

ISSUES AND PROBLEMS OF CONTRACT LABOUR IN INDIA OF ORGANIZED AND UNORGANIZED SECTORS

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ABSTRACT:

Contract Labour is a tremendous and developing form of employment in numerous sorts of industries. The exploitation of contract labour is now largest problem inside the generation of globalization and liberalization. The goal of this Paper is to cognizance on the review of the contract labour gadget in India, Evolution, the analysis of the present regulation and various loopholes under the Act. This Paper also analyses the records of the contract labour Act and the way the present regulation evolved in India through referring numerous committee's tips. Child labour is the practice of having children engage in economic activity, on a part- or full-time basis. The practice deprives children of their childhood, and is harmful to their physical and mental (mind) development. Poverty, lack of good schools and the growth of the informal economy are considered to be the key causes of child labour in India. Some other causes of Child Labour in India are cheap wages and accessibility to factories that can produce the maximum amount of goods for the lowest possible price. Corruption in the government of India also plays a major role in child labour because laws that should be enforced to prevent child labour are not because of the corrupt government. As per the Child Labour (Prohibition and Regulation) Act,

1986, amended in 2016 ("CLPR Act"), a "Child" is defined as any person below the age of 14 and the CLPR Act prohibits employment of a Child in any employment including as a domestic help. This paper also deals with some judicial pronouncements on few crucial issues of contract labour Prohibition and Abolition Act, 1970.

Keywords: Contract, Contractor, Judiciary Labour, Wage, Worker,

INTRODUCTION

Within the present global Liberalisation and globalisation are growing at a completely excessive space and it presented exchange of business surroundings, earnings-oriented economics and increased opposition amongst industries for survival. Many MNCs, representing the nice emblem in the international, began investment in India because of capability market capability and availability of personnel. They began putting in place their workplaces in India, giving a hard competition to their opposite numbers. To compete on this patron pushed market economy, industries requires flexibilities in dealing with manpower to deal with occasional upsurge or slowdown in call for. But the ancient and inflexible Indian Labour laws which were enacted 8-4 decades returned, proscribing right size of manpower, are developing hurdles in easy functioning of industries. Those factors are tending industries to hire increasingly more numbers of settlement labours to have greater flexibility to regulate the variety of workforce based on economic performance, better utilisation of resources, optimisation of income and bringing price effectiveness regardless of the danger of decrease employee loyalties and awful pay. But generally, we need to realize whose settlement Labour, settlement Labour may be prominent from direct labour in terms of employment relationship.

The ancient element of the settlement labours in India might clearly provide a clean view of how the gadget of employing agreement labour came into being. Contract labour has its root from time immemorial. In the course of the early duration of industrialisation, the economic institutions had been continually confronted with the problems of labour recruitment. British employers or their representatives have been no longer accustomed with some basic issues of the employees like Low status of manufacturing unit employees, loss of labour mobility, caste and non-secular Taboo, language and so forth. They had been not able to remedy those troubles.

Therefore, they needed to rely upon center guy who helped them in recruitment and manipulate of labour. These middleman and contractors had been regarded by way of special names in diverse parts of the us of a contract labourers have been considered as exploited segment of the operating magnificence in particular because of loss of company on their part.

Due to this, the Whitley fee (1860) endorsed the abolition of contract labour by using implication. before 1860, similarly to the numerous disadvantages suffered by way of the settlement labour, the Workmen's Breach of contract Act 1959 operated in conserving them criminally accountable within the vent of breach of a contract service.

Subsequent to this, Many Committees had been formed by way of the authorities to examine the socio-monetary situations of contract labour like Bombay fabric Labour Enquiry Committee, The Bihar Labour Enquiry Committee, the Rega Committee and so forth. due to those findings, the scope of the definition of "people" inside the Factories Act, 1948, The Mines Act, 1952 and The Plantations Labour Act, 1951 changed into enlarged to encompass contract labour.

In the case of Standard Vacuum Refinery Company Vs. Their Workmen³, the Supreme Court observed that the contract Labour should not be employed where:

- a) The work is perennial and ought to move on from day to day
- b) The paintings are incidental to and important for the work of the factory
- c) The work is enough to hire great wide variety of entire time workman
- d) The paintings are being performed in most issues thru regular workmen

In the second 5 year plan, the making plans fee pressured the want of improvement in the operating conditions of agreement labour and as a result, endorsed for a unique remedy to the contract labour to be able to make certain them continuous employment wherein it became no longer possible to abolish such form of labour.

This paper aims to study about the problems of contract labourers and also to analyse the problems in Contract labour abolition act, 1970

³ 1961 AIR 895, 1961 SCR (3) 536

RESEARCH PROBLEM:

Whether the labourer problem is more in organized sector or in unorganized sector?

REVIEW OF LITERATURE:

Study about contract labour system in India and also the contract labour regulation and abolition act (Padhi 2017). The study about contract labour reforms through contract labour regulation and abolition act. Also the causes of contract labour and the problems faced by the labourers (Srivastava 1990). Problems faced by the labours under contract labour system through precedents of tribunal cases, appellate cases (Justice K. Chandru, 2016). The study of labour reforms for the contract labours which works at slow pace leading increased number of problems for the labourers working under contract labour system (Srirang Jha, 2014). Contract labours have inferior labour status over other labours and also they have no job security (Ragu, 2015). It speaks about the benefits to the contract labourers. Also the exploitation of contract labourers because of corporate greed (Jyoti Jindal, 2014). It is study about labour management which is a crucial task to the companies. The agreement between the principal employer and the worker is the most important thing which is the safety to the workers (Meenakshi Rajeev, 2009). The study about the contract labour problems and recommendation of second national labour commission report (J. Adi Narayana, 2015). Study about the labour reforms and also about the causes of unemployment due to industrialisation and urbanisation (R. C. Datta Milly Sil, 2007). Industrial Relations paradigm in India had dramatically changed following the adaptation of free market policy in the early nineties. With the dawn of liberalization, privatization and globalization (LPG), the country is, by and large, able to preserve a sound and positive industrial relations climate (All India Organisation of Employers, 2011). In the present world Liberalisation and globalisation are increasing at a very high space and it presented change of business environment, profit oriented economics and increased competition among industries for survival (Mrs. Paramita Ray, 2016). The word 'Contract' is derived from the word 'Consensus'. In short, to

na valid contract between two or more parties, there must be consensus of mind and they must understand it. In other words, the subject of contract must be understood by the second party as the same way first party has understood it (Mr. D. Samuel Abraham, 2011). The aim of research is to analyse the problems faced by Contract labour in respective legislation.

OBJECTIVE:

1. To study about the problems of contract labourers.
2. To analyse the problems in Contract labour abolition act, 1970

HYPOTHESIS:

Alternative: The number of problems in unorganized sector is more than organized sector.

Null: The number of problems in unorganized sectors is less than organized sector.

RESEARCH METHODOLOGY:

In this work, the researcher has followed “Doctrinal research Methodology”. This data is mainly collected through secondary sources of information like books and journals and ample e-sources have also been referred.

CONTRACT LABOUR REGULATION AND ABOLITION ACT

Before the enactment of this act there was no specific legislation which dealt in element with the problem of contract labour. Although there was law like business Disputes Act, 1947, price of Wages Act, 1936 and so on. However, these enactments had been now not especially designed to remedy the hassle of contract labour. consequently, there was a want to for a selected regulation to prevent exploitation of agreement workers by using Contractors and institutions. the primary object of the Act is to offer for law of the employment of settlement labour and its abolition under positive circumstances.

This Act made it obligatory for the establishment and industries to check in before the involved authority (Asst. Commissioner of Labour or Labour Officer) in a period as constant by the government earlier than employment of contract labour. The institutions which installation or

have deployed extra than 20 contract labours are required to sign up the status quo below the Enactment, With the worried Authority. The utility for registration with the aid of the major corporation ought to contain various details with regards to the status quo and it shall be made in triplicate in shape-I to the registering officer of the location with suitable costs as constant with the aid of the government. The certificates of registration shall be granted mentioning the name and type of the status quo, type of commercial enterprise, maximum no. Workmen to be employed as agreement labour and different details in relation with the agreement labour in form-II. If there is any trade within the details of the establishment, it must be knowledgeable to the authority inside reasonable time.(All India Organisation of Employees, 2011)⁴

To comply the fame of the settlement labour the rules made it obligatory for the contractor to achieve the license for the agreement paintings from the licensing officer of the neighborhood labour branch by means of making use of in triplicate in form-IV enclosed with shape-V of the precept business enterprise with the aid of depositing the prescribed refundable protection amount and the licensing expenses. A license issued for one contractor paintings can't be used for every other paintings which is different in nature. A contractor isn't always capable of have interaction in any paintings via contract labour with obtaining license from the licensing authority if it happens the penal movement can be taken towards the contractor consequently. The license granted is legitimate for the duration of 12 months and may be renewed.

The act determines the rights of the contract labour in an effort to cause them to relaxed from any exploitation. those rights ensure equal reputation of them as of the workmen and the violation of that's enforceable in court docket of regulation. In phrases of wages, hours of labor, welfare, health and social protection agreement labourers past times are blanketed. Any settlement entered between the events and if any clauses within the settlement is inconsistent with the blessings provided under the Act and aren't favorable for the labourers might be treated as invalid.

The contract labours are entitled for the wages which include extra time wages and allowances as stipulated for his or her work at the establishment. It need to be paid right away every time the wage length is over. It need to be in accordance with the minimal Wages Act. The agreement labours have additionally the proper to be supplied the protection measures at the

⁴ Industrial Relations and Contract Labour in India, All India Organisation of Employees, retrieved from <http://aioe.in/htm/IndustrialRelations.pdf>

establishment and on the spot health service in case of any damage to the labour. They may be entitled for centers like rest rooms, canteens, washing facility, first aid centers and plenty of more. The girls labours are entitled for the separate washrooms, restrooms. They're entitled now not to be hired in any work that is prohibited beneath any regulation.

Obligation of precept business enterprise is on priority as he's the person who is connected with the settlement labour at paintings, therefore each facility and safety at paintings must be supplied to him via the most important company. Although his legal responsibility for the settlement labour is secondary after the contractor yet he is main in price of wages and supplying the centers and safety at place of business.

The organization is accountable for obtaining the certificate of registration and should observe all of the essential provisions for registration of the establishment and grant all the particulars as demanded through the authority at times. The most important employer have to preserve a check in of contractors in shape – XII. The main enterprise is responsible for price of wages such as extra time salary and allowances directly paid to the labour in full according with price of Wages Act, 1936 in case the contractor fails to make price within the prescribed time. The important business enterprise may additionally recover such quantity from the contractor. A representative of the principal company has to be present at the same time as the wages are paid to the contractor. He is also chargeable for diverse facilities which can be to be provided at work and which might be crucial for the contract labour at work. The fundamental business enterprise is entitled to get over the contractor any amount spent on supplying such facilities to the agreement labourers. He is responsible that any contract labour should no longer engage in hazardous or such paintings that can reason him the harm at work. He is likewise responsible for sending Annual document in a form XXV to the Registering Officer inside 15th February of each year.

Inside the contract labour machine, the contractor is maximum responsible man or woman toward the contract labour. His liability below the act is made number one. In case of each scenario associated with the contract labour, the contractor is accountable. The contractor is responsible to acquire the license from the licensing authority and supply to them all the details and documents as are essential for the license. The contractor himself is accountable to maintain the check in of workers in form XIII which shall incorporate all vital particulars related with each contract labour. The contractor has to difficulty an employment card to every of the

workers. All centers and facilities like stay rooms, relaxation rooms, washrooms, meals, and medical institution are to be provided with the aid of the contractor. He's commonly chargeable for the disbursement of wages to the labours on time and keeps necessary sign in of Wages, Deductions, extra time, display an abstract of this Act in English, Hindi and in a nearby language, and notices associated with price of wages, length of labor, address of labour inspector, and many others. The contractor should send 1/2-every year reviews in form XXIV to the nearby labour department in December and June.(Srivastava, 1990)⁵

The contractor is obliged to pay the wages of the settlement labour on the prescribed period of time. The contractor shall fix salary intervals in respect of which wages will be payable. No salary duration shall exceed one month. The wages of each person employed as contract labour in an status quo or via a contractor wherein less than one thousand such folks are employed will be paid before the expiry of the 7th day and in different instances earlier than the expiry of tenth day after the final day of the salary duration in appreciate of which the wages are payable. wherein the employment of any worker is terminated by or on behalf of the contractor the wages earned via him will be paid earlier than the expiry of the second one working day from the day on which his employment is terminated. All payments of wages-shall be made on a working day of the work premises and during the operating time and on a date notified earlier and in case the paintings is finished before the expiry of the wage period, very last charge will be made within 48 hours of the remaining operating day. Wages will be paid without any deductions or any kind except the ones exact with the aid of the imperative authorities by preferred or unique order on this behalf or permissible under the charge of Wages Act, 1936. A be aware showing the wage-duration and the region and/time of disbursement of wages will be displayed at the place of business. The important agency shall make certain the presence of his legal consultant at the place and time of disbursement of wages by the contractor to workmen and it will be the duty of the contractor to make certain the disbursement of wages inside the presence of such authorized consultant.(P. K. Padhi, 2017)⁶

The Act penalizes the contractor, important business enterprise or another individual if he contravenes the provisions of the Act or any policies thereunder, prohibiting, limiting or regulating the employment of contract labour or contravenes any situation of a license granted

⁵ Srivastava, S. C. 1990. *Industrial Relations and Labour Laws, 6th Edition*. Vikas Publishing House.

⁶ Padhi, P. K. 2017. *LABOUR AND INDUSTRIAL LAWS*. PHI Learning Pvt. Ltd.

beneath this Act. The punishment in most of the offences is imprisonment for a time period up to a few months or quality upto Rs 1000/- or each and in case of continuing offence, an extra Rs. 100/- according to day.

The act also offers for the penalty if any individual obstructs or make disturbance in inspection made through the inspector or refuses to supply any files, approvals or register as demanded, the punishment for those kinds of offences will be the imprisonment for a term upto three months and first-rate upto Rs 500/- or both (Saini, Debi S, 2010)⁷.

DEFAULTS IN CONTRACT LABOR REGULATION AND ABOLITION ACT, 1970

In line with the settlement Labour Act, the establishments are supposed to adhere to the minimum Wages norms. however, it can be seen that there are people incomes less than 100 in keeping with month which does no longer follow the minimum wages criteria. In popular, it's been located that there are 3 categories of companies as far as wage charge is involved. The massive non-public corporations that pay greater than marketplace wages as performance salary. The efficiency salary hypothesis in economics states that if the paintings attempt relies upon positively at the wage stage, an income maximizing firm could find it profitable to pay above the marketplace cleansing stage. the second category corporations are those which strictly adhere to the prescribed minimum wage norms. The 0.33 class accommodates the huge wide variety of small personal firms which favor to rent uneducated employee who can be paid much less than the prescribed minimum wages.⁸

Even though labourers experience provident fund advantage, the provident fund is usually a burden to them instead of an advantage. It is a burden inside the feel that every month some constant amount is deducted from their meagre income for provident fund contribution. But, these workers frequently change their contractors they work for and the account want to be transferred. alas, as soon as a worker leaves a contractor, he/she by no means get any co-operation from the preceding contractor on this regard. It's far the obligation of the principle

⁷ The Contract Labour Act 1970 issues & concerns, retrieved from <http://www.freepatentsonline.com/article/Indian-Journal-Industrial-Relations/235631659.html>

⁸ Jain,P, The Contract Labour (Regulation & Abolition) Act, 1970retrieved from http://www.legalserviceindia.com/articles/labour_contract.htm

business enterprise additionally to verify the PF information, that's however, no longer frequently achieved. So as to get better the PF amount, a contract worker has to have bank account wherein the sum due need to be deposited by way of cheque. agreement employees frequently cannot preserve money owed due to minimum deposit necessities with the aid of banks. This makes recuperating their PF dues even more tough. similarly, there are some of un-registered settlement groups that deduct provident fund contributions from the employees however never deposit the same within the provident fund office and after a few years alternate the region and begin the new commercial enterprise in special name. There are obvious benefits of being un-registered as it enables a company to keep away from taxes, further to keep away from paying PF, ESI advantages and so on. to a worker and thereby increase one's earnings margin. therefore, while a registered agency attempts to compete with an unregistered one, the best possibility appears to be to make the most the labour as they're in extra deliver.

Because of high degree of opposition, income margin measured via commission has long gone down substantially. usually small and medium settlement agencies do no longer revel in scale economics and if volume of business goes down, they cannot operate in a totally low margin. This frequently leads them to collude with the precept business enterprise and every so often with Labour Inspector and compete effective within the market.⁹

Inside the context of globalisation, privatisation and liberalisation in March 2000 a GOM become constituted to examine the thought of the ministry to certainly amend the provisions of the Act so that it will facilitating outsourcing of activities to specialised firms having professional experience and expertise in the applicable place and on the equal time to provide for a protection net to contract labour in such outsourced sports. this sort of degree, it was felt, might generate employment increase. There are number of judgments in which the court delivered its opinion in relation to the status of contract labour being abolished under the notification as it is one of the disputed social issues in relation to government reforms. Therefore, Judiciary is always cognizant to regulate the security and status to be provided for such type of labour and to ensure that they won't be exploited by the industrial class of the society.

⁹ Abraham, S, The issues, Concerns, Problems and Remedies in managing the Contract Labour, retrieved from <http://www.lawbrain.in/Contract-Labour.pdf>

In *Gammon India Ltd. vs. Union of India*¹⁰, Judiciary interpreted many provisions and guidelines of the contract Labour Act, 1970 broadly. Various facilities, wage fee manner, duty of contractor and major corporation have been broadly interpreted. In this example it changed into also held that the agreement labour statute is constitutionally legitimate.

In *Hussain Bhai v. Alath Factory, Tezvilali Union*¹¹, A workmen below CLRA Act is also a workman beneath industrial Disputes Act. A contractor will be the organization of such man or woman. The primary business enterprise beneath the Act could be company underneath I.D. Act in positive situations.

In *Deena Nath case*¹², Supreme Court held that the principal employer cannot be required to absorb the contract labour which is abolished.

In *Gujrat Electricity Board, Thermal Power Station, Ukai, Gujrat v. Hind Mazdoor Sabha*¹³, It was held that thermal power in Gujrat-1500 workers under contract-hails from Adivasi. Contractors exploited the workers more than 20 years. Supreme Court ordered absorption of most of the contract labourers by appointing a committee.

However, after that there were constant court cases that the settlement labours are being thrown out from the employment. So, the questions arose as to the fame of abolished labour under the Act. on this crucial query of the after impact of the abolition of settlement Labour, the Supreme Court in *Air India Statutory Corporation vs. United Labour union*¹⁴, overruled the two-member bench decision in *Deena Nath Case*¹⁵, holding that the high court may additionally direct the important business enterprise to take in the settlement labour who've been abolished beneath the authority's notification. The Supreme court also ruled that the linkage between the contractor and the labour stood snapped and the direct courting stood restored among the principal enterprise and settlement labour as its employees.

¹⁰ 1974 SCC (L&S) 252

¹¹ 1978(2) LLJ, 397

¹² AIR 1991 SC 3026

¹³ 1995 LLR, 552

¹⁴ AIR 1997 SC 645

¹⁵ AIR 1991 SC 3026

Later in the landmark case namely Steel Authority of India vs. National union of Water Front workers and others¹⁶, the Supreme Court overruled the selection brought within the Air India Statutory organization Case protecting that neither phase 10 of the act nor another provision of the act whether expressly or with the aid of important implications provides for the automated absorption of the settlement labour. consequently, the principal business enterprise can't be required to soak up the contract labour operating inside the status quo.

CONCLUSION:

Despite the fact that employment of contract labour in India has attracted debates and raised battle of hobby a number of the social companions, it has come to be a significant and developing form of employment, engaged in distinctive occupations consisting of skilled, semiskilled and unskilled jobs. The gadget of employing settlement labour is regularly occurring nearly in all sectors, in agriculture, production, and high GDP yielding service area.

Liberalisation of market economy in early Nineties has necessitated greater flexibility of employment of for the industries to compete inside the worldwide perspectives and antediluvian labour legal guidelines has compelled industries to lease agreement labour to address the cyclical demands and creating commercial enterprise pleasant compliance mechanism to survive and compete within the globalised financial system. Concomitant modifications in the commercial Disputes Act, 1947 might be important to reduce reliance on settlement labour machine.

The contract labour (regulation and abolition) act 1970 provides safety and security to the people hired on settlement. On the one hand, it seeks to provide settlement employees minimum wages thru licensing of contractors and through preserving most important employers responsible for enforcement of the regulation. alternatively, it empowers state and relevant governments to restrict the behavior of sure sorts of paintings via agreement labour. the precise government can issue a notification within the professional gazette to restrict employment of agreement labour in any process, operation or other work. The central government has taken steps in advance and abolished contract labour practices in a number of jobs in exceptional industries and has issued notifications in this regard. However, in the absence of any labour regulation reforms over the past such a lot of years, even the courts have taken contradictory

¹⁶ AIR 2001 SC 3527

positions within the latest beyond. One judgement said precedence have to be given to absorption of agreement labour on every occasion a new role comes up, whilst another said no such assure can be given by a company due to the fact the terms of employment itself talk approximately a fixed agreement. The problems faced by the contract labourers are not only in unorganised sector but also the organised sector. For the sake of hypothesis, I may conclude that the problems faced by unorganised sectors are more than organised sector. Hence the hypothesis is proved.

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