NEW LABOUR CODES & BETTER MANAGEMENT SKILLS EQUALS EASE OF DOING BUSINESS

Abhay Nevagi, Siddharth Jabade

ABSTRACT

Objective: To examine whether new labour codes are enough for Ease of Doing Business? Or are there some Management Skills that are required?

Conceptual Foundation: Sensitive handling of labour disputes is important for Ease of Doing Business in any nation seeking economic stability. India’s efforts to attract investments by improving Ease of Doing Business through labour reforms are significant. The Centre subsumed 29 Labour Laws into four Labour Codes, cut the number of sections from 1,548 to 480 and is framing rules and aligning these codes with State laws. While these changes are important, there is also a need to have skills of managing human resources and skilfully negotiating, while dealing with violent industrial disputes is critical.

Methodology: This Research Paper is based on the author’s personal knowledge as he single-handedly handled the litigation and labour negotiations mentioned in the Research Paper. The case mentioned in the Research Paper was fought in the pre-internet days of the 1970s so not much information can be found online.

Results: In this context, the Research Paper explores an exemplary dispute settlement in a south Maharashtra-based company, which demonstrates how mutual trust, human management and strong labour leadership reinforce ease of doing business along with restructuring legislation.

Keywords: labour codes, ease of doing business, management skills, labour laws, human resource management, industrial relations, industrial violence.

Received: 14/08/2023
Accepted: 13/11/2023
DOI: https://doi.org/10.55908/sdgs.v1i11.1372

Bachelor of Arts and Bachelor of Law & Masters of Business Administration, Shivaji University, Kolhapur, Maharashtra, India, E-mail: abhay@anevagi.com

Vice Chancellor at Vishwakarma University, PhD from Indian Institute of Technology, Bombay, Maharashtra, India, E-mail: siddharth.jabade@vupune.ac.in
NOVOS CÓDIGOS DE TRABALHO E MELHORES HABILIDADES DE GERENCIAMENTO SIGNIFICAM FACILIDADE DE FAZER NEGÓCIOS

RESUMO

Objetivo: examinar se novos códigos de mão de obra são suficientes para facilitar os negócios? Ou existem algumas habilidades de gerenciamento que são necessárias?

Conceptual Foundation: A gestão sensível de disputas trabalhistas é importante para a facilidade de fazer negócios em qualquer nação que busque estabilidade econômica. Os esforços da Índia para atrair investimentos através da melhoria da Facilidade de Fazer Negócios através de reformas trabalhistas são significativos. O Centro incluiu 29 Leis do Trabalho em quatro Códigos do Trabalho, reduziu o número de seções de 1.548 para 480 e está enquadrando regras e alinhando esses códigos com as leis estaduais. Embora estas mudanças sejam importantes, é também necessário possuir competências de gestão de recursos humanos e de negociação habilitada, ao mesmo tempo que é fundamental lidar com disputas industriais violentas.


Resultados: Neste contexto, o Research Paper explora uma solução de disputas exemplar em uma empresa do sul de Maharashtra, o que demonstra como a confiança mútua, a gestão humana e a forte liderança do trabalho reforçam a facilidade de fazer negócios juntamente com a legislação de reestruturação.

Palavras-chave: códigos trabalhistas, facilidade de fazer negócios, habilidades de gestão, leis trabalhistas, gestão de recursos humanos, relações industriais, violência industrial.

1 INTRODUCTION

Sensitive handling of labour disputes is important for Ease of Doing Business in any nation seeking economic stability at a time when the pandemic and the Ukraine-Russia war has affected the global economy.

India’s efforts to attract investments by improving Ease of Doing Business through labour reforms are significant. The Centre subsumed 29 Labour Laws into four Labour Codes, cut the number of sections from 1,548 to 480 and is framing rules and aligning these codes with State laws.

While these changes are important, there is also a need to have skills of managing human resources and skilfully negotiating, while dealing with violent industrial disputes is critical. In this context, we study an exemplary dispute settlement in a south Maharashtra-based company, which demonstrates how mutual trust, human management and strong labour leadership reinforce ease of doing business along with restructuring legislation.
The incident took place in the 1980s, when employee-employer relations in popular Western Maharashtra’s industrial belt were at a nadir. The labour protests often turned violent, courts were largely pro-worker and workmen enjoyed government support. *(Jaswant Singh v. Pepsu Roadways Transport Corporation & Anr, 1984)* *(Workmen v. Bharatfritz Werner (P) Ltd., 1990)* Applications for the closure of company/layoffs/retrenchment were almost always rejected as policy making.

Rasji Sidin (2023) examined the legal solution testing policy regulations in Indonesia and reported that policy regulations often conflict with laws and regulations, leading to harm to the legal rights of the community. The two-stage approach for testing policy regulations concluded that the legal solution for testing policy regulations lies in these two stages of review. Sahel et al. (2023) examined the correlation between job complexity and psychological detachment then stats how the burnout can affect in this relationship and dose the burnout can contribute in development of this relationship. The search concluded that the relationship between the job complexity and psychological detachment doesn’t increase in existence of burnout. The most important recommendation was the necessity of work the organizations to create psychological healthy environment far from burnout and low stress to reach continuous positive communication of employees with their organizations. Basir et al., (2023) conducted with the aim of analyzing and analyzing Islamic work motivation, leadership styles and their influence on job satisfaction. This means that the application of external and natural motivation is necessary to increase workers’ job satisfaction. Competition has a positive and low impact on worker performance

**2 TIME OF UNREST**

This case took place shortly after what was arguably India’s largest-ever labour strike in 1982, called by the legendary Union leader and Parliamentarian, late Dr. Datta Samant, who led 2.6 million employees across 5,000 establishments in Western India. The often-violent agitation lasted for more than a year and it forever changed Mumbai.

In 1981, Dr. Samant – responsible for 159 of the 560 strikes and lockouts across Maharashtra, settled about 600 wage disputes and negotiated salary hikes across Mumbai, Thane, Pune, Nashik, and Aurangabad.

By the 1970s, workers in Mumbai and surrounding industrial areas had become a viable vote bank for the political parties. Other fiery political union leaders like Late...
Comrades S.A. Dange, Yashwant Chavan, Datta Deshmukh, Sharad Patil and Sukumar Damle emerged even as Dr. Samant’s influence grew. Musclemen and criminals had infiltrated the workers’ movement to milk their political and social clout, leading to violence, murders and rioting.

Incidents like the ghastly killings of a sweeper’s four minor daughters in February 1985 in Thane and firing at Godrej’s Vikhroli unit grew. Murders, attacks on workers and managers and police firing became a common phenomenon. (Murderous Assault on Bombay-Based Industrialist N.P. Godrej, Family Members, n.d.) (Trade Union Rivalry Turn Bitter in Bombay, Four Daughters of Sweeper Killed in Cold Blood, n.d.) Violence spread to Maharashtra’s other industrial areas including Nashik, Pune, Konkan and even Kolhapur.

In 1979, two died at Bajaj Motors’ Pune-based two-wheeler factory after the police fired on employees who burnt their van, threw used acid and rolled barrels across the road to counter tear gas shells. (Gita Piramal: Rahul Bajaj Was “Routinely Burning the Midnight Oil,” n.d.)

Even the Tata Group, known for human resources management, faced troubles at its automotive TELCO unit in Pune. In 1988, 3,000 TATA workers protesting outside Pune’s Shaniwar Wada, alleging mistreatment were rounded up. (TELCO Workers Intensify Agitation, n.d.) In May 1990, Aurangabad police charged workers under the Terrorist and Disruptive Activities (Prevention) Act, used against organized crime and terrorism, after an executive at a luggage manufacturing company was killed.

3 HUMANE HANDLING

In such perilous times, Kolhapur’s Menon & Menon Ltd. demonstrated a sensible trade union leadership and humane management.

Between 1985-86, industrial violence had shut four major units in Kolhapur. Yet, labour relations in this engineering town – known for its Mahalaxmi Temple, wrestling, food and largely law-abiding people – were better than elsewhere in Maharashtra.

Our case study involved a 20% wage cut and retrenchment of 313 workers to revive the distressed Menon & Menon Ltd.

The company then employed around 1200 workers. Of these, 350 worked at its machine shop were represented by Comrade Govind Pansare’s union. The rest were at
the foundry and other services who were represented by Comrade Santaram Patil led union.

The Company’s Kerala-born founder Late Shri. Chandran Menon, was reputed for manufacturing automotive oil engines and critical castings. His workers and Trade Unions respected him for being principled and having faith in collective bargaining.

4 TROUBLE BEGINS

However, in the 1980s, workers began a go-slow protest amid instances of damage to components, and the trade union president was found to be involved. Mr. Menon, upset with this indiscipline and under tremendous pressure because of adverse circumstances faced by the company, lost patience and slapped the union leader on the shop floor. In any other company, workers would have called for a strike. But here, the union leader and others apologized and requested Mr. Menon to lead the company. Nevertheless, the environment was charged with high expectations and both sides lacked understanding of ground realities.

Workers took for granted their service conditions – among the best in Kolhapur – this included a 20% bonus on gross salary. Indiscipline was rampant. Workers loitered in the factory and union meetings were held during work hours.

As an Original Equipment Manufacturer or OEM, Menon & Menon supplied at a contracted price, and could not raise rates to pass on increased input costs like raw material, labour, power etc. Capacity expansion at a new factory had made operations costs unviable.

Unable to pay the bills, power supply was disconnected, and clients began diverting their orders. On the same day, the unions, unmindful of the situation, sought an unpaid incentive in the form of a discounted bike scheme.

Before the power disconnection, Mr. Menon had unsuccessfully tried solutions like halving production, declaring a five-day week and even paid workers for a sixth day to save costs. Closure, retrenchment or lay-offs was not an option. It would be impossible to get government permission for such time-consuming alternatives. Declaring a lockout was risky. It needed 14-days’ notice and courts would invariably give a stay during notice period.
5 LOOKING FOR SOLUTIONS

In these circumstances, relying on Hon’ble Bombay High Court’s judgment in the matter of “Billion Plastics”, which held that every suspension of operation does not amount to lockout, I advised the company to suspend the operations temporarily. (Billion Plastics P. Ltd. Vs Dyes And Chemical Workers Union, 1983) This judgment came as a lifeline. The operations were suspended after issuing a notice listing all incidents of workers’ misconduct. This was important because, if the operations were continued, workers would have demanded wages despite no production because of power disruption. And Courts would have directed that management pay the wages because a factory cannot be closed without following due legal process.

The company was in such financial doldrums, it had no funds even for the Provident Fund dues and the government initiated criminal proceedings against it. Customers stopped placing new orders.

Menon & Menon faced multiple litigations after unsecured creditors began approaching Civil Courts across India to recover dues. The Hon’ble Bombay High Court had admitted one creditor’s winding-up petition.

Yet, it was a herculean task to convince union leaders like Comrade Santaram Patil and Comrade Pansare to agree on wage cuts and retrenchment of 300 workers while simultaneously fighting legal challenges seeking the company’s closure.

Comrade Patil, a forceful leader and respected freedom fighter, was a great orator. He had contested elections against then Maharashtra Chief Minister Vasantdada Patil, in protest of his Indian National Congress’ handling of the Bombay textile strike. Similarly, All India Trade Union Congress’ Comrade Govind Pansare – unfortunately shot dead in February 2015 – was a brilliant lawyer and politician with a large following in southern Maharashtra’s sugar mills, hotels, banks and factories. As comrades in arms, both Pansare and Patil respected each other and led various labour agitations despite facing multiple police cases. Initially, both were upset with the suspension of operations at Menon & Menon.

They were concerned about possible repercussions of the settlement sought by Menon & Menon for all workers across Maharashtra. This left them with only one option: Challenge the legality of the suspension of operations in the Industrial Court.

They questioned the legality of the suspension, under the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, in
Kolhapur’s Industrial Court. Their contention was that the suspension was an actual lockout. And a lockout without a notice was illegal. As the Company’s lawyer, I argued that every suspension of operation does not amount to a lockout.

6 WORKING TOGETHER

In Court, my emphasis on the need for an amicable resolution found support. The Judge called on both parties to explore a compromise.

I repeatedly pointed to the closure of Kolhapur’s four major units and its consequences for workers who had not been paid their legal dues despite Court orders. I further placed on record all facts about the company’s finances. This transparency also helped in assuring the future.

I explained that even if the unit starts operations, Menon & Menon would likely face liquidation, given its financial conditions. But also stressed on the management’s keen desire to restart the plant and clarified that this would require some sacrifice from workers and the management. Fortunately, I shared a cordial and respectful relations with both the union leaders. And being a lawyer, there was credibility.

Then began the bitter discussions on wage cuts and downsizing amid a hostile political and legal atmosphere that supported workers and unions. The presence of many workers in the Court at times felt like sitting on a keg of gunpowder, ready to explode.

I applied various strategies and provided evidence, including newspaper reports of the miserable state of workers of companies that had shut down, the consequences of winding up of a company etc. Unions were worried that the settlement would set a precedent. Finally, the task that seemed akin to climbing Mount Everest without any oxygen was achieved. Both sides accepted the bitter pill to save Menon & Menon from bankruptcy and to save jobs.

7 FINAL AGREEMENT

Both unions agreed to a 20% pay cut for two years after the company restarted. The workers would eventually be compensated for lost earnings, the payment period for which would be mutually decided at the end of the two-year period. They agreed to changes in the plant’s layout, material handling, stores procedures, consumption standards and classifications of workmen by nature of their job.
Mumbai-based National Institute of Industrial Engineering (NITIE) was appointed to study the company’s workings to assess manpower requirements, equipment, machines and to arrive at individual work norms to ensure productivity.

Both sides agreed that NITIE’s recommendations, which were to be submitted in six months, would be binding and they would fully cooperate in implementing the changes. Till then, 313 workers were put on leave without pay. NITIE’s report eventually concluded that more than 350 workers were surplus.

The final settlement resolved all pending issues like unpaid bonuses, unemployment compensation and future service conditions.

Based on their agreement and the NITIE’s report, an application (IDA No. 588/7587/Lab-2) was moved for permission under section 25N of the Industrial Disputes Act, 1947 with the state government. In his August 10, 1988 order, Maharashtra’s then Minister for Industries, Labour, Law and Judiciary, Ramrao Adik granted permission to retrench 313 workers.

The entire process – workers’ acceptance of lower wages, retrenchment of 313 employees and agreement on NITIE’s productivity norms by two fiery union leaders – was considered a landmark event in the history of India’s industrial relations.

8 UNIQUE & FAIR

Even after all these years, the Menon & Menon settlement is considered unique and fair because it provided re-employment to retrenched workers and refunded the wage cuts. Post-settlement, the Chairman, Mr. Chandran Menon restarted the unit on time and ensured that the 20% wage cuts were restored at the end of the agreed two-year period. Of the 313 retrenched workers, 275 reported back to work. The rest declined for their own reasons.

Menon & Menon Ltd. has since achieved 100% capacity utilization, built a new state-of-the-art factory nearby and has received numerous awards and industry appreciation.

Union leaders Pansare and Patil, however, were deserted by workers and criticized for signing the settlement. But they remained unfazed, having achieved their noble objectives. The Workers have forgotten their union leaders’ contributions to saving the company and their jobs.

Comrades Patil, Pansare and Mr. Menon are no longer alive.
My 18-month-long efforts to save the company in Court and to negotiate the unique settlement with distinguished union leaders were done pro bono as the company was unable to pay, given its financial condition. Reward came in the form of experience and the refining of my legal and negotiation skills.

Today, the government is trying to promote ‘Ease of Doing Business’ by unifying labour codes and modifying laws. However, what is essential is that business drivers are of many types; some institutional, others legal. While reconstituting laws may raise India’s status in terms of Ease of Doing Business, but along with change in law, good man-management and a will to ensure that justice is done – to workers as well as promoters is also essential.

This research paper is based on the author’s personal knowledge as he single-handedly handled the litigation and labour negotiations. This case was fought in the pre-internet days of the 1970s so not much information can be found online.
REFERENCES

Billion Plastics P. Ltd. Vs Dyes And Chemical Workers Union, 2 BomCR 25 (Bombay High Court 1983).


Jaswant Singh v. Pepsu Roadways Transport Corporation & Anr, 1 SCC 35 (Supreme Court 1984).


Mustika Kusuma Basir, Ahmad Gani, Salim Basalamah, Syahrir Mallongi (2023). The Influence of Islamic Work Motivation, Leadership Style and Competence on Job Satisfaction and Employee Performancegammara Makassar Hotels .17.n.6|p.1-21|e03605 DOI: https://doi.org/10.24857/rgsa.v17n6-004


Workmen v. Bharatfritz Werner (P) Ltd., 3 SCC 565 (Supreme Court 1990).