

CHAPTER:-7
LEGAL AND REGULATORY FRAME WORK OF
INDUSTRIAL RELATIONS

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CHAPTER:-7

For a long time before 1990, there was a stalemate in Industrial relations with the three actors – state, management and trade unions – stating their well known positions on many issues of industrial relations. Now, all three of them are initiating changes, through slowly. In this sense, the new industrial policy has revived back the interest in Industrial relations.

7.1 STATE OUTLOOK

Till 1991 the state in India had regulated industrial relations through the following measures.

- Industrial relations legislations.
- Pro-labour stance and policies.
- Encouragement of trade unions.
- Ban on strike and lockouts.
- Setting up of bipartite and tripartite machinery for the settlement of industrial disputes.
- Restrictions on retrenchment and clausers.
- Promoting an equitable system through minimum wages and welfare of workers.
- State becoming the biggest employer of organized sector workforce and a model employer.
- Setting up tripartite machinery.

These and many other practices of the state in the field of industrial relations had the following impact.

- Industrial relations systems had taken to law rather extravagantly giving the impression that it was giving the impression that it was viewing its citizens as subjects and not citizens of a free society.
- Industrial laws proved counter productive.
- State intervention in settlement machinery created a dependency culture on management and trade unions.
- Adjudication process was time consuming and costly.
- Policies encouraged multiplicity and politicization of trade unions.
- Policies curbed international competition and encouraged a regulated regime.

The state's role will continue in the infrastructure development, social sectors, maintenance of rules and regulations of the enterprise, and provision of employment, besides making appropriate changes in the legislation to make it relevant to the needs of the changing requirements.

In fact, there is all the more need to issue directives and monitor the free play of market forces. The state's role has to be reoriented to achieve the following with respect to industrial relations.

- ❖ Speeding up announcement of New Industrial Relations Bill for bringing changes in the trade union Act 1926, and the Industrial Dispute act, 1947, in line with changing needs of industry.
- ❖ Bringing a balance in Policies and, therefore, moving away from the bias in favor of either the management or labour.
- ❖ Increasing autonomy to the enterprises in their functioning.
- ❖ Promotion of bipartitism.
- ❖ Reorienting state's industrial relations machinery to serve guidelines of market economy.
- ❖ Stricter enforcement of various clauses of acts governing industrial relations.
- ❖ Involvement of trade unions and management in the process of change.
- ❖ De-politicization of unions.
- ❖ Speeding up the process of redeployment and retraining of workers.

7.2 MANAGEMENT OUTLOOK

Today professional management is being practiced by a large number of companies. This is in contrast to the family run enterprises in which the management's functions was being performed by hand picked men.

Employee- involvement has remained elusive despite the existence of bipartite forums either as per the directives of state or voluntarily. Similarly, systematic and continuous training of workers has been taken up by fewer companies.

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The consequences of New Industrial Policy are as follows:

The policy has both positive and negative consequences.

Positive Consequences

- ❖ De-fettering of industry from clutches of excessive regulations of government.
- ❖ Reduction of fiscal tariffs and custom duties.
- ❖ Removal of MRTP limits.
- ❖ Relatively free flow of technology from abroad.

The opening up of economy to competition from within and particularly from outside is seen as a major **negative consequence** for a large number of Indian industries.

The fall out of the introduction of technology which is now inevitable in view of the competition, would be the declining requirement, at least in short run, of labour. Any such

¹³⁹ See, Sharma A. K. – *Industrial Relation Conceptual and legal Framework*. Himalaya Publication, 2003

attempts now vitiate the industrial relations climate in the industries. Management is facing a dilemma – if they introduce technology, their industrial relations are getting affected and if they don't, they are doomed in view of the ensuing competition. As a consequence of the New Industrial Policy more and more companies have begun to upgrade the human resource development function.

The human resource development function is also becoming strategically important area of corporate governance, which indicates that the human resource development polices are now being integrated into the overall policies of the organizations. The Indian managements have taken to opportunities and challenges of the economic policies in a highly positive manner, and therefore, there is a strong hope that the Indian industry would not only survive but also excel both in the internal and external markets. ¹⁴⁰

7.3 TRADE UNIONS OUTLOOK

Trade unions have helped the workers to attain a sense of dignity, besides regularizing their salary components and working conditions in the enterprises.

Over the years, however, unions and their leaders (not all) are seen and perceived in a positive light by a majority

¹⁴⁰ *Ibid* 139

among the managements and at times, by the workers.
This is because,

- All the trade union leaders are not of the stature of their predecessors.
- Not all the present leaders' are seen to be as much committed as their predecessors.
- Sometimes, the leaders pursue political ends.
- Trade unions leaders pursue the ideology of the political parties rather than serving primarily the interests of workers.
- The lumen elements from among the trade unions at unit level, have many time, succumbed to the managements and served their interests at the cost of workers.
- Union's internal structure has been far from democratic.
- Flaws in the Trade Union Act 1926 have led to the multi publicity of trade unions.
- Managements are weary of trade unions leaders and the adversarial relationship continues.
- Not all members perceive that trade unions are pursuing their interests. ¹⁴¹

Ever since the announce of the New Industrial Policy there has been a strong debate going on the utility of the trade

¹⁴¹ *Ibid* 139

unions and their erosion from the Indian Industrial Relations Scene. These are the following important reasons in favour of unions.

- ❖ The values unions are other institutions for workers bring to a democratic society.
- ❖ The distributive economic role that union representation plays.
- ❖ The determinants of diffusion and institutionalization of workplace innovations.
- ❖ The union decline will impose a high cost on those organizations that are currently organized.

7.4 LABOUR LAWS

In India laws have a great bearing on Industrial relations and grievance handling machinery, thus changes in the labour laws will affect the industrial relations and grievances in the Indian industrial scenario. Some industrial relations problems might be thrown up in the initial stages but with the innovative approaches like creation of National Renewal Fund, Voluntary Retirement Scheme and human Resources Development this will be resolved with a human face.

There is a hue and cry over the issue of industrial dispute. Due to New Industrial Policy there will not be any increase in the number of industrial disputes. With more emphasis

on high productivity, quality and innovation the industry has decided to keep all its promises of providing congenial working environment, safety net to maintain good and harmonious industrial relations. Grievances will not increase in future with the economic reforms taking place greater emphasis has been laid to satisfy the people. It has become equally important to recognize that human development is the real "core" sector and hence many steps have been taken for their development.¹⁴²

1. Many of the labour laws which were enacted at a time when the production and environment were different have become outmoded. The Government of India is amending seminal labour legislation like, The Industrial Disputes Act, The Trade Unions Act, The Central Labour (Regulation and Abolition) Act and others. The Second National Labour Commission which is looking into the new legal regime in the sector is expected to submit its report shortly. An expert committee will be constituted will be constituted to study and make recommendations for simplifying and amending labour law and rules.
2. Government will attempt to reduce the needless proliferation of Trade Unions in establishments, without detriment to the rights and interests of the work force. Legislation will be enacted for conducted

¹⁴² *Ibid* 139

of referenda and laying down norms for the recognition of Trade Unions in industries and establishments.¹⁴³

3. There is a need to expedite the industrial dispute resolution mechanism of the labour judiciary, including the Labour Courts, Industrial Tribunals, Workmen's Compensation Commissioners etc. Government will make requisite amendments to the rule and procedures governing the functioning of these bodies to speed up and streamline this process. The provisions for publication of the awards of Labour Courts and Tribunals in the Government Gazette will be amended to expedite enforcement.
4. The Government will also enact requisite State amendments to the Industrial Disputes Act to enable workmen or management to approach Labour Courts / Industrial Tribunals directly, if the conciliation process proves to be ineffective.
5. The Kerala Head load Workers Act 1978 is an enactment providing social security net to a category of workers. However certain unforeseen practices relating to loading and unloading have since become irritant phenomena perceived as a stumbling block for industrial growth in the State. A separate legislation

¹⁴³ *Ibid* 139

to do away these practices without affecting the rights and interests of the Labour will be enacted.
WORK PLACE SECURITY AND INCOME SECURITY.

The rapidly changing economic environment accentuates the need to fortify the enforcement machinery of the Labour Department to ensure that workers rights including income security and work security are adequately protected. Kerala has a long history of activism for securing the rights of the working population. The Government will endeavor to ensure that the working conditions and the rights of workers are protected by enforcing welfare legislation.

6. A special monitoring system will be instituted for ensuring work place security and dignified working conditions for women workers.
7. Enforcement committees will be constituted at district levels on a sectoral basis for monitoring the enforcement of statutory rules, welfare measures and safety conditions for workers.
8. For the effective implementation of the Minimum Wages Act, Government will expand the category of employments under the schedule to the Act. Wages shall be revised for each category of employments

without delay and the payment of minimum wages effectively supervised. Government shall take initiative to implement wage for South Indian States, as part of the measures to implement the national minimum wage policy.

9. The Child Labour (Prohibition & Regulation) Act will be aggressively enforced and Government will endeavor to make Kerala the first State in the country to be free of Child Labour.
10. Outbound migrant workers, especially women from Kerala require special attention, especially in sectors like fish processing, Government will strengthen the monitoring system for migrant workers to ensure proper implementation of the existing laws and to minimize the chances of their exploitation by intermediaries or principal employers.
11. The quality of medical care made available under the Employees State Insurance scheme has to be improved. Government will endeavor to provide better access to modern medical facilities to insured Employees under the Employees State Insurance Scheme. The ESI coverage will be widened in order to increase its area of operation.

12. The enforcement of laws & measures like the Factories Act and Rules for assuring workplace security and for the abatement of occupational hazards and diseases will be made more effective. Enforcement of Acts relating to industrial safety and prevention of pollution would be strengthened. Special attention will be focused to identify hazardous industries and sectors including those in the unorganized sector.

13. The labour enforcement machinery is grossly inadequate to cope with the multitude of labour laws and the various establishments that require surveillance. The enforcement strategy will be to reduce the burden on the existing machinery and to encourage employers and other stake holders to proactively participate in the implementation of this strategy on a voluntary compliance basis.