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WORKERS PARTICIPATION IN MANAGEMENT – A CONSTITUTIONAL PERSPECTIVE

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Abstract: Civilisations in the past has resulted in the prosperity of trade and commerce. The traditional aspects of trade and commerce surrendered to the dynamism of modern industries, thereby exploring various avenues of mass production or industrialisation, which required huge Land, Labour and Capital. These aspects continued to be the dominant means of factors of production of which Labour and Capital constitutes to be our part of study because both of these factors have given birth to whole new concept of ideology in economy such as Socialism out of Labours and Capitalism out of Capital. It has been a never ending debate on which factor is most important than the other, amongst both the Labours has an edge over capital primarily due to human factor and it is the labour who through their sweat and blood make additions to the capital. With this forming as the basis of the present paper focuses on various constitutional aspects which promote Worker's Participation in Management {WPM}, which on one hand promotes the concept of ownership amongst the workers and voicing of the concerns of the primary stakeholder i.e. Labour. Article 43^a of the Constitution of India through the 42nd Amendment in 1976, empowers the government to make provisions to legislate on WPM as and where the government deems fit, an aspect which it seems to be lost in the tornado of globalisation in the present times. This is evident from the following act of the government which introduced the Workers Participation in Management Bill, 1990 in the upper house of the parliament. But because of the stiff opposition from the employers, lack of unanimity amongst workers and because of several recurring practical problem, this bill couldn't pass into a law. However, successive governments made sincere efforts to save the bill and to accord legislative sanction to the bill. Several discussions and deliberations took place. Finally on August 01, 2017, the government withdrew this bill. The government while withdrawing the bill gave an assurance that it would in course of time to hold deliberations afresh with all the stake holders about the content and intent of the bill, but couldn't mark the presence of WPM in the new labour Codes of 2020. Providing employment, Welfare, Health and Safety of the labours is of primary importance and it seems it is losing its steam as the government is moving away from this primary objective.

Key Words: Workers, Factors of Production, legislate, Participation, Welfare

Introduction

The concept of workers participation in management is a historical necessity it has gradually developed under the influence of social, economic and political changes and modern management philosophies.

Today it is considered as a means of putting forward the views of the workers, but also recognised as a new management strategy under which the management shares some of its functions with the workers for promoting their mutual interest¹ it has become the call of the existing social economic and political structure of industrial organisation in any country.

The concept is broad one and varies from country to country and industry to industry. Its main aim is “to seek cooperation of those engaged in production in the fields of ethical, political, social and economic activity”².

Participation is a term used to designate the process under which workers contribute ideas for the solution affecting the organisation and their employment. participation includes not only physical participation but the intellectual and emotional involvement in the affairs of the organisation³.

Right to participate in the decision making by the stakeholders is sine quo non of democratic ethos. History records the collapse of the organizations and institutions built on autocratic decisions and individual centric decisions. John Rawls Opined that no transformation in a society should occur unless those that are worse off are made relatively better off.⁴ Operationalizing in a real world has its difficulties, but law operates to create certain essential rights that enable just and sustainable transformations. Promoting the right to participation is an aspect of recognizing human dignity an aspect of Human Rights.

Participatory parity is described as constituting “*a radical democratic interpretation of equal autonomy*”. **Participatory economics**, often abbreviated ‘**parecon**’, is an economic system

¹ Rastogi, MRJL “ Workers Participation in Management: why it failed” , The Economic Times , 31ST July 1971, p 5.

² Alexander KC “ Participative management” New Delhi, Sri Ram Centre for Industrial Relations and Human Resources, 1993, p45.

³ Dale Beech; Personnel – “The Management of People at Work” London; Collier Mac Millan Co. Ltd – 1965, p 510

⁴ Rawls, John A. A Theory of Justice, Cambridge, MA, Harvard University Press, 1971

proposed primarily by activist and political theorist Michael Albert and radical economist Robin Hahnel, among others.

Workers participation in management is sine qua non of industrial democracy which had its roots in the demands of political democracy which was echoed during 19th century. Concept of social justice becomes elusive if industrial injustices are all pervasive and perpetuated.

A theoretical base for workers participation in management can also be studied as a part of 'human relations' movement. The important factor of this movement was power equalization i.e. reduction of power and status differentials between superiors and subordinates. They view that when the organizations tend to block individual growth and self-development, it may result in apathy, wasting of human abilities dysfunctional activities like strikes.

Participation basically means sharing the decision-making power with the lower ranks of the organization in an appropriate manner.

Workers participation implies arrangements designed to involve workers in the Enterprises decision making process. This allows for workers involvement in the initiation formulation and implementation of decisions within the enterprise⁵. Also be understood in terms of new approach to industry and Society in which people want to be interested with the taking of decision which has direct bearing on them⁶.

In addition, the denial of workers activate involvement in decision-making is held to be one of the major causes of the problems which are manifested daily in the work lives of the modern employees⁷.

Being a dynamic subject, no rigid time limits can be laid down for scope of workers participation for all industries and for all times. It can be confined to the extremely domain of consultation at the lowest level such as to promote measures for securing and preserving amity and good relations between the employer and workmen and to that end to comment upon matters of their interest or concern and Endeavour to compose any material difference in respect of such matters.

⁵ Benedix, S 2005, Industrial relations in South Africa, Cape Town, Junta

⁶ Bhagwathi, J 2004 Anti Globalisation

⁷ COSATU 6th Congress reolutions, September 1997

As an institutional device, the workers participation practice can be viewed as follows:

1. Process of devolution of power to the working class, countering the idea of exploitative power of capital.
2. Evolution of method for establishing better industrial relations by soliciting maximum cooperation of the production process.
3. Process of promoting the idea of collective or cooperative ownership of the means of production displacing the prevalent concept of power struggle between class interests of the capital and that of the workers.
4. Blending of proportional capacity, managerial techniques and labour skill to eliminate the possibility of variance between policy and performance so that there could be greater concord in planning, management and performance.
5. Solution for the more and more complex problems of industrial employment and management which is inherent in the process of growth, by a process of decentralized of the decision making and management process. So that there could be efficient and prompt handling of men and affairs at the appropriate level and time.

Thus, as a mechanism, the institution device of workers participation could be a process of power struggle or a suitable arrangement for building harmony between the two major partners of production.

The spread of democratic values to virtually every society today has brought the need to examine the implications of this trend to other spheres of life. The denial of workers active involvement in decision making is one of the aspects of industrial democracy and the absence of which is the major cause of the industrial problems.

The involvement of workers in management decision making is considered as a means for inducing motivation in the workers leading to positive work attitude and high productivity.

The study is also deemed desirable in view of the benefits of workers participation to organization and the society at large. Workers participation has been seen as capable of providing workers conducive work environment, opportunity to exercise their innate potentials and willingness to pursue corporate goal of the organization.

Modern scholars are of the opinion that the old adage, “a worker is a worker and a manager is a manager, never the twain shall meet” should be replaced by “managers and workers are partners in the progress of business.”

Participation and participative management are terms associated with the behaviorist school. It is looked upon as a means of permitting the subordinates to take part in the decision making process and thereby to enlist individual enthusiasm and creativity.

As opportunities for participation open up in the industrial relations, and as the worker gains the recognition and status, his self-confidence and self-respect increase. His employment becomes more meaningful. His desire for self-fulfillment begins to be satisfied. For any industrial undertaking its human resources are its huge asset. The initiatives and abilities of a worker are best channelized only through his participation in the path to progress of his parent company.

One of the basic objectives of participation is the development of workers.

The Indian Labour Conference at its 16th session in 1958 adopted a resolution to make it a reality. The scheme was launched that year with the setting up of a central Board of workers education supported by the National Institute of Labour and the Institute for Training.

Worker is no longer to be treated as having commodity value only. He is to be allowed to live with respectability holding his head high in dignity. This is possible only when the social, economic and psychological expressions of the worker are realised to his out most satisfaction.

Effective participation of workers in management is the demand of the day. It is the constitutional duty of the government to ensure it through early enactment of appropriate legislation. What is needed is commitment and conscientious efforts on the part of the government towards building a socialist system in the country that would uphold the avowed ideal of welfare of the worker in letter and in Spirit !!!

Workers participation and concept of industrial democracy

Industrial democracy as a viable Idea has been assuming a greater and greater importance ever since the end of Second World War. Perhaps it might have been the logical result of an extension idea of political democracy which saw an unprecedented degree of acceptance all over the fifties and the sixties of this century.

Thus the concept of workers participation crystallizing the concept of industrial democracy has been interpreted to describe a number of models of Industrial Management and has been implemented in the form of a number of schemes for reorganizing labour management relations.

Indian Labour Conferences

Workers' participation in management was also a subject matter for discussion in the 15th session of the Indian Labour Conference, and there was general agreement that participation should be ensured through legislation, or by mutual agreement between the employees and employers of selected industrial establishments. The employers' representatives wanted that they should be given a period of two years to operate the scheme on voluntary basis, and if the voluntary experiment did not succeed, the Government might enact a law. Workers' representatives were not in favor of leaving the matter to the initiative of the employers. They felt that to avoid delay in implementation an appropriate legislation was necessary. The question of the method of selection of worker's representatives was also discussed, and it was decided that wherever a representative or recognized union was there under the law, such unions should be consulted in deciding the method of selection of workers' representatives. At the end of the session, a small committee of four persons each from employers and workers groups was set up. The committee accepted the main recommendations of the study group, which was set up before discussing the agenda in the 15th session of the ILC. The issue was also discussed in the 28th, 29th 32nd and 33rd session of ILC as well.

Constitutional Commitment

The Constitution (42nd Amendment) Act, 1976 makes a pioneering attempt to provide for the workers' participation in management in industry by suitable legislation in the Directive Principles of State Policy. Thus, Articles 43-A of the Constitution (42nd Amendment) Act, 1976 provides: *The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishment or other organisations engaged in any industry.* The principle underlying the inclusion of workers' participation in the Directive Principles of State Policy is to give due recognition to the workers and to create among them a sense of partnership. It being a constitutional imperative, the State is under an obligation to take suitable measures, legislature or otherwise to secure effective

workers' participation in management. But mere inclusion of constitutional or statutory provisions would not serve the purpose.

The appointment of workers as Director on the Board of management raises several issues: Selection of workers to the Board of Directors would lead to many complications. Various pressure groups inside and outside the Union will also claim representation in the Board. Further, the political affiliation of Trade Union is likely to complicate the situation.

The new labour code universalizes minimum wages and timely payment of wages. They give priority to occupational safety of workers. These will contribute to a better working environment which will accelerate the pace of economic growth. These labour reforms ensure your ease of doing business. These are futuristic legislations power enterprises by reducing compliance, red-tapeism and Inspector Raj. These reforms also speak to harness the power of Technology for the betterment of the workers and industry both.

The new labour reforms codified into four labour codes brought by the present government intended to usher in a new era of Industrial Relations and labour welfare and uphold the dignity of working community with a human perspective. It is very important to mention here that in the document new labour Court for new India introduction statement it is said that the government cares for the workers and their families.

International Labour Organisation provides for strategies to encourage employee involvement through participatory, consultative and cooperative workplaces have been widely promoted since the 1970s. High performance workplaces promote employee participation in decision making because they understand that employees have a legitimate right to be involved in decisions that affect their working lives, and that positive gains also accrue to business. These gains include: improved employee performance resulting from greater motivation a positive workplace culture as an outcome from greater information sharing, and improvements in productivity when employees are consulted over changes to job design and work practices.

The MNE declaration provides clear guidance on how enterprises can contribute through their operations worldwide to the realisation of decent work. Its recommendations are rooted in International Labour standards reflect good practices for all enterprises but also highlight the role

of government in stimulating good corporate behaviour as well as the crucial role of social change.

In Ashok Kumar Ganguly, J Observed “Judges and especially judges of the higher courts have a vital role to ensure that the promise of the constitution is fulfilled if the judges fail to discharge their duty in making an effort to make the preamble promise reality, they fail to uphold and abide by the constitution which is their oath to office. It should be equated with the conscience of this court”

Navnit R Kamani & others Vs RR kamani,⁸ in this case the supreme court supported a scheme presented by the workers of a sick unit for the revival of the company under Sick Industrial Companies (Special Provision) Act, 1985

TS Armugham Vs Lakshmi Vilas Bank Ltd. and others,⁹ there is no dispute that Article 43A of the constitution of India provides for participation of workers in management of an undertaking. However it is for the government to take steps as provided under article 43 A of the constitution of India and it is also for the government to take note of the concept of social responsibility of Corporate management and to bring necessary legislative changes.

Conclusion:

The government always emphasized the need to uphold the constitutional objective of “Socialistic pattern of society”. It made every effort in right earnest to accord legislative sanction to the idea of providing participative rights to workers. It introduced several schemes of Worker’s Participation in Management and tried for the smooth transformation of voluntary schemes of Worker’s Participation in Management to legislative level. The national Commission on Labour, 2002 supported the government initiative for Worker’s Participation in Management and strongly recommended for the implementation of the policy of Worker’s Participation in Management.

⁸ AIR 1988 SCR Supl (3) 123

⁹ 1992 IILL 210, Mad

Even without enforceability in the Directive Principles of State Policy, the government always exhibited its sincerity to implement the objective of Worker's Participation in Management enshrined in Article 43 A, which lays down that the state should make all efforts by suitable legislation or otherwise to secure the participation of workers in management of undertakings. This is the first major step towards socialism in India after the inclusion of the word "Socialist" in the preamble to the Constitution of India, through the 42nd Amendment in 1976. As an expression of its legislative will, the government introduced the workers participation in Management Bill, 1990 in the upper house of the parliament. But because of the stiff opposition from the employers, lack of unanimity amongst workers and because of several recurring practical problem, this bill couldn't passed into a law. However, successive governments made sincere efforts to save the bill and to accord legislative sanction to the bill. Several discussions and deliberations took place. Finally on August 01, 2017, the government withdrew this bill. The government while withdrawing the bill gave an assurance that it would in course of time to hold deliberations afresh with a; the stake holders about the content and intent of the bill. The government also promised that after making the necessary modifications, this bill would be reintroduced at a later date. Thus the government reconfirmed its commitment to the constitutional goal of Worker's Participation in Management the said commitment has remained on paper and is far from distinct reality in the era of globalisation.

Let us all cherish that all the legislative barriers would perish and Worker's Participation in Management would flourish.

Let us march ahead with the motto

"" SRAMA EVA JAYATE ""