Labour Reforms : Fillip to Ease of Doing Business

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In a significant legislative move to make industry-running attractive, the Centre is holding consultative meetings on the draft Small Factories (Regulation of Employment and Conditions of Services) Bill, 2014 which will regulate factories employing less than 40 workers. In addition, the Apprentices Act, 1961 was amended last year to make it more responsive to industry and to youth

FOR SEVERAL decades now, rigid labour laws have been the major reason behind India's slow employment growth compared to the expansion of the country's labour force. Economic analysts have stressed time and again that labour reforms were needed not just for industrial growth, but also to generate adequate employment opportunities. There was, however, little progress on the issue as the consensus needed among the stakeholders remained elusive. Fortunately, the new Government has realised that this impasse could no longer be allowed to continue indefinitely, if India were to continue its pace as an emerging economic power. Initiatives taken by the Government in its first year of work have shown that **"ease of doing business" and *"Shramev Jayate"*** (glory of work) could go together and combine into a mechanism for a faster and more inclusive growth. Adopting a multi-pronged strategy, the Centre has initiated steps to rationalize the multiplicity of laws, while encouraging the States to go ahead with their labour reform initiatives. Success in these attempts will come only if workers are convinced that they are an essential part of the progress process, and not just an expenditure burden.

Numerous reports and documents have pointed out that a status quo-ist approach will not do if industrial growth is to get a push, or jobs have to be created for India's rising young population. The Mid-Year Economic Analysis for 2014-15 has stated that reforms of labour laws and reducing the costs of doing business "will need to be a joint endeavour of the States and the Centre." The Government recognised the need to work accordingly, duly accepting the Concurrent List status of the subject. Among the first reform actions of the Centre was, therefore, facilitating Presidential Assent for labour reforming in Rajasthan, thereby setting an example for further reform initiatives by the States; while consolidating and making transparent a number of labour laws at the Central level.

The Economic Survey 2014-15 (Vol. 1, Chapter 1), referring to the severity of unemployment, has stated that regardless of which data source is used, it seems clear that employment growth is lagging behind growth in labour force. For example, according to the Census, between 2001 and 2011, labour force growth was 2.23 per cent. This is higher than most estimates of employment growth in this decade of closer to 1.4 per cent. Creating more rapid employment opportunities was clearly a major policy challenge, it said.

At present, there are 44 labour-related statutes enacted by the Central

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Government, and another 100 by the State Governments. Underscoring the problem the labour laws were posing in their present shape, the Twelfth Five Year Plan (2012-2017) (Vol. 3, Ch. 22) too had stated "the multiplicity of labour laws administered both by the Central and State Governments are not conducive for the congenial development of the factory sector." It said 84 per cent of the labour sector being unorganized was outside the purview of the labour laws, while the remaining 16 per cent constituting the organized sector was "overburdened with regulatory interference at all levels." Labour being a Concurrent subject, there was a need to simplify the labour laws both at the Central and State levels, it pointed out.

Going specific, the Twelfth Plan said "to generate overall employment, at least labour intensive manufacturing industries like textiles and garments, leather and footwear, gems and jewellery, food processing and so on, must be permitted to adjust their labour force, in response to fluctuations in demand. The focus should be on promoting labour market flexibility without compromising fairness to labour."

While initiating its moves, the present Government has committed itself to establish the dignity of labour, transparency and accountability in the enforcement of Labour Laws and to promote workers' welfare through good governance initiatives. The Government's mantra is *"Shramev Jayate"* – that is, work is celebration only when both partners – the worker and industry – thoroughly benefit from it.

Undertaking the daunting task of making the Indian labour legislation easily comprehensible, the Labour Ministry has begun the process of rationalizing the entire labour laws into five Labour codes – Code on Wages, Code on Safety and Working Conditions, Code on Industrial Relations, Code on Social Security and Welfare and a Code on Employment Training and Miscellaneous. An inter-Ministerial Group has been formed to consider the suggestions of the stakeholders and to draft the Codes. As part of the spirit of tripartism, the Labour Ministry has begun holding meetings with the stakeholders on the proposed Codes.

The Labour and Employment Minister held three tripartite consultation meetings – the third on 6th May, 2015, on the crucial draft Labour Code on Industrial Relations with representatives from Central Trade Unions, Employers' Associations, Labour Departments of State Governments and Central Ministries and Departments.

The proposed Labour Code on Industrial Relations seeks to rationalise and amalgamate the relevant provisions of the Trade Unions Act, 1926, The Industrial Employment (Standing Orders) Act, 1946 and The Industrial Disputes Act, 1947. There has been longstanding demand from industry for flexible labour laws but trade unions consider that the changes would bring job insecurity to workers, and it would be difficult to form unions. To build a consensus, the Minister invited suggestions from the participants for incorporation in the Labour Code. The Minister assured the meetings that the rights of the workers will be protected at all costs, and views of the participants will be considered while finalizing the Labour Code on Industrial Relations.

There have been two similar meetings on the draft Labour Code on Wages, the second on the 13th April, 2015, where the participants discussed the Code which proposes to amalgamate the relevant provisions of the Minimum Wages Act 1948, The Payment of Wages Act 1936, The Payment of Bonus Act 1965, and The Equal Remuneration Act 1976. The Minister briefed the participants about the proposed Labour Code and invited suggestions from the participants who included representatives of the Central Trade Unions, Employers' Associations and State Governments.

In a significant legislative move to make industry-running attractive, the Centre is holding consultative meetings on the draft Small Factories (Regulation of Employment and Conditions of Services) Bill, 2014 which will regulate factories employing less than 40 workers. In addition, the Apprentices Act, 1961 was amended last year to make it more responsive to industry and to youth. Non-engineering graduates and diploma holders have been included. Compliance is portal-based and there are penalties in the form of fine only.

Signalling that the second-generation economic reforms will be led by the States, the Central Government helped the Rajasthan Government get Presidential assent for the three labour law amendment Bills relating to the Industrial Disputes Act, 1947, the Contract Labour Act, 1970 and the Factories Act, 1947. Among the major changes, the Industrial Disputes Act will allow companies employing up to 300 employees to lay off workers or close down without taking the government's prior approval. Earlier, those with up to 100 employees were allowed to do so. This amendment is expected to bring to the organized sector more investors who were reluctant to do business as they had to approach authorities over small issues if they employed more than 100 workers. The small industries will particularly benefit.

Among the other changes in the Rajasthan laws, the amended Industrial Disputes Act now provides that in case of retrenchment, a worker has to raise an objection within three months. There was no time limit earlier. Trade unions can be formed only if they get 30 per cent of the workers as members. The requirement at present is 15 per cent. The Factories Act will apply to factories with 40 workers, if without electricity; and 20 workers, if with electricity. The earlier requirement was just half. The Contract Labour Act will apply to companies employing more than 50 workers as against 20 earlier. Industries will be able to hire more temporary workers without passing on to them the benefits contract workers are entitled to. The Rajasthan labour reforms have been hailed by eminent economists, among others. Several States are considering following the Rajasthan initiative.

Outside the influence of labour reform controversies, the Government in its Budget for 2015-16 announced several initiatives which will in due course lead to creation of millions of jobs. The Budget's tax proposals have kept in view the ease of doing business which will lead to faster creation of jobs. The Government launched the 'Make in India' campaign and combined it with a detailed process and policy re-engineering to make India a Global Manufacturing Hub for creation of job opportunities for millions of youth. Investment policies have been fine-tuned to bring business to India. The first year of the new Government has generated the much needed promise and hope, and it is for administrative dynamism to fulfil them.

The ***Shramev Jayate Karyakaram***, inaugurated by the Prime Minister on 16th October, 2014, unveiled the Government's good governance package with the belief that the "ease in compliance" will create massive avenues of employment for the youth of this country and in turn promote "transition to formality" in a big way.

Digital India, as part of the package, will present a new regime of governance through effective use of information technology. The Ministry of Labour & Employment launched the unified Web Portal ***'Shram Suvidha Portal'*** on 16th October, 2014. The portal is catering to four major Organisations under the Ministry, namely Office of Chief Labour Commissioner (Central), Directorate General of Mines Safety, Employees' Provident Fund Organization and Employees' State Insurance Corporation.

The four main features of this Portal are: Unique Labour Identification Number (LIN) is allotted to Units to facilitate online registration; Filing of self-certified and simplified Single Online Return by the establishments.

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Units will only file a single consolidated Return online instead of filing separate Returns; Transparent Labour inspection scheme through computerized system based on risk based criteria and uploading the inspection reports within 72 hours by the Labour inspectors; Timely redressal of grievances will be ensured with the help of the portal. The Unique Labour Identification Number (LIN) has been already allotted to more than 9.5 lakh existing establishments. The facility for filing Common Return under eight Labour Acts has been launched recently on 24th April 2015. This service will reduce the transaction costs of business and make it easy and convenient to meet their obligations. The e-Biz portal which integrates 14 regulatory permissions at one source has been launched.

The Government recognized that employability of rural youth is the key to unlocking India's demographic dividend, as rural population still forms close to 70 per cent of India's population. ***The Deen Dayal Upadhyay Gramin Kaushal Yojana*** was launched keeping in view only this. The Budget 2015-16 has kept Rs 1500 crore for this scheme. Disbursement will be through a digital voucher directly into qualified students bank accounts.

For the unorganized workers, who constitute 92 per cent of the work force, the Government has promised to start their identification and registration as per the Unorganized Workers Social Security Act, 2008, leading to creation of a database of unorganized workers. An identity card to unorganized workers with linkages with Aadhaar No. and Bank Account No. will be issued for convergence of Social Security Schemes for unorganized workers on a single platform.

In the organized sector, Universal Account Numbers have been allotted to more than 4.47 crore workers to pave way for complete portability of Employees Provident Fund (EPF) benefits. Here, 99 per cent payments to members are being made electronically. SMS alert for monthly contribution and accumulation are being sent. It is proposed to include contract and construction workers in UAN to bring them under formal social security cover.

The Government has put the seal of perpetuity to the grant of a minimum pension of Rs.1000 per month for Employees Pension Scheme (EPS) subscribers. Notified in September 2014, the higher pension has now secured the approval of the Union Cabinet to continue in perpetuity. Pension is now being credited to about 50 lakh pensioners every month on the first working day of the month. Also, a notification has been issued for enhancement of wage ceiling under the EPF Scheme

from Rs.6500 to Rs.15000. For the first time ever, 15.54 crore member accounts pertaining to 103 of 122 EPF offices have been updated on 1st April 2015, that is, on the first day of new financial year.

With more than 65 per cent of the population being young in the working age category, the Government is responding to the vision of Skill India to harness the potential of this unprecedented demographic dividend. A separate Ministry for Skill Development has been created. Over the last one year, there have been major initiatives to promote Demand Responsive Vocational Training And Career Services to enhance employment and employability of the youth and other vulnerable sections of the workforce. The ***Apprentice Protsahan Yojana*** (APY) launched on 16th October, 2014, with focus on MSME, aims to support one lakh apprentices in next two and a half years by sharing 50 per cent of the stipend burden with a vision to have more than 20 lakh apprentices in next few years against the present number of 2.9 lakh. Enhanced rates of stipend indexed to minimum wage of semi-skilled worker have been notified for trade apprentices.

The Budget said the Government is establishing a mechanism to be known as SETU (Self-Employment and Talent Utilisation). SETU will be a techno-financial incubation and facilitation programme to support all aspects of start-up businesses, and other self-employment activities, particularly in technology-driven areas. The Budget kept Rs 1000 crore for this project in the NITI Aayog.

Employment Services are being modernised. The National Career Service (NCS) has become operational in March, 2015. A hundred Model Career Centers are to be developed to provide training in Last-Mile Employability skills. Another milestone was achieved with NCVT-MIS Portal which went live from December 2014. Recognition of Prior Learning (RPL) for construction sector is another unique initiative to bring the informally-trained construction workforce in the ambit of skilled labour. Training of ITI instructors through distance learning technology has been initiated to improve the quality and delivery of training in ITIs.

The Government considers tripartism as the hallmark of Labour Policy discourse, and meetings convened by the Labour and Employment Ministry have generated good debate. Chairing a tripartite meeting with State Governments, Central Trade Unions and Employers' Organisations, the Minister of State for Labour and Employment (Independent Charge), Mr Bandaru Dattatreya, on 13th January this year, said there was need for pro-active involvement of all stakeholders in the labour matters. Affirming faith in the consultative process, he said the Ministry of Labour follows the legacy of social dialogue.

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The employers unanimously agreed that the vision of industrial development can be achieved only when workers' interest coincides and is taken into account in a holistic manner. Tripartite consultations were held for the second time on the proposed EPF Act Amendments also on 31 March, 2015. The Minister informed the stakeholders about the major changes being mulled in the proposals. It is proposed to give the workers a choice to either join the EPF or the National Pension Scheme (NPS). The Trade Unions however, raised the issue of their long-pending 10-point charter of demands given by them and sought more consultations with the Government. The unions plan to give their view after a national convention at Delhi.

The wide-ranging worker-friendly amendments proposed in the EPF Act include bringing down the minimum number of employees required for coverage under the Act from the existing 20 to 10, doing away with the Schedule Head for coverage and bringing in a negative list instead, special provisions for encouraging the functioning of small-scale units, provisions for setting up of multiple Appellate Authorities under the Act and removing ambiguities in the implementation of the Act. The amendments will ensure greater clarity in the definitions under the Act, especially with regard to wages which qualify for deduction for the purposes of the Act, introducing greater transparency and accountability in the enforcement of the Act by having an objective inspection scheme.

The tripartite discussions showed there was general acceptance for the proposed amendments. The NPS/EPF choice would mean greater choice for the workers, they felt. However, there were also views that NPS cannot match the benefits offered by EPFO and therefore, was not comparable. Views were expressed felt that the amendments would help in sharpening the competitiveness of Indian Industry and would enable India to become a manufacturing hub. There was a need to further encourage the concessions granted to the small-scale industries, it was noted. Keeping the dialogue alive, the Government responded to the stakeholders saying their concerns will be kept in view while giving final touches to the legislative amendments. ❑

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