

Plight of Workers: Crushing Labour Rights

It is around eleven weeks since the Lockdown was announced on March 24, 2020. During this period a lot of changes are taking place in our economy and labour related fields. The Covid19-led economic crisis caused by the grinding halt of the wheels of industrial production is a blessing in disguise to those in power.

Economists, experts, social scientists, politicians and our powerful 'rulers' have different viewpoints about solving the problem. However most of them who matter, are unanimous that this is the ideal time for the long awaited 'labour reforms'.

It is being openly touted that the long-awaited labour law reforms by the states of India, may make it easier for factories and businesses to run efficiently amid this post-pandemic 'reconstruction'. The government abides by what the investors, captains of industries and the powerful capitalists have to advice! The need of the hour they opine is to rid the society of the codified legal rights of the workers.

The employers have to have the liberty to lay off, the government should not have any say in ascertaining wages and a host of such overdue whims and undue demands will finally be met. Various chambers of commerce from around the country, have submitted their proposals to the Central Labour Minister. Unequivocally it has been stated that for the reconstruction of the closed units and industries government should not bother about legal rights of workers.

The demands are as below:

1. Every single labour law should be put on freeze for three years to get business going;
2. Businesses demanded that they be allowed to spend 2% of profits earmarked as their statutory obligation towards CSR (corporate social responsibility) instead for paying wages to workers during the ongoing lockdown period;
3. Industries should be allowed to retrench any number of workers after keeping 33-50% of those who are currently working.
4. Proposal to increase 8-hour day to 12-hour day while increasing weekly work from 48 to 72 hours.
5. The Government should take over all the heads which the corporate has to legally spend on social security measures for workers.

The BJP run state governments have not 'wasted' much time. Ordinances have been promulgated by governments of Uttar Pradesh, Madhya Pradesh and Gujarat at unbelievable speed as soon as this bouquet of proposals were presented officially.

Gujarat government has put on freeze most labour laws for 1200 days during which working hours will be 12 hours instead of 8 and 72 instead of 48 hours per week, and the unit need not be registered even if it had more than twenty workers as was legally necessary. Uttar Pradesh too has exempted all factories from labour related laws during the next three years and no notice was necessary for the termination of jobs. Madhya Pradesh too has put labour laws on hold for 1000 days and increasing the hours of work and decreasing wages has been allowed. Karnataka has decided that no action will be taken against those who have not been able to pay wages during Lockdown. A survey has found that workers in 91% of factories have unpaid dues despite having worked just before Lockdown was clamped. Assam has allowed for dilution of labour laws and has allowed time-bound labour contracts in both public and private sector.

The Chief Minister of West Bengal has gone on record saying that her government is against all such anti-labour activities. However in many media houses including Anandbazar Patrika, The Telegraph,

Times of India Group, hundreds of journalists, office staff and technical press workers have been terminated over phone with one day's notice. State administration has remained indifferent. Since March 2020, more than a lakh of workers in organised and unorganised sectors have been terminated; have not been paid wages despite working; have been denied of legal social security benefits since the labour related offices were closed or there were no interventions despite written complaints. Hence despite the fact that labour related acts were not thrown out as in other BJP-ruled states, there were no effective protection for aggrieved workers for violation of labour laws in West Bengal. Written petitions from trade unions to the CM, West Bengal, have yielded no results. Utter disregard and violations of labour laws are routine, even if ordinances have not been promulgated in States like West Bengal.

On 29 March 2020, just after clamping down the Lockdown giving a four hour notice, the Government of India issued an order under Section 10(2)(1) of the Disaster Management Act, 2005. In it, it was specifically mentioned that all the employers, be it in the industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their work places, on the due dates, without any deduction, for the period their establishments are under closure during the lockdown. It was further directed "that in case of violation of any of the above measures" the States "shall take necessary action under the Act".

On 18 May, the Home Ministry's guidelines for the fourth phase of lockdown, withdrew the order which had made it mandatory for businesses to pay wages to their workers during the lockdown.

A company from Ludhiana moved the Supreme Court against the Central Governments order to all the employers regarding making payment of wages of their workers for the period their establishments are under closure during the lockdown. In this case they stated that Article 19(1)(g) of Constitution of India provides right to practice any profession or to carry on any occupation, trade or business to all citizens and this is violated by the above order which the Government issued in accordance with the Disaster Management Act, 2005. The reason is that according to ID Act (Industrial Disputes Act) 1947, the employers have the right to retrench employees during natural calamity. On this basis the apex court restrained the central government from carrying out the order.

Almost all over the world Covid-19 pandemic has ushered in retrenchment, wage-cut, increase of workload and increase of working hours. In almost every country the interest of capital and investors are getting primacy whereas labour laws are undergoing a sea change.

Recently in Kolkata, the organisation of jute mill owners, IJMA, demanded from the Labour Minister that the women workers be allowed to work in night shifts. However remarkably, there are no existence of any women in the muster roll. The Labour Department and even some labour leaders refuses to accept that women work in any jute mill. The cat was let out of the bag by the owners during this situational crisis. This is far from what most expect from the labour-related stake holders in a democracy. The workers are not treated as citizens, but who cares!

"The British, it is true, did try to draw a sharp legal distinction between slave labour and free labour in India from around the mid-nineteenth century, grounding the latter in the notion of a voluntary contract and emphasizing the unfettered right of anyone to sell his labour power. But many have argued that the dichotomy that was now instituted, condemning slave and valorizing free wage labour, was in large part an ideological construct which helped naturalize the modern power of the market and of money to bind people." – p.142, Modern Times: India 1880s-1950s by Sumit Sarkar.

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