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An Analysis on Economic Coercion

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ABSTRACT

The Indian Industrial Disputes Act of 1947 is the main topic of this article's thorough examination of economic coercion in the context of labor and industrial relations. The Act creates a legal framework for resolving labor disputes, encouraging goodwill among employers and workers, and controlling the use of various forms of economic coercion in negotiating processes. Strikes, lockouts, layoffs, retrenchments, closures, disciplinary measures, and domestic investigations are examples of tools used in economic coercion. Through these methods, parties engaged in labor conflicts can influence one another in order to get the results they want. The Act's provisions pertaining to major economic coercion mechanisms are described in full in this article. These mechanisms include lockouts (Section 2(1)), strikes (Section 2(q)), layoffs (Section 2(KKK)), retrenchments (Section 2(OO)), and closures (Section 2(cc)). It draws attention to the penalties for infractions, the effects of unfair labor practices, and steps including modifying employment terms (Section 9A) and prohibiting unfair labor practices (Sections 25T and 25U). The paper also stresses how crucial it is to follow natural justice principles while dealing with disciplinary measures and domestic investigations. In order to avoid being abused as a means of imposing economic pressure, it also addresses the "hire and fire" policy and its restrictions. In order to reduce illegal economic coercion, the article ends with a number of recommendations. These include boosting Act adherence, increasing open communication, developing cooperative work cultures, fortifying dispute resolution procedures, and making sure the Act is properly enforced.

Keywords: *Strike & lockout, Lay-off, Retrenchment & closure, Disciplinary action & domestic enquiry, Notice of change, Unfair labour practices, Offenses done by Industries.*

I. INTRODUCTION

The Indian Industrial Disputes Act, which was passed in 1947, provides a thorough legal framework for resolving labor disputes and encouraging cordial working relationships between employers and employees in India. This legislation provides a number of means of economic pressure to ensure that its duties are carried out effectively.³ Within the context of an industrial

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³ Industrial Disputes Act, No. 14 of 1947, Acts of Parliament, 1947 (India).

dispute, "instruments of economic coercion" refers to the various measures that the employer or the employees may take in an attempt to exert pressure or influence on one another. Economic coercion to force someone to do something, For Example In a company Manager threatens to fire an employee if they not completing the month target

These instruments are employed in negotiations to increase leverage or achieve a desired result.

These instruments includes:

(A) Strike

Industrial Dispute Act, 1947, Section 2(q). Speaks about Strike

"a concerted refusal, or a refusal, under a common understanding of any number of persons who are have been so employed to continue to work or to accept employment, or a cessation of work by a body of persons employed in any industry acting in combination."⁴

The labor movement's means of economic coercion are the workers' acts or inactivity in support of an industrial conflict that results in financial loss for management. By taking these steps, management is financially compelled to accede to the demands of the employees.

(B) Lockout

Industrial Dispute Act, 1947, Section 2(1) Speaks about Lockout

Temporary closure of the workplace, suspension of the employee, or the employer's decision to stop hiring any number of people. A lock-out is a tool that an employer can use to force employees to leave the workplace until they agree to return on the terms that the company specifies.⁵ The employer forbids workers from entering the workplace during a lockout, frequently by shutting the doors. Lockouts are typically started by a response Stated otherwise, a lockout that is preceded by an illegal strike makes the lockout legitimate, and viceversa.

In *Shri Ramchandra Spinning Mills v. State of Madras*, it was decided that a lockout would occur if the employer stopped his place of business as a form of intimidation, a means of reprisal, or a tactic to exert pressure on workers in general.⁶

(C) Lay-Off

Industrial Dispute Act, 1947, Section 2(KKK) Speaks about Lay off

The inability, refusal, or failure of the employer to hire a worker whose name appears on the

⁴ Industrial Disputes Act, Sec. 2(q), No. 14 of 1947, Acts of Parliament, 1947 (India).

⁵ Industrial Disputes Act, Sec. 2(1), No. 14 of 1947, Acts of Parliament, 1947 (India).

⁶ *Shri Ramchandra Spinning Mills v. State of Madras*, (1957) ILLJ 90 Mad.

muster roll of his industrial establishment and who is not laid off for any other pertinent reason related to a shortage of electricity, coal, raw materials, stocks, machinery breakdown, or natural disaster. If workers don't accept lower pay, longer hours, or less benefits, the employer may threaten to fire a sizable portion of the workforce or close the doors completely.⁷ This is especially useful in sectors of the economy where labor is in excess and workers' negotiating power may be low.

(D) Retrenchment

Industrial Dispute Act, 1947, Section 2(OO) Speaks about Retrenchment

Retrenchment is the permanent dismissal of employees by an organization as a result of cash flow issues or a decline in customer demand for goods or services. Retrenchment is permanent, as opposed to layoffs, and workers are usually not called back to work.⁸ When an employer threatens to fire a specific employee unless they meet particular expectations, the employee may be subject to economic coercion through retrenchment. This is especially useful in fields where employees are hard to replace or possess specialized expertise.

(E) Closure

Industrial Dispute Act, 1947, Section 2(cc) Speaks about Closure

Closure refers to the complete and final closure of an employment location, or a portion thereof. The employer is forced to shut down the business forever. In the event of an industrial dispute, employers may utilize closure as a tool to coerce employees into complying with their demands.⁹ For instance, if employees object to a change in pay or working conditions, the employer may threaten to close the entire plant or just a certain department. In the event that a business shuts for any reason, all employees who had been employed there continuously for a minimum of a year at the time of the closure are entitled to notice and compensation under subsection 25F, subject to the provisions of subsection (2).

II. SANCTIONS FOR VIOLATIONS

(A) Penalty for layoffs and reductions without prior approval (Sec. 25Q):

a. Penalty for closure (Sec. 25R):

The purpose of these clauses is to discourage employers from using financial pressure in labor conflicts. These fines ensure that companies adhere to the guidelines and limitations set forth

⁷ Industrial Disputes Act, Sec. 2(kkk), No. 14 of 1947, Acts of Parliament, 1947 (India).

⁸ Industrial Disputes Act, Sec. 2(oo), No. 14 of 1947, Acts of Parliament, 1947 (India).

⁹ Industrial Disputes Act, Sec. 2(cc), No. 14 of 1947, Acts of Parliament, 1947 (India).

in the Act.

Penalties under these clauses may include:

1. Restitution
2. Fines
3. Detention

b. Disciplinary Action and Domestic Inquiry

To illustrate how a legal, fair, and appropriate domestic inquiry should be conducted.

Employers are not allowed to terminate or dismiss a delinquent employee, even for serious misconduct, unless they follow a thorough and complex disciplinary process. An employer can only discipline a worker according to company policies if, after due process, the employee is found guilty of the charges in an investigation that adheres to the principles of natural justice.

c. Principles of Natural Justice:

1. The employee is fully informed of the charges against them.
2. The employee is typically present when witnesses are questioned about the allegations.
3. The employee is given a reasonable opportunity to cross-examine the witnesses.
4. The employee is afforded a fair chance to defend themselves.

When an employer takes disciplinary action against an employee for alleged misconduct or violations of workplace rules and regulations, it may take various forms, such as warnings or other sanctions.

(B) Change Notice Section 9A

Industrial Dispute Act, 1947

The term "notice of change"¹⁰ refers to an employer's obligation to inform employees and the relevant labor authorities in advance of any proposed changes that could affect the terms and conditions of employment. This notification provides a window of opportunity for discussions, negotiations, or conciliation between the employer and the employees, or their representatives.

Employers are not permitted to alter an employee's terms of employment concerning any of the matters listed in the Fourth Schedule without:

- (a) Providing timely notice to the employees likely to be affected by the change; or

¹⁰ Industrial Disputes Act, Sec. 9(A), No. 14 of 1947, Acts of Parliament, 1947 (India).

(b) Waiting twenty-one days after the notice has been given before implementing any changes.

(C) Unfair Labour Practices

Section 25T Industrial Dispute Act, 1947: Prohibition of Unfair Labor Practices

Employers, employees, and trade unions are prohibited from engaging in unfair labour practices, whether or not they are registered under the Trade Unions Act of 1926 (18 of 1926).

Section 25U Industrial Dispute Act, 1947: Penalties for Unfair Labor Practices

Any individual found guilty of engaging in unfair labor practices may face a maximum fine of \$1,000, up to six months in jail, or both.

Under the Indian Industrial Disputes Act, 1947, unfair labour practices are specific unlawful actions by employers or unions that may harm employees' rights and interests and are considered instruments of economic coercion.

(D) Offenses done by industries Section 32 Industrial Dispute Act, 1947

Any director, manager, secretary, agent, or other officer or person involved with the management of a business, other body corporate, or association of people (whether or not incorporated) that violates this Act will be presumed to have committed the offense unless he can demonstrate that the offence was carried out without his knowledge or consent.

Unions representing employers and their unfair labor practices:

- a. Threatening to fire or suspend employees for trying to organize a union;
- b. Should a union start and announce a lockout or closure, Pay increases given to workers at pivotal points impede their attempts to form a union.
- c. Employers may decline to participate in collective bargaining or neglect to conduct sincere negotiations with the union that represents their workforce. This may entail calling off the talks, holding up the proceedings, or turning down the union's reasonable requests.
- d. Supporting worker solidarity, participating in union activities, or being a union member are further grounds for discrimination against employees by employers.
- e. Discriminatory hiring practices, transfers, layoffs, and other unfavorable job decisions are examples of this kind of discrimination.
- f. Coercion and intimidation: Employers may use intimidating and coercive methods.

(E) Policy for hire and fire

Employers are allowed to Hire and Fire Employee as they fit in the situation where there are few major regulatory restrictions or safe guards. The Hire and Fire policy misuse act restricts when and how employee may be fired make it illegal to utilize the policy as a mean of economic coercion. The act defines retrenchment as when an employer's Fires workers because of factor such as surplus labour, closing a firm or unfavorable economic conditions.

III. SUGGESTIONS

The following recommendations may be put into practice to stop economic coercion from progressing to an unlawful level

1. Promote adherence to and understanding of the Act: Employers, employees, and trade unions should all be conversant with the provisions of the Indian Industrial Disputes Act and make sure that it is being followed. This entails being aware of the legal restrictions on unfair labor practices in addition to each party's rights and obligations.

2. Encourage open communication and negotiation: Employers and employees should communicate honestly and constructively in order to resolve labor disputes and issues. Finding practical solutions and resolving disputes should be facilitated through collective bargaining and negotiation. Less economic pressure will be needed as a result.

3. Encourage a cooperative and respectful work atmosphere among employees: Employers should foster associations, offer opportunities for meaningful involvement, and refrain from discriminating actions.

4. By offering training programs and capacity-building efforts, companies, employees, and union leaders can have a better awareness of labor laws, negotiation tactics, and dispute resolution solutions. Everyone involved may feel more empowered as a result, which will promote more informed decision-making and successful collaborations.

5. Strengthen dispute resolution processes: Create efficient processes for settling labor issues, such as arbitration, mediation, and conciliation. These strategies can reduce the need for coercive economic actions by promoting communication and helping to identify alternatives that both parties can agree upon.

6. Ensure appropriate implementation and enforcement: The Indian Industrial Disputes Act should be implemented and enforced by the relevant labor authorities. This entails carrying out routine inspections, responding quickly to complaints, and fining or punishing those found to have engaged in unfair labor practices.

7. Encourage social discourse and mechanisms for collective bargaining: Promote the development and application of effective frameworks for collective bargaining and social discourse at the corporate or industry level. These frameworks offer a methodical setting where labor-related concerns can be discussed and fair and just solutions can be proposed.

IV. CONCLUSION

From a legal perspective, the Indian Industrial Disputes Act, 1947, provides a framework for dealing with and avoiding instruments of economic coercion. The Act forbids unfair labour practices by trade unions and companies in an effort to protect workers' rights and interests. It establishes mechanisms for resolving labor disputes, promotes collective bargaining, and provides avenues for pursuing justice and redress when infractions occur.

Interfering with union formation, victimizing employees for participating in union activities, and engaging in discriminatory practices are among the behaviors that fall under the purview of the Act as unfair labor practices. Parties impacted may contact labor courts or industrial tribunals to pursue redress and sanctions against the individuals accountable for these as they are vulnerable to judicial examination.
