



INDUSTRIAL RELATIONS ERA.....A RELOOK ON INDUSTRIAL RELATIONS CODE 2020

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The term Industrial Relation is so broad that it is not amenable to a precise definition. It can, however be described as a subject which includes in its purview all types of relationship that arises in the process of production between employer and employee, or employers and trade union, workers, or among the union themselves. The industrial relation is primarily concerned with the relations between the parties in industry, particularly with the determination of working condition and wages. But industrial relation should not be taken as one, which denote the union-management relations operating within the spectrum of industrial peace or conflict, on the other hand, it should be taken as one which is concerned with larger subject of the industrial relations system, which defines the role, status and the conduct of parties for the productive purpose in an economy characterized by its peculiar social and economic conditions prevailing under given technological market. Industrial relation in a time of development is comprised of some actors, certain principles of ideology which binds this system and it created a body of rules which regulate the relations at the work place.

The term 'industrial relation' means relationship between management and labour in an industry. In its wider term, it means the organization and practice of multi-acute relationships between workers and management, unions and workers, and the unions and management in an industry.¹

According to International Labour Organization, 'Industrial relations deal with either the relationship between the state and employees' and workers' organization and the relation between the occupational organizations themselves'. The ILO uses this expression to explain the matters such as, freedom of association, Right of Collective bargaining, conciliation, arbitration and the machinery for co-operation between the authorities.² Kapoor explains the concept of industrial relations as a developing and dynamic concept and not limit its scope to merely explaining the relations between the union and the management.³ The Encyclopedia Britannica defines industrial relations as relations of the state with employers, workers and their organizations. Thus the subject includes individual relations, collective relations and the part played by the state in regulating these relations.⁴

Thus, industrial relations has become one of the most delicate and complex problem of modern industrial society. Industrial progress is not possible without cooperation between labour and management. The term industrial relations were broadly defined to include the relationships and interactions between employers and employees. It means it covers all aspects of the employment relationship.

In modern era, industry makes the infrastructure for the economic development of every country. The forward leap and backward stride of an industry depends on the efficiency and goodwill of the employees and the reasonable labour-management relationship as they form the heart and soul of every industrial concern. According to V. V. Giri, Industrial Relations has the same basis as human relations just as there

¹ A. M. Sharma, 'Industrial Relations: conceptual and legal frame work', Himalaya Publishing House, Bombay, 1984, p.03.

² C. B. Kumar, 'Development of Industrial Relations in India', Orient Longman Ltd., Bombay, 1967, p.(IX).

³ V. P. Singh, 'Climate for Industrial Relations: A Study of Kanpur Cotton Mills', Allied Publishers, Bombay, 1968.

⁴ Encyclopedia Britannica, London, Vol.12., 1961. P297.

could be no harmony in a Hindu Joint Family, unless the various members try to maintain warm understanding, so also in an industry, unless both the parties, labour and the management, recognize their mutual responsibilities and liabilities and rights and privileges, there can be no progress in the expansion of the industrial structure”.

Industrial relations play a vital role in maintaining industrial peace, industrial discipline and industrial democracy. Good industrial relations, not only establish a cordial atmosphere in the industry, but also help in increasing production and industrial growth.⁵

Cordial industrial relations are possible only if the workers have minimum grievances, provided good working condition, better job satisfaction and a proper balance between individual aspirations and organizational goals. Mere technological up gradation, up to date machinery, good plant layout and dynamic organization etc. are not sufficient to make a business profitable; good industrial relations in industry play almost a crucial role in this respect.⁶

The main aspects of industrial relations are promotion and development of healthy labour management relations, maintenance of industrial peace and development of industrial democracy, which are necessary for the economic development of every country.

The development of nation generally depends upon the overall development of industry and the development of industry depends upon the cordial and harmonious relations between workers and management. It is obvious that goal of industrial relation are to minimize the conflicts between labor and management, achieving stable social relationships but the most important is the workers satisfaction. Good industrial relations will have a positive effect on industrial production, efficiency, quality, discipline, technology and economic progress and in turn on the welfare of the society.

The discipline of industrial relation is now a major field in industrial jurisprudence and human resources development. To understand the complexities of industrial relations it is necessary to appreciate the constitutional provisions relating to industrial jurisprudence. The case for a fair deal to labour is emphasized in the Directive Principles of State Policy of the Constitution. The foundation and strength of industrial Jurisprudence is social justice declared in the preamble of the Constitution. Part III of the constitution also guarantees fundamental rights to any citizens which includes labour also. Though entire constitution is permeated with the goal of national revitalization, the commitment to social justice lies in Part III and IV of the constitution under Article 14, 19(1)(a),(b),(c), 32, 38, 39,41,42, 43. The interesting constitutional development is the expansion of Article 21 of the Constitution. Right to life as enshrined in Article 21 means right to live with human dignity. Right to live with dignity derives its life and breath from the Directive Principles of state Policy and mainly from clauses (c) and (f) of the Article 39 and Article 41 and 42.⁷ Thus the constitution provides a new jural base for industrial law in India. In a state endowed with positive content, labour jurisprudence is one of the most progressive and dynamic techniques for achieving socio-economic progress. Its object is not only to provide machinery and methods for settlement of industrial disputes but also to create such conditions of amity and harmony which will prevent industrial disputes and infuse a spirit of co-operation in them. In the discharge of its five important roles of Protector, Dispenser of social justice, Industrial manager, Economic controller and Arbitrator, a State should be conscious in framing legislation to bring good industrial relation. In a vast country like ours, having legislatures both at state and at centre there is bound to be a plethora of labour laws. Modern industrialization and the economic growth envisaged in our planning would of necessity call for increased use of legislation not only for tackling the social and economic problems that are existing but also for creating such industrial conditions as would be seen to be conducive for establishing a healthy and just social order.

Industrial relation is mainly related with employer–employee relation. Amicable Industrial relation is not only concerned with maintaining of pleasant atmosphere in the industry, but to facilitate production and

⁵V.P. Michael, Industrial Relations in India and Worker’s Involvement in Management, Himalaya Publishing House, Bombay, 1979, p3.

⁶ S. Nagaraju, Industrial Relations System in India, Chugh Publications, Allahabad, 1981, p.4.

⁷BandhuaMuktiMorcha v. Union of India, AIR 1984 SC 80

industrial growth. This requires industrial harmony and peace. In India the industrial relation is basically supported by three legislations which are developed and amended from time to time. So we find the legal framework dealing with Industrial relations in three legislations: Trade Union Act, 1926: Industrial Disputes Act, 1947 and the Industrial employment standing orders Act 1946. Though these are very old statutes, these are being amended from time to time, especially the Industrial Dispute Act, 1947 and Judiciary has developed the industrial relations law to suit the new challenges posed. The roots for the governmental amendments and developments of the law by the Judiciary can be found in the Directive Principles of State Policy of the Indian Constitution.

The Industrial Dispute Act, 1947 is the first effective measure of resolution of industrial disputes. One of the principle aims of the Industrial Dispute Act, 1947 is to harmonies the conflicting interests of employers and employees engaged in industrial establishments.

A dispute resolving machineries provided under the Industrial Dispute Act are Negotiation, conciliation, Arbitration and finally Adjudication by labour court, Industrial Tribunal and National Tribunal.

The Industrial dispute Act, 1947 is compulsory adjudication oriented with abundant scope for government interference. Since the settlement machineries get jurisdiction from the hands of the government, the parties have to hang before the government for years together. This has wide repercussions over the healthy growth of collective bargaining and the formation of effective strong union, as a result of which the workers and employers are driven to a legal litigation with creations of friction, tension and industrial unrest. Hence, it requires a re-look over the alternative forum provided under the Act.

New Socio-Legal Reforms that are taking place in India with the new labour code with the object to simplify the Labour laws and amend the law in accordance with the Constitutional Rights and Human Rights perspective. In India with large number of labour laws has created various conflicts in the overriding effects of the laws and to be very confusing to deal with all these laws as a whole. The Labour Law reforms can be helpful as it will create more transparency, flexible and complexity shall be lesser. The provisions of this code leads to change and liberalisation of the labour law regulations for proper implementation.

The new *Industrial Relations Code* replaces the major Indian industrial legislation – the *Industrial Disputes Act, 1947*, *Trade Unions Act, 1926* and the *Industrial Employment (Standing Orders) Act, 1946*. These three Acts with the various provisions protected the rights of workers and trade unions in India. The *Industrial Relations Code* hits a severe impact on labour rights and gives a turn to the basis of industrial jurisprudence.

The Codes gives a platform for a new era of labour relations and marks a U-turn in the underlying concepts of industrial jurisprudence. The objects of IRC are to provide a broader framework “... to minimize the friction between the employers and workers and to provide provisions for investigation and settlement of industrial disputes.” and to “achieve industrial peace and harmony as the ultimate pursuit in resolving industrial disputes (sic) and to advance the progress of the industry by bringing about the existence of harmony and cordial relationship between the employers and workers.”⁸

The bill introduces a new concept of negotiating union (or sole bargaining agent) of workers to resolve conflicts It mandates every industrial establishment to have a negotiating union or a negotiating council. If the establishment has only one union, that one becomes the negotiating union or sole bargaining agent . If an organisation has more than one trade union, the union supported by more than 51% of workers forms the negotiating union. If there is no majority trade union , then government has an authority to constitute a negotiating council..

The new code does not simplify the law on trade unions rather gives power to the government to decide who can and cannot be part of a trade union.

.The new labour code is not in favour towards the statutory recognition of the right to strike. Strikes were totally prohibited without notice in public utility services such as railways, airports, ports and docks, and sanitation under the IDA, 1947. The Industrial Relations Code has widened the scope of prohibition and banned in all sectors whether its nature is essential or not. Excluding of public utility services from the preview Industrial Relations Code is a major mishap which permanently closes all doors for workers to exercise their right to strike to be statutorily recognised.

The provisions relating to standing orders have been significantly modified by the Industrial Relations Code of 2020. Standing Order rule applies only to those industrial establishments where 300 or more workers are employed. The limitation of 300 workers means it will create discrimination among the workers .

But litigation in an ideal industrial relations system must be a last resort and not potentially first order resort, which will be so in the absence of regulations it will give a way for litigation in an industrial relation system.

A remarkable initiative is the provision for the constitution of a Grievance Redressal Committee in the establishments employing 20 or more workers. Voluntary reference and redressal of disputes by way of Arbitration is another alternative forum provided in new code for Redressal of Industrial Dispute. Establishment of National Industrial Tribunals which shall adjudicate disputes that is of national importance is another mechanism provided. A major change is the introduction of limitation period for raising a dispute before the conciliation officer and a three month period for filing an application before tribunal after three months of the report of conciliation officer. Workers can approach directly to appropriate government for reference; however, this seems that new code tries to remove the entire reference system.

Various changes have taken place in the judicial set up in adjudicatory mechanism like appointment qualification of presiding authority. The Industrial Relation Code has done remarkable changes in reducing the multiplicity of adjudicating bodies by abolishing Labour Courts and removal of entire governmental reference system. However, there is a lack in improving the condition of the Works Committee and ensuring well-trained conciliating officers.

After going through the changes brought in the Industrial Relations Code, 2020 it can be observed that it does not completely satisfy the objectives and it fails in creating a harmonious relationship between employers and workers.

