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Revision of Labour Laws & Employment Generation

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Abstract:

One of the major reasons for stagnation in the industrial sector and the unattractiveness of the Indian business, which deters the foreign investors, is said to be the antiquated labour laws which are highly complex and outdated. In view of the urgent need to create employment there is a growing need for investments in the industries especially manufacturing sector, the labour laws need to be revised so that the FDI will rejuvenate industries and create employment for youth. The Government of India has taken baby steps in revising the labour laws and making them simple in terms of filing returns online and reducing the complexity in compliance with the law. However yet major steps need to be taken to revise the labour laws in tunes with times. This paper focuses on the step by step action taken and to be taken in line with the thinking of transforming the industrial sector investor friendly to meet the growing needs of job creation and to meet the mission of "MAKE IN INDIA" of the Government.

Keywords: Employment Generation, FDI, Make in India, Revision of laws

1. Introduction

India is at the cross roads. The doors of global opportunities for India are opening. The people of India have given a decisive mandate to government by voting a majority government. Now it is necessary to tackle the gargantuan problems of creating a minimum of million jobs for the youth joining the job market. What some decades back was considered as the biggest problem – population growth – today is considered to be the demographic dividend. Whether this demographic dividend really proves to be so or becomes an albatross around the neck of Indian economy shall depend upon how we create the environment for job creation, which among other strong issues, shall depend upon the revision of the antiquated Labour laws and the framework of the most infamous Inspector raj. Industry and the investors have continually been complaining about the ill effects of the archaic labour laws which were framed mostly in the heydays of the influence of the socialistic pattern of governance. The labour laws are the relic of the times when profit was a dirty word and the businessmen / industrialists were akin to looters and exploiters; and thus a large army of inspectors was considered necessary to monitor the activities of the businessmen and industrialists. The economic reforms changed the approach to the business.

2. The Complexity of Employment Creation

India's demographic dividend can turn into the demographic disaster if the challenge of creating jobs for one million and more every year for the teeming millions of youth joining the job market is not met. India has 65% of the population of below 35 years of age and India's average age is just 28 years as against China's which is 37 years. India will have highest number of youth in 18-25 brackets by 2020. The complexion of India's job market has been changing, and every year a million youth will be joining the employment market. Providing meaningful jobs for a million youth and consistently year after year is a challenge indeed.

It is a big challenge indeed, indeed a complex challenge too, because;

- It is not just finding a million jobs, every year, for the youth of the country, but making them employable,
- In the sense that they must be given the skills and competencies demanded by the industry and commerce,
- To the extent that they add value and excellence to the jobs they do so that the goods and services produced by them meet the global customers' requirements,
- This customer satisfaction alone will bring the market to the youth of the country.
- If this is to happen the industry and commerce must grow exponentially.
- This can happen only when the industrialists, businessmen and investors find India attractive enough in terms of returns on their investments and the ease of doing business.

And this is precisely the complex challenge. Though the world is looking at India with great hope, is attracted by the market it offers and the cheap labour and English speaking professionals unlike China, yet on the score of 'ease of doing business' India lags much behind several countries. In the World Bank's latest report on the 'ease of doing business' India ranks 142nd among 189 countries, with the country coming in, even lower in the sub indicators of starting a business, trading across borders and enforcement of contracts. One of the chief, if not the only reason for this is the status of our antiquated labour laws.

3. Complexity of Legal Environment

'Economic development', the 'legal regulatory structure' and 'employment generation', individually and independently are complex issues and in combination they become still more complicated and complex. Employment generation is a challenge before the government and that needs to be tackled at various levels. The legal regulatory structure of the country often gets less attention as an important area for action, though the legal structure and environment has been a constant cause for struggle and impediment in running the business and industry, and acts as a great a deterrent for starting the business or industry.

In a nutshell, the Industry and commerce finds the impact of the antiquated labour laws in following areas:

- There excessive focus on the rights of the workers and duties of the employers towards the workers, than workers duties and obligations towards the industry.
- The employers are treated harshly vis a vis the workers.
- The protections provided to the workers against the possible victimisation of workers by the employers actually operate as a license to workers to show scant regard towards the employer's interests.
- The restrictions placed on the employers especially in the closure of the unviable industries is in fact destroys the employers' capability to address the volatility of business and acts as a deterrent to start new venture.
- The approach of the labour legislations is one of suspension towards the employers which adopts command and control mechanism through the umpteen numbers of the returns and reports that the employers are required to file periodically makes running the business most cumbersome and time consuming taking away the focus from the business.
- There is a continuous harassment of the employers by the inspection staff of the labour department.
- The implementation of the labour laws takes away the much needed flexibility in business and affects competitiveness, and is a breeding ground for corruption.

Such a legal and statutory environment has a great negative impact on the employment generation.

India of late has seen labour unrest and violence, especially in auto industry, earlier this year, Toyota saw intermittent struggle for two months, some years back, executives at Graxiano Transmission India, Pricol and Regency Ceramics were beaten up to death by enraged worker. In 2012, the General Manager HR at Maruti plant in panesar Hariyana was burnt to death.

Bosch, the German industrial conglomerate whose Indian subsidiary has been facing labour trouble in Bangalore, has sought a calibrated approach in reforming the labour laws. "India has to be competitive with other countries in the free trade zone, and therefore labour reforms should address this" according to Volker Denner CEO of Bosch, "Labour reforms have to lead to productivity of business."

A CII – KMPG report discussing the various measures needed across areas suggests that implementing the right changes could generate anywhere up to 25 million more jobs in the mining, manufacturing, construction and infrastructures sectors. Over five years, an additional Rs 8 lakh crores of GDP could be generated.

FICCI submitted a charter for Labour Policy reforms to Shri Narendra Singh Tomar, Hon'ble Union Minister for Labour, Employment, Mining and Steels, stating that the antiquated labour laws has blocked employment generation and competitiveness of enterprises, which is the prime need of the country. The paper states that against 8 percent growth between 2000 to 2009, the employment grew only at an average of 1.6 percent. FICCI paper suggests the need for shifting labour from 'concurrent list' of the constitution to 'state list' to allow state governments greater freedom in formulating labour policies to attract higher investments.

There is a need for minimising and simplification of labour laws for better compliance, the paper stated. FICCI has outlined the need for regrouping the entire set of close to 150 labour laws into four categories:

3.1. Laws Governing Terms and Conditions of Employment, Which May Consolidate

- (a) Industrial Disputes Act, 1947
- (b) Industrial Employment (Standing Orders) Act, 1946
- (c) Trade Unions Act. 1926

3.2. Laws Governing Wages, Which May Consolidate

- (a) Minimum Wages Act, 1948
- (b) Payment of Wages Act, 1936
- (c) Payment of Bonus Act, 1965

3.3. Laws Governing Welfare Which May Consolidate

- (a) Factories Act, 1948
- (b) Shops and Establishments Act
- (c) Maternity Benefits Act, 1961
- (d) Employees' Compensation Act, 1952 and
- (e) Contract Labour (Regulation & Abolition) Act, 1970

4. Laws Governing Social Security, which May Consolidate

- (a) Employees Provident Funds and Miscellaneous Provisions Act, 1952
- (b) Employees State Insurance Act, 1948
- (c) Payment of Gratuity Act, 1972

5. The Impact of Obsolete Labour Laws and Legal Structure

The labour and industrial jurisprudence and structure in India is a legacy of socialism and has not undergone the changes the society has undergone and has not kept up with pace with the requirement. The amendments that were carried out were not exhaustive, just tinkering here and there. The changes that have been sweeping on the socioeconomic and industrial plane have not been compatibly brought around in the legal jurisprudence and structure, taking a holistic and industrial development view, which has been the greatest weakness of the changes or amendments that have been brought in the various legislations earlier.

6. A Beginning is Made

The new government has been taking various measures of reform, small ones, in schemes, but connected to each other. The reforms are to be seen holistically, thus each reform has its own little impact. The government has taken certain steps in reforming the labour laws recently, linking them 'to doing ease of business'. setting up the business operating it as a going concern and exit norms – so that the available human and material assets can be put to more productive use. This is akin to 'creating a fertile habitat for jobs creation' as observed by Rajasthan Chief Minister Vasundhara Raje to explain the rationale for labour reforms. These reforms also linked to improving labour benefits – like providing for a minimum pension under EPS, making PF and pension funds portable and increasing maximum working hours. There is also emphasis on easing the compliance burden for small and medium businesses, like by permitting the self certification in some areas, restricting the powers given to the Inspectors and by modernising the labour laws. Besides this, facilitating the skill development through amending the Apprenticeship Act 1961, passed in August by the Lok Sabha and pending in the Rajya Sabha. Also the steps to modernise the governance of the Industrial Training Institutes

Further, moves like permitting women to work in night shifts as proposed would result in improving the gender equality in employment and possibly the economic growth.

The government of India is considering the possibility of amending the Constitution to take out the 'Labour' from the present concurrent list and place it in the state list to empower the states to take necessary action to increase the employment opportunities suitable and possible according to the local conditions, and in the process make the state accountable to development process.

The small and medium enterprises are the largest employers and contribute about 30% to production and 40% to the GDP and has great potential to contribute to the generation of employment. Therefore to facilitate this sector the labour ministry has proposed the Small Factories (Regulation and Conditions of Services) Bill to govern the wages and conditions of work in small and medium enterprises(SMEs). The Bill envisages rules for wages, overtime hours, social security and appointment of factory inspectors in units employing fewer than 40 workers. The Government has introduced the Factories Act (amendment) Bill 2014 in the Lok Sabha, the new Bill has been proposed to align the working conditions in the SMEs with the Factories Act amendments and allow enterprises to file compliance forms online as the government announced earlier this month. In consideration of the demand from the SMEs sector for a separate Act to govern them, this Act will reduce the number of forms required for compliance with rules. Importantly it will allow the women to be employed in night shifts, subject to fulfilling certain conditions. It will change the Inspection system to one based on self certification and inspections based on computer lots.

In addition to this the scope of SMEs also is being expanded. The Factories Act (amendment) Bill proposes to allow the states to raise the minimum number of workers employed to 20 where power is used and 40 for others from the existing 10 and 20 respectively, in tune with the suggestion of the expert committee under Narendra Jadhav, former planning Commission member. The Bill also removes the prohibitions on women working on certain machines in motion and near cotton openers and allowing the state governments to make rules for permitting the women to work in the night shifts, subject to fulfilling certain conditions, it has doubled the permissible overtime hours from 50 in one quarter to 100, and from 75 hours to 125 hours in certain cases.

These amendments will answer many of the demands of the SMEs and bolster the employment creation by making them more competitive.

7. Conclusion

Revision of labour laws must take place irrespective political differences, since the present business environment demands global competitiveness and a Industry not facilitated by the labour laws to be competitive will die bringing misery to existing worker and killing the possibilities of starting new ones. The foreign or Indian investors will engage in industry and business only when Indian business environment offers stable and remunerative returns on investment made. The FDI has direct linkage to creation favourable business environment. Revision of labour laws is only one of the several measures, though a very major one, in creating such favourable business environment. women occupy an important position in job market and are a strong growth engine and enabling and empowering them will facilitate correcting the gender inequality in industry and spur growth.

This calls for a mindset change at consumer level, governmental level manufacturer's level and at the level of Unions.

Unless the employment generation is properly addressed in every possible way India will face sorry state of efforts in terms of social disharmony, antisocial activities and generation of poverty which again will be the breeding ground for undesirable development in the society.

8. Issues

- Make in India need greater focus on customer preferences on Indian goods.
- The favourable environment must include infrastructural improvement, reforms in labour laws clarity in tax regime and lowering the cost of production.
- This also calls for a focus on the change of mindset steeped in socialism where profit was a dirty word to creating national wealth.

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