by the employer. Moreover, **compensation to infected employees** in India must be provided. Since the employees are obliged to pay compensation to employees who are injured or die due to accidents arising out of in the course of employment. If it can be proved that COVID-19 infection was contracted in the course of employment and it arose out of employment, the employer shall be legally obliged to pay compensation to impacted employees.

ANALYSIS

Due to this global pandemic the labours all over the world are suffering. Some are trying to move out of the place and leave to their natives which is highly dangerous in the current situation. Moreover, we cannot force an employer to arrange everything for the employees since, the lockdown impacts on all regardless of whether they are employees or employers. Therefore, the central and state governments shall work hand-in-hand to tackle the current situation. The employers should also get support from the authorities in order to protect the rights and interests of the employees.

⁸ Sec 2(kkk) , Industrial Disputes Act 1947

CONCLUSION

Even though our laws protect the working class and labours, we can say that these rights exist only on textbooks. These are not implemented properly. In a situation like lockdown it is the responsibility of the authorities to provide the labours with safe and secure place and food. Our governments are trying hard to do so. Hence, it is not the time to blame each other instead, we should work together. A welfare state can only be achieved when the labours also get their right. Therefore, it is our duty to provide and equip them with those. This time will also pass soon. The hardwork what we do today will give results tomorrow. Most of the labor issues are resolved in many parts of the country. Let all these be resolved. The given suggestions can be implemented with due care to achieve the same.