



**Labour Research
January-February-2017**

SWACHH BHARAT –THE HEALTHY BHARAT

Swachh Bharat scheme launched by the Government of India is fundamentally about hygiene that is not only to make India clean and healthy but also to create an awareness among the mass of the need of maintaining cleanliness in every household and in the surroundings. Lack of proper sanitation create a major health hazard by exacerbating the threat of potentially fatal illness in the country.

The unintended consequence of Industrial revolution is that in many countries especially in European countries had been creation of polluted atmosphere, filthy surroundings, contaminated water that had created many killer diseases like cholera, small pox and tuberculoses etc. The governments of the respective countries had to take remedial measures to improve the situation by creating a healthy and pollution free atmosphere, providing potable water and sanitation. They provided better housing for the people with proper ventilation, laying sewer and water lines, creating more greenery around. Government of India introduced Swachh Bharat in the same fashion to improve quality of sanitation hygiene and pollution free atmosphere.

Lack of awareness among people on the need of maintaining cleanliness had been there from time immemorial when human beings were leading a nomadic life. This situation got aggravated with the passage of time and with the population explosion. Space constraint and search for lively hood made the people to migrate from villages to towns and from towns to cities seeking better pasture. Space constraints had been a contributory factor for poor maintenance of the surroundings by the civic authorities. Even the improvement in the literacy level had not changed the attitude of the people who are still in the habit of littering their surroundings and continue to ignore the need for maintaining the sanitation. In the modern fast life people do not have time to take care of their own hygiene leave alone the surroundings. With more fashion more will be the tendency of littering the surroundings with unwanted materials. Disposal of garbage is as important as providing sanitation.

As and when the towns and cities grows the authorities are getting hard pressed to find space for disposal of waste, provision of water and drainage. This is especially when local people object for dumping the garbage due to environmental problems. When we ignore the need to maintain the surroundings we are only

playing with the health of not only the present generation but also with the future generation as well. Many governments in the post independent India made attempts to introduce Swachh Bharat schemes for the benefit of the people but the scheme did not have the desired result in view of the ignorance or lack of co-operation by the public, fund constraint and follow up. In spite of the growth of literacy and improving the per capita income, as per report around 130 million households in the country do not have toilets leading to open defecation. In view of the social awareness programme launched by the government of India in connection with Swachh Bharat Scheme on the maintenance of toilets it has become a social stigma if a household do not have a toilet leading to many matrimonial discords. People especially the younger generation feel it awkward for going to public defecation. The awareness that lack of providing toilets and maintaining the sanitation in the surrounding lead to sickness and incurable disease is very much being felt by the people. The Swachh Bharat Scheme also include better ventilated houses, carefully planned sewer and water lines and creating greenery. These are the basic elements in a smart city the novel project of the Government of India to make the cities in India full fledged into world class.

As part of making the places pollution free, many state governments have already banned

plastic bags of lesser micron grade across the country. These plastic causes not only pollution of the atmosphere and the ground water but also fatal to the livestock when they consume the material. Government also proposes to pass Environmental Laws (Amendment) Bill to enable the authorities to fine on the spot any one found littering, dumping, defacing, defecating the surroundings. With this the freedom people have been enjoying hitherto will be taken away to make the society more disciplined and the surrounding neat and clean.

As part of implementing the Swachh Bharat Scheme, government should also take steps to clear the garbage's from the human habitats then and there. Every house hold in town should support in segregating of waste in to wet and dry. This will enable the civic authorities to remove the garbages and recycle them. There should also be a campaign for 'Swachagraha' as part of Swachh Bharat to make every house clean. Government should also subsidies construction of toilets wherever required and ensure that it should be serviceable with proper water facility and maintenance. There are reports that many schools in the country do not have toilet facility leave alone separate toilets for boys and girls. Once the common man is benefitted from the gift of hygiene, it will lead to a healthy society besides increase in the life span of the people. ■

Labour Issues

EPFO CUTS RATE TO 8.65%

Keeping in line with falling interest rates, organized sector workers will earn 8.65% on their provident fund savings this year.

This follows a decision by the apex decision-making body of the Employees Provident Fund Organisation (EPFO) to reduce interest rate on provident fund deposits to 8.65% for 2016-17 from the current 8.8%.

Although union representatives on the EPFO board of trustees sought for the rate to be retained at last year's level, the agency opted otherwise. The move



is in line with the falling rate regime with the RBI cutting key lending rates and banks reducing deposit rates following the demonetization move last month.

"Taking into account relevant factors, the Central Board (of Trustees) decided to recommend 8.65% interest to its subscribers' for 2016-17. Roughly 17 crore subscribers accounts will be updated with this interest rate upon acceptance by the government," labour ministry officials said after the 215th meet of the Central Board of Trustees (CBT), the EPFO's decision making body. The rates

TO SEEK A FAVOUR IS TO BARTER AWAY ONE'S FREEDOM

need to be notified by the labour ministry, which will look at the projected earnings and expenditure of the EPFO for the current financial year.

As per the EPFO income projections of ₹ 39,084 crore for the current fiscal, providing an 8.8% rate of interest on EPF deposits will leave a deficit of ₹ 383 crore. However, at the rate currently announced, there would be a surplus of about ₹ 69.94 crore.

The finance ministry had decided earlier this year to lower interest on EPF for 2015-16 to 8.7% from the 8.8% approved by CBT. However, the government had to roll back the decision and provide 8.8% interest following protests by trade unions.

Despite this cut, the returns will be higher than what the government pays on small savings schemes. In

October this year, the government had lowered interest on many small savings schemes by 0.1 percentage points. The popular Public Provident Fund (PPF) now fetches only 8%. The Board has also reduced administrative charges to 0.65% to 0.85% now besides recommending abolishment of administrative charges levied in implementing the Employees Deposit Linked Insurance Scheme, 1976, passing on the benefits of efficiency and computerization to employers.

“Besides, the Central Board has also decided to constitute a subcommittee of CBT with members drawn from employees and employer representatives to study employment trends for the next 10 years and recommended appropriate administrative charges to the Central Board,” the Board said. ■

Source : Economic Times-Dt.20.12.16

Article

MIGRANT LABOUR TRAFFICKING LAWS IN INDIA- OUT OF THE SHADOWS, AND INTO THE LIGHT?

Despite making steep socio-economic progress since her Independence, India remains the source, transit and destination country for labour trafficking. To put in brief, labour trafficking can be defined as the trafficking of an individual by use of coercion, duress or fraud 'with the underlying aim of exploiting him for purposes ranging from forced labour to slavery, including but not limited to involuntary servitude, debt bondage and peonage. Migrant labour trafficking is a subset of human trafficking, where unsuspecting individuals are deceived by agents or economic conditions to be a part of exploitative forced labour.

The approximate number of people trafficked into forced labour in India to be around twenty to sixty-five million. The reason for keeping such a wide range is that there exists a practical difficulty in calculating the number of trafficking victims, owing to the confusion caused by migrant labourers voluntarily looking for employment and labourers lured into

forced labour by virtue of being trafficked. Also, several migrant workers start off voluntarily and later become victims of trafficking, due to them being unable to find suitable employment or after being terminated from their original work in the place of migration.



While India is a prime target for trafficking labour and

exporting them to Middle-Eastern and European nations, our country also has an acute problem of internal labour migration trafficking. The majority of housemaids working in homes across New Delhi, drivers at taxi companies such as Ola or Uber in Noida, construction workers in Kerala or agricultural labourers of Punjab are migrants. Approximately one-third of the population of India is migrant population. Majority of these people migrate from rural to urban areas in search of work and earning their livelihood. Absence of employment opportunities and professional development in the village areas of India are the key causes of such migration.

NEVER BEND BEFORE THE INSOLENT MIGHT

Root Causes of Migrant Labour Trafficking

Poverty is the core cause of labour trafficking in India. Ancillary factors that aid it are unemployment, our patriarchal society, lack of women's rights, illiteracy, discrimination and societal norms like dowry. Along with poverty, the steady demand of cheap labour in the national / international market and lack of remedial initiatives by the administration has resulted in India becoming a hub for trafficking. Excessive migrant labourers in certain parts of India has also given way to other social evils like demand for sex workers and trafficked brides.

The caste system present in our society has further caused detriment to the situation. If a person comes from a lower caste, the discrimination he / she will face in day-to-day life will further make them vulnerable to trafficking. Even worse is the case of lower caste women, who are discriminated on the basis of both caste and gender; thereby denying them access to education and most foils of employment. Such a condition makes them easy targets for the recruiting agents of trafficking.

Although globalization has impacted India's society and economy in many a positive way, it has contributed substantially towards the increase of trafficking. Developments in technology and communication have indirectly benefitted traffickers by giving them a greater reach via media such as televisions and mobile phones. The travelling time and cost between countries and States has also been reduced significantly. Just as globalization worked wonders to develop the standard of living across all nations, at the same time it brought inequality within and between nations. It successfully provided an impetus to capital movements and international trade, but did not check the ramifications of the same on migrant labour trafficking.

Also, lack of awareness on the issue of human trafficking coupled with our fragile legal frame-work has resulted in such becoming a grave threat to our society. It is apt to mention here that the recent Criminal Law Amendment Act, 2013 (the Amendment Act) has attempted a serious revamp of the existing legal structure. But, the effectiveness of this amendment in preventing and prosecuting labour trafficking is yet to be seen.

Like many other transnational legal issues, labour trafficking has cross-border implications and therefore to govern these peculiar problems there are numerous legal rules and policies both at international and domestic levels. There are a number of international instruments which have a bearing on labour trafficking under U.N. Conventions in general and International Labour Organization ('I. L. O. ') in particular.

One of the most significant conventions, namely - the United Nations Convention against Transnational Organized Crime, was adopted by the General Assembly to fight against transnational organized crime. To supplement this Convention and to address specific problems of trafficking, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (' U.N. Trafficking Protocol') was put in place. The U.N. Trafficking Protocol was the first global instrument providing a comprehensive framework to address the trafficking of persons internationally and domestically. This Protocol mandates the States to criminalize not only trafficking, but also any form of attempted trafficking.

I.L.O. Conventions and Forced Labour

International outrage against forced labour provided the impetus for two of the most fundamental I.L.O. Conventions: the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No.105). According to the I.L.O. Forced labour Convention 1930 (No. 29) forced or compulsory labour shall mean "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

Assessing Recent Efforts of The International Labour Organization

Despite long-running interntional efforts being manifested in these Conventions, it was felt that significant implementation gaps existed in eradicating labour trafficking. 'There was an urgent need to bring in additional measures aimed at combating this issue. After rounds of discussion and deliberation, the I.L.O. in 2014 adopted a legally binding protocol to

supplement Convention 29 and complement existing international law by laying specific guidance on effective measures to be taken to prevent all forms of forced labour.

Arguably, the issue of forced labour and trafficking is the least controversial area of international labour standards and there exists a greater consensus among countries to embrace reinvigorated standards for the same. But, it is a very pressing concern that anti-trafficking legislation in several countries is not in consonance with the aforementioned international conventions.

India's Labour Trafficking Laws - A Toothless Tiger?

The problem of labour trafficking in India has been steadily rising every year due to its complex cross borders situation. Needless to say, the pernicious issue of migrant labour trafficking in our nation requires a coordinated and multi-disciplinary response. The trafficking laws in India (particularly the Immoral Traffic Prevention Act, 1956) have exclusively focused to combat trafficking done for the purpose of sexual exploitation. As a result of such exclusivity, victims of human trafficking for the purposes of forced labour are not protected adequately. Article 23 of the Constitution of India prohibits human trafficking and all forms of forced labour. Further, Article 39(e), which is part of the DPSP, directs that health and strength of individuals should not be abused and prohibits exploitation of persons to perform work unsuited to their age or strength. In addition, Article 39(f) protects children and youth against any form of exploitation. Bonded Labour System (Abolition) Act, 1976- An Archaic and Ineffective Legislation

Twenty-six years after the adoption of the Constitution, the legislators enacted the Bonded-Labour System (abolition) Act, 1976 (the Act) which sought to abolish the bonded labour system. Though the definition of bonded labour in the Act is similar to the definition of labour trafficking provided in the U.N. Trafficking Protocol, the Act fails to specify that trafficking of persons can take place for the purposes of bonded labour. The offence can only be triggered if the labour is rendered to be 'bonded labour' as per the Act. Thus, in a situation where a person has been trafficked and labour has been rendered, prosecution of the traffickers is not possible under the Act if the master-labour relationship does not

constitute a 'bonded labour system.

The Criminal Law (Amendment) Act, 2013 — A Shaky Beginning?

It is amply clear that the existing legislations on forced labour in India do not adequately address the intricate problems associated with labour trafficking. Furthermore, India lacks any comprehensive definition of human trafficking. The Justice Verma Committee ('the Committee') that was constituted to address the gaps in criminal law opined that human trafficking has become a grave issue due to the lack of definition of trafficking and the ineffectiveness of law enforcement in relation to trafficking. The Committee recommended that our Legislature should adopt the definition of 'trafficking' contained in the U.N. Trafficking Protocol.

Based on these recommendations, the law-makers enacted the Criminal Law (Amendment) Act, 2013 which defined human trafficking by amending Section 370 of the Indian Penal Code. The newly amended Section has been heavily borrowed from the U.N. Trafficking Protocol's definition of trafficking. It expanded the types of offenses that is criminalized as trafficking violation and ensured that the perpetrators involved at each and every stage of the trafficking chain is prosecuted.

The amended Section by protecting only sex trafficking victims, fails to protect the majority of trafficking victims in India.

Conclusion-Is There Light at the End of the Tunnel?

It can be said without an iota of doubt that the new amendment has brought India's labour trafficking law in close conformity with the U.N. Trafficking Protocol. But, there continues to remain a crevice between the Indian legislative framework and its implementation; and the U.N. Trafficking Protocol's stipulations.

To begin with, the Amendment Act has to be modified to the extent that the stringent sentences prescribed for persons indulging in sex trafficking has to be made applicable on those perpetrating labour trafficking. Then, the Bonded Labour Act needs to clearly include the concept of "bonded labour" as a part of "human trafficking". Further, the Amendment Act needs to

SUCCESS COMES TO THOSE WHO DARE AND ACT

explicitly mention that forced labour falls under the definition of exploitation, or that "physical exploitation" in itself signifies forced labour.

The focus of India's policy makers has been on the prevention and prosecution of sex trafficking, despite labour trafficking being more prevalent here. To add to that, the Legislature has made no efforts to set up measures for the safety, rehabilitation and compensation for victims of forced labour '.

Therefore, in pursuance of India's own Constitution

and her obligation towards international conventions, the time is ripe for the Government to take note of migrant labour trafficking as an important matter and take rapid steps to curtail it in consonance with the laws, policies and guidelines laid down by the United Nations and the International Labour Organization. ■

**Abhishek Sarkar &
Anand Vardhan Narayan**
National Law University, Odisha
Source:2016-II-LLJ

AGRICULTURE BACK BONE OF INDIA'S ECONOMY

Agriculture account for 18% of India's economy. It contribute 55 percent of employment in India followed by SME sector that contribute 40 percent employment. Agriculture also provide most of the raw material for a large number of industries. India has got 2.4 percent of worlds available land with more than 17 percent of world population. Indian farmers are one of the top global producers of rice, wheat, vegetable, fruit and milk. Among the farmers nearly 85 percent are small and marginal.

In the last few decades of advance in agricultural technology have led to increased food production that led to Green revolution achieved during the year 1960's under the steward ship of Dr. M.S. Swaminathan, who was known as Father of Green Revolution in India, and the Punjab become the Cradle of Green Revolution.

However the persistent draught the country had faced during the last few years reduced the agricultural output. The vagaries of nature had led to decline in the number of area of cultivation from 127.3 million across to 118.7 million acre that shows that there is a shift from farm sector to non-farm sector, when the cultivation has become non-viable and unremunerative. According World Bank data employment in agriculture in India has come down to 50 percent in 2013 from 60 percent in 1994.

Global warming has caused erratic rain fall across the world leading to draught or flood with loss of



Mono culture promoted during Green Revolution had an impact on production of pulse consequent to which nitrogen level in the soil got depleted.

life, crop and property. Monsoon also water about half of Indian crop and agriculture. Agriculture has badly affected due to the change in climate condition. Ground water irrigate ¾ of the cultivation in India which is now getting depleted in view of the draught prevailing in the country. This has resulted in many small and medium type of farmers forced to dispose of their land when the cultivation become a non viable, and migrate of

people from village to town, town to cities in search of water and fertile land for cultivation or seeking alternate assignment. In view of the small area they are unable to mechanize the cultivation nor afford to dig bore well for irrigation. Consequently their overheads are going up with the utilization of manual labour. Holding small area of land also deprive them from getting finance from commercial banks.

Green revolution of course has increased the production of rice and wheat but in the absence of cultivation of pulse has resulted in non-availability of sufficient nitrogen and moisture in the soil. Mono culture promoted during Green revolution had an impact on the production of pulse, Consequent to which nitrogen level in the soil got depleted. In order to replenish the soil people started cultivating pulse, maize, and vegetable that gave life to the soil by providing nitrogen which do not require much water. This was the conventional method of regenerating the soil through mixed crop and was the natural method of cultivation.

WORK IS WORSHIP, DO YOUR DUTY

When the natural quality of the soil is depleted, farmers are compelled to use fertilizers and pesticides to regenerate the soil that will have its impact on the quality of the soil and the health of the people. Exclusive usage of fertilizers and chemicals could also have reduced the resistance power and quality of the soil resulting in low yield spoiling the crop, soil and ground water. Exposure and intensification of agricultural output may lead to degradation and loss of bio diversity that will affect the environment and human health.

Virgin soil is the largest reservoir of carbon. But the increased temperature can lead to the soil releasing carbon to the atmosphere losing its fertility. Decreased soil quality due to loss of organic matter from the soil may result in the loss of nutritional values of the soil and its water holding

capacity. It may also lead to loss of its oxygen, organic carbon sanitization, adding alkalinity, acidity resulting in contamination of toxic substance in the atmosphere. Reduction in the quality of the soil compounded by climate changes worldwide will lead to a decline in agricultural products. As such a healthy and living soil is most essential in ensuring food security.

Climate defines the agricultural output in the world. Study shows that for every one degree rise in temperature will cause a decline in grain yield to 5 percent, posing a serious threat to the food security. As such it is necessary that technology is utilized in farming sector to such an extent with the adoption of mixed crop, organic manure and drip irrigation. ■

CHILDREN OF GROWING INDIA

The country is in a unique situation that majority of its population is comprised of youth and children. According to report more than 54 percentage of population in India is below the age of 25. But the irony is that India has also got the largest number of working children in the world, sweating 16 hours in a day for a paltry sum. According to 2011 census there are an estimated 4.3 million children in India, working in factories or doing errand jobs or subject to child trafficking abuse beggary doing other types of jobs, or are undergoing various forms of exploitation. But in reality it could be much more than that. Mostly they are the victims of circumstances. According to report about 70 percent of the children doing the labour are from the villages. This is inspite of passing of Child Labour (Prohibition and Regulation) Act 1986 and the children are continued to be tortured by their masters kept them as a bonded labour. Many of them are also relentlessly being ridiculed, abducted and enslaved either to promote extremism, drug trafficking and create violence. This situation is more or less amounts to annihilation of their child hood.

Even after seven decades of achieving independence



the country failed to secure the dream and rights of the children inspite of innumerable institution of governance, schemes, international laws and convention to take care of their welfare and prevent child labour. Society lacks will power to prevent our children from exploitation and compassion towards them. In order to achieve peace and spread compassion in the society we need sanctity of children, create a will power, balance their strength and ability who are the future of the country. Apart from providing food and shelter

we need to make them aware of their strength and ability, power they possess. In spite of poverty and trying times the children are made to take care of their families, other children in the society.

One of the biggest challenges the country facing today is the malnutrition of children. Health of the child is closely related to the health of the mother. Their plight starts at the birth stage itself. When the pregnant mother do not get proper health care, nutritious food that may result either in child mortality or poor health or stunted growth of the child. High level under nutrition makes the child susceptible to physical and mental disability. This situation can also lead to irreversible damage to the health of a child in the first two year of his life. Even if a child survive

FORTUNE FAVOURS THE BRAVE

adult hood, their brain development will be affected and will be susceptible lifelong risk of infection, according to study.

Inspite of various social welfare measures and Integrated Child Development Schemes the plight of the children in India is yet to improve. There are also reports that the funds relating to various nutritional and health related schemes and the benefits are not reaching to the right person as they are being drained elsewhere. It is also reported that the child mortality ratio are high in some of the tribal belts due to lack of proper care by the social, health, and tribal welfare departments. In this context the announcement made by the Prime Minister on the New Year eve providing cash benefit of ₹ 6000/- to all the pregnant women will be a great relief to them. Poor economic conditions are the root cause for the plight of the children. Apart from their own family circumstances, there are orphans or illegitimate children surviving in the society without any care trying to sustain themselves. All these children are to be rehabilitated through various social welfare schemes, providing vocational

training while providing financial support to the family. In spite of Sarva Shiksha Abhiyan scheme (SSA) and the Right to Free and Compulsory Education Act (RTE) government could not rehabilitate these ill fated children, consequently their condition remain the same. Government should take necessary steps to provide education and training to these children under the skill India policy and make use of their man power as the growth of the country depends up on the growth of the future generation.

In this connection it is worth noting the emergence of a saviour of the children in the country like Shri. Kailash Satyarthi, the Nobel Prize winner for peace for the year 2014, who devoted his life for the rehabilitation of the children in India and other 144 countries in the world. While working for the welfare of these ill fated children he has also appealed to the world to liberate, feed and educate and set the child to work for their dream. Growth of any country depend up on the mental and physical health of the people especially the younger generation who are

Dr. Kailash Satyarthi, Nobel Peace Prize Winner 2014

EASY TO COOK READY TO EAT

The recent controversy over the Maggi fast food which is of late considered as unhealthy, had surprised many. With the changed life style, the urban society in India has completely moved away from their traditional home made food. When the joint family system gave way to micro family, consists of husband, wife, child or children, working parents were happy when a new avatar of fast food like noodles, pasta, macaroni etc have taken over the Indian food bazaar much to the convenience of working women. They are happy that this new variety of food can be cooked in few minutes and feed their children before leaving for their works.

According to report the food in question contain high fat, sugar, and salt that leads to early cognitive and physical decline. Apart from the harmful ingredients the preponderantly processed food may lack vital vitamins, fiber and elements of cerebral development,



The variety of taste of the junk food makes the children to eat out of pleasure than their biological needs.

while containing monosodium glutamate and lead. These ingredients not only may create health related problems indigestion but also makes the children lethargic and sluggish, who has been using such food products for the last three decades. Besides affecting their health the food also spoils their appetite for any other natural food. The variety of taste of the junk food also makes the children to eat, out of pleasure than their biological needs. Though normally children do not like to eat, more than they needed, the temptation coming

from the brand ambassadors of the products, through the print and electronic media, makes them to eat more than what they require.

Taking serious note of the adverse effect of junk food on the health of the young children, the Women and Child Development Ministry already wanted to spread awareness among children on the quality of the food

STRONG REASONS MAKE STRONG ACTIONS

they consume. The ministry also wanted the companies to spread awareness among the public on the nutritional value of the food they consume by making statutory warning on junk food, and proposed to bring out a code especially drawn out to restrict the misleading advertisement with deceptive claim. The government had cautioned the companies and the celebrities not to exploit the children and common man on their lack of experience or knowledge on the quality of food. As such it is mandatory for the manufacturers of food products to exhibit the details of ingredients place and date of manufacturing, best before use and other vital information for the benefit of the customers.

The controversy about the quality of Maggi noodles, led to banning the products in certain states. This also led to filing of criminal cases against the celebrities who are the brand ambassadors of the product under the Food safety standard Regulation 2011, that made the authorities and general public become more alert. It is a paradox that the particular food product had been in use for the past three decades during which millions and millions of people mostly the children had consumed the same. The food would had been of unacceptable quality for quite some time without the food safety authorities getting agitated over it. Even as a late realization, the banning of the food is good not only for the current generation but also for the future generation as well that made the manufacturer to taken certain currective method.

Apart from fast food, the market is now flooded with artificially riped mangoes, apple, grapes and other fruits for all seasons, vegetable containing pesticides, fish and other perishable item, using preservative eating away the health of the people. It has become a common practice of ripping the fruits, made them

available for all seasons, using acetylene gas, derived from calcium carbide disregarding the health of the people. With the present alertness over the harmful ingredients in the noodles, some of the states have started taking action against the supply of artificially ripped fruits and pesticides contaminated vegetable. The market is highly competitive hence they use various methods of preserving the fruits, vegetable and other food item without any ethics. Despite establishment of Food Safety and standard Authority of India in the year 2006 and promulgation of the Food safety standard Regulation 2011, implementation of the rules are haphazard and erratic. What is more confusing is that besides branded, many unbranded food items are also flooded in the market without accountability, escaping from food regulation scanner- under law. The state food authorities need to pick up samples as part of market survey to monitor compliances of the norms and take action wherever the rules are violated. But seldom the authorities are serious in taking action unless some calamities happen or nationwide upraise against the food products that are harmful to health. According to Annual Public Laboratory Testing Report for 2014 -15 brought out by the Food safety and standard Authority of India, out of 49290 samples of food items tested, nearly 8469 nearly one fifth were found adultererd or misbranded with less conviction. Against the penalty imposed, government collected a sum of Rs.6.9 crore from the errant agencies that will go to the government exchequer but will not improve the health of the public.

The food safety is also linked to Swachh Bharat that has given enough stress on public health, cleanliness including keeping the surrounding clean. As such the government need to act without any fear or favour in the interest of public health. ■

Judicial Verdict

**[2016 (151) FLR 773]
(PUNJAB AND HARYANA HIGH COURT)
P.B. BAJANTHRI, J.
C.W.P. No. 25233 of 2014 (O&M)
June 3, 2016
DEPUTY GENERAL MANAGER, CANARA BANK
and
RAJESH KUMAR and others**

Industrial Disputes Act, 1947—Sections 10(2-A) and 2(k)—Reference under section 10(2-A)—Demand notice and reference may be under section 10 (2-A) of Act—It does not mean that demand of workman for scale of

MAN IS THE ARCHITECT OF HIS OWN FUTURE

wages would be wiped out—Contention that Union had to espouse cause and not the individual, is not tenable. [Para 13]

JUDGMENT

P.B. BAJANTHRI, J.—In the instant writ petition, petitioner-Canara Bank has assailed the award dated 25.4.2014 passed by the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh (for short 'CGIT ') (Annexure P-9).

Petitioner has evolved policy for the purpose of appointment of Part Time Employees (for short 'PTEs) in the petitioner-bank. vide Annexure P-3 method of appointment, process of selection, duties of PTEs etc. are reflected.

2. Annexure-I to the policy relates to eligibility norms for PTEs, which contains area-in-use, staff strength, wages of PTE and working hours per week. Area-in-use from 1000 Sq. ft. & below to 1000 sq. ft. or more, staff strength 15 or more to 55 or more, wages of PTE on consolidated wages of ₹ 225/-, on 1/3 scale wages to two PTEs on 3/4 scale wages, working hours per week more than 3 hours to less than 6 hours to more than 19 hours to 29 hours and thereafter for the purpose of 4000 sq. ft. To 6000 sq. ft., 55 or more staff strength, wages of PTE one on 3/4 scale wages and one PTE on 1/3 scale wages for which working hours per week has been stipulated.

3. Annexure-II to the Policy relates to duties of Part Time Employees. The same has been classified everyday, once in a week or at a lessor intervals, once in a month or at a lessor intervals and any other duties entrusted to him/her from time to time and the fitment in 3/4 scale wages etc. In other words PTEs are discharging few hours to 8 hours per day depending upon availability of work. In this background, the respondents were denied scale of wages and they have been paid only fixed wages. In this regard the respondents served demand notice under the Industrial Disputes Act, 1947 (for short 'the ID Act '). Due to non-settlement of matter, it was referred to CGIT under section 10 (2-A) of the ID Act. On 3.9.2014, Government passed a common reference. Respondents submitted their claim statement before the CGIT. In the claim statement, the respondents have highlighted the nature of work discharged by each of the respondent, wages given by the bank,

duty time, particulars of job.

4. Petitioners have filed their written statement before the CGIT. CGIT passed award in favour of .the respondent -PTEs on 25.4.2014. Each of the respondents nature of duties with reference to carpet area work allotment has been taken note of, evidence of the workmen as well as management has been taken into consideration by the CGIT. On behalf of workmen, it was submitted that petitioner -bank did not produce any record so as to establish that how much time the workmen spent in the bank. In the absence of the same, an inference be drawn that each of the respondents are working for more than the number of hours fixed with reference to circular. Therefore, they are entitled to regular wages. CGIT has recorded as under:—

“The bank has not produced the record relating to entry and exit from the bank but the same do not serve any purpose as if a person remained sitting in the bank for few hours more, the same do not mean that he was performing any duty relating to his employment. Therefore, it is not conclusively proved on the file that the workmen are attending more area than prescribed under the above said circular and working for 8 hours a day as pleaded by them.

Therefore the area mentioned by the management is to be taken as true and binding on it. As per the admission of the management the case of Rajesh, Sompal, Rampal, Chandpal, Ramesh, Kesh Pal, Sarla Devi, Krishan Kumar and Binnu Divi falls within Clause (g) and (h) of the above said circular as the 'carpet area was 5765, 8028, 5077, 6069, 6081, 9031, 5897 and 12556 respectively and they are entitled to 3/4 of the scale wages whereas they were paid less.

The case of Soma Devi falls within Clause (e) of the circular as the area covered by her was 3081 and she is entitled to 1/2 of the scale wages whereas she was paid only 1/3 of the scale wages.

Though the area of Som Prakash was 8669 but he was already paid wages as per Clause (g) of the circular.

The workmen Suresh Kumar, Ravinder Kumar,

Sunita, Sanjay Kumar, Pappu, Antari Devi and Shamo Devi are already getting the scale wages as per the circular and they are not entitled to any relief."

5. In view of the finding, CGIT has passed the following order:-

"In result, the reference relating to workmen Rajesh, Sompal, Rampal, Chand Pal, Ramesh, Kesh Pal, Sarla Devi, Krishan Kumar, Binu Devi is accepted and it is held that they are entitled to 3/4 of the scale wages; whereas Soma Devi is entitled to V2 of the scale wages and it is ordered that the difference be paid to them within three months of the publication of the award failing which they shall be entitled to the interest @ 6 per cent on the amount payable to them from today till realization. However, the reference relating to Som Parkash, Suresh Kumar, Ravinder Kumar, Sunita, Sanjay Kumar, Papu, Antari, Shamo Devi and Kailasho Devi stands dismissed and they are held not to be entitled to any relief. The reference is answered accordingly."

6. Petitioner - bank aggrieved by the finding of the award dated 25.4.2014 presented this petition.

7. Learned Counsel for the petitioner submitted that carpet area do not include certain items, like cleaning of tables, chairs, glasses, notice board, computer etc., for the reasons that in the circular/Policy under Annexure-I, area-in-use is mentioned. Thus inference is required to be drawn that it is the floor area which includes tables, chairs, glasses, notice board, computer etc. Therefore, calculation of area-in-use is to be restricted to floor area. Thus CGIT has committed an error.

8. Learned Counsel for the petitioner raised a preliminary issue regarding reference dated 3.9.2014 is under section 10 (2-A) of the ID Act. Common reference is impermissible. Under section 10 (2-A) reference itself is illegal. It should have been under section 2 (k) of the ID Act. Therefore, reference and consequential proceedings by the CGIT is illegal. It was further contended that an individual/workman/employee cannot espoused cause, only Union can espouse cause. It was further argued that the

workmen-respondents are not discharging 8 hours of duties. This was taken note of by the Labour Court, but still the Labour Court held that the respondents are entitled for scale of wages instead of fixed wages. That apart, area-in-use would include tables and furniture placed in the office, segregation from the floor area and furniture is not the object of the scheme, for the purpose of calculation of area-in-use. Therefore, Labour Court erred in giving finding. Consequently declaring that some of the workmen are entitled to 3/4, 1/2 and 1/3 scale of wages are held to be illegal and they are not in terms of the policy of the petitioner. Hence the award dated 25.4.2014 is liable to be set aside

9. On the other hand, learned Counsel for the respondent-workmen submitted that petitioner's contention that reference dated 3.9.2004 under section 10 (2-A) of the ID Act is wrong and illegal, having regard to the demand notice of the respondents and common reference passed by the Government is also impermissible since Workmen Union has to espoused the cause and not by a individual/workman, is concerned, it is to be noted that while making reference by Government, vide order dated 3.9.2004, quoted wrong provision while passing reference order. Merely quoting a wrong provision do not vitiate order of reference dated 3.9.2004. If at all the petitioner is dissatisfied or aggrieved, petitioner-bank should have assailed the validity of reference as and when issued on 3.9.2004. Therefore, the contention of the petitioner that reference dated 3.9.2004 is illegal is not tenable. The respondent-workmen grievance is relating to grant of scale of wages instead of fixed wages, which would be individual grievance and it can't be grievance of entire class of workmen. Therefore, issuance of common reference by the Government on 3.9.2004, is in order. Even a workman can issue demand notice for his individual grievance like demanding scale of wage. Scale of wage has been classified in the policy into three categories viz. 1/3, 1/2 and 3/4. Therefore, each and every workman's grievance is not relating to any particular category so as to plead grievance through Union. Hence, the preliminary objection raised by the petitioner is liable to be rejected.

10. Learned Counsel for the respondent-workmen further submitted that respondent-workmen are entitled to scale of wages instead of fixed wages with

A GOOD MAN DOES NOT ARGUE, HE WHO ARGUES IS NOT A GOOD MAN

reference to the policy of the petitioner as is evident from Annexure-I, Eligibility Norms for PTEs. In so far as wages of PTEs is concerned, it is stated that PTEs are entitled to 1/3, 1/2 and 3/4 scale wages, not fixed wages. Therefore, the Labour Court rightly held that respondents are entitled to wages with reference to scale and not fixed wages.

11. Petitioner's contention that respondent-workmen have not proved that they were working for 8 hours a day, has been considered by the Labour Court stating that even if they are sitting in the office of the bank for 8 hours, there is no evidence. On the same issue, the respondent-bank have not produced any material to show that the respondent-workmen have worked less than 8 hours. So, in the absence of material evidence, the Labour Court granted higher scale of wages depending upon each workman's carpet area etc.

12. Heard learned Counsel for the parties

13. Petitioner Counsel raised three preliminary issues with reference to order of reference by the Government dated 3.9.2004 (i) reference under section 10 (2-A) of the ID Act, (ii) common reference made by the Government and (iii) Union has to espouse the cause of the workmen and not by the individual. Demand notice and reference may be under section 10 (2-A). of the ID Act, that does not mean

that demand of the workman for scale of wages would wipe out. It is only an error in quoting provision. Mere quoting a wrong provision do not vitiate the order as held by the Supreme Court in the case of *Md Shahabuddin v. State of Bihar and others* having regard to the demand of the workmen that they are entitled for scale of wages and not fixed wages with reference to policy of the petitioner. Therefore contention of the petitioner that Union had to espouse the cause and not by individual is not tenable for the reasons that under policy job varied from workman to workman, depending upon area-in-use, staff strength, wages of PTEs and working hours per week etc., hence contention of the petitioner that Union had to espouse cause and not by individual is not tenable.

14. In view of these facts and circumstances the petitioner has not made out a case so as to interfere with the award dated 25.4.2014 (Annexure P-9) passed by the Central Government Industrial Tribunal-cum-Labour Court II Chandigarh.

15. Civil Writ Petition stands dismissed. ■

No order as to costs.

Petition Dismissed.

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EDITED and Published by Sri. Y. Sudarshan on behalf of AISBOF, at SBI Buildings, St. Mark's Road, Bangalore - 560 001, Printed at L.V. Graphics ☎ 23321456