Dilution of labour laws

Introduction

At a time when everyone is awaiting an early end to the health and economic crisis caused by the global pandemic, the interests of labourers and workers are once again set to be sacrificed.

Labour Jurisdiction

Under the Constitution of India, Labour is a subject in the Concurrent List where both the Central & State Governments are competent to enact legislation subject to certain matters being reserved for the Centre.

States diluting labour laws

It is amoral and perverse on the part of some States to address this need by granting sweeping exemptions from legal provisions aimed at protecting labourers and employees in factories, industries and other establishments.

1. Madhya Pradesh has embarked on a plan to give a boost to business and industry by allowing units to be operated without many of the requirements of the Factories Act —

   a. Working hours may extend to 12 hours, instead of eight, and
   
   b. Weekly duty up to 72 hours.

   The State has used Section 5 of the Act, which permits exemption from its provisions for three months, in the hope that the Centre would approve such suspension for at least a thousand days.

   Section 5: However, this exemption can be given only during a ‘public emergency’, defined in a limited way as a threat to security due to war or external aggression.

2. Uttar Pradesh has approved an ordinance suspending for three years all labour laws, save a few ones relating to the abolition of child and bonded labour, women employees, construction workers and payment of wages, besides compensation to workmen for accidents while on duty.

   Reports suggest that several States are following their example in the name of boosting economic activity.

   Changes in the manner in which labour laws operate in a State may require the Centre’s assent.
One hopes the Centre, which is pursuing a labour reform agenda through consolidated codes for wages, industrial relations and occupational safety, health and working conditions, would not readily agree to wholesale exemptions from legal safeguards and protections the law now affords to workers.

**Section 5 of Factories Act, 1948**

Section 5 in The Factories Act, 1948. 5. Power to exempt the provisions of the Act during public emergency. For the purposes of this section “public emergency” means a grave emergency whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.

**Factories (Amendment) Bill, 2014**

The Factories Act is a legislation that deals with safety, health and welfare of workers. The present Factories Act is applicable on factories (with electricity connection) with 20 workers and factories, without electricity, with 10 workers.

The government had introduced Factories (Amendment) Bill 2014 in Lok Sabha in August 2014. However, it did not come up for discussion as it was referred to a standing committee which presented its report in December 2014.

**Objective of amendments:**

- Ease of doing business
- Removing redundant provisions and incorporating new provisions in line with current conditions of factories and technology.
- To do away with the ‘inspector raj.’

**What are the amendments proposed?**

- The proposed law will apply to all factories that employ at least 40 workers
- **Registration of factories will also be made online** and entrepreneurs will only have to submit a self-certified declaration on the safety, health and welfare standards of the factory to get approvals for setting up a factory
- Apart from speeding up registration and compliance processes to help new entrepreneurs and start-ups, the proposed new Factories Act seeks to do away with the ‘inspector raj.’
- To increase the level of competency of the inspectors, the labour ministry has proposed that only those with a minimum B.Tech degree can become inspectors and they can enter factory premises after specific written directions of the Chief Inspector.
- However, the inspection could take place without prior consent if there is a complaint from any worker or for carrying out investigation into a reported accident. This has been proposed to remove the arbitrariness in inspection.
- However, existing inspectors with five years of experience or more, and a degree or
diploma on industrial safety will continue to be eligible to inspect a factory.

- All factories that manufactures or deals with “hazardous substance and processes and dangerous operations will be covered under this Act even if they employ a single worker.”
- The sectors that manufacture hazardous processes include coal, gas, iron and steel, petroleum, cement and leather.
- For setting up factories with hazardous activities, the site appraisal committee — a body with representatives from environment, meteorological, town planning departments — will have to convene a meeting within 15 days of receiving an application.
- The committee will have to compulsorily send its recommendations within the next 30 days to the state government, from 90 days at present.
- The proposed law will apply to all factories that employ at least 40 workers.

**Why Factories Act, 1948 need to be amended?**

- The legislation explicitly bars women from certain occupations like working “near or machinery in motion” and hence perpetuates gender inequality.
- Act stipulates Sunday as the weekly holiday and thus leads to situation where all factories work on the same days i.e. Monday to Saturday. In this situation, there is great demand for power. If authority is given to factory owner to decide their day of holiday, it can ease down the demands on certain days.
- The provision of providing cool drinking water applies to factories that employ more than 250 workers and hence factories with lesser workers do not enjoy such benefits.
- The law uses British systems of units i.e. horsepower instead of India’s metric system that use Kilo Watthours and hence creates confusion.
- Currently, the law requires entrepreneurs to inform authorities about the total rated horsepower installed before they can commence operations- a not so business friendly practice.
- Present law requires an employee to work for 240 days before he becomes eligible for leave with pay and hence the act is not employee friendly.