

# Alternative Dispute Settlement in Employment Arena..... An Overview of New Industrial Relations Code

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Industrial relations play an important role in establishing and maintaining harmonious atmosphere. The maintenance of good industrial relations depends on the approach of both labour and Management.<sup>1</sup> The establishment of good human relationship is the main goal of industrial jurisprudence; otherwise the whole organizational structure may collapse. It is skill of living together for the purpose of production, efficiency and industrial growth. The term 'Industrial relations' is used to relate to the relations between the parties within the industry. In a factory system the parties that are concerned with industry are the employer and the employees. Both of them have a common interest in industry. No industry can flourish without the co-operation between these labour and management.

In modern era, industry provides the infrastructure for the economic development of every country. The forward leap and backward stride of an industry depends on the efficiency and goodwill of the employees and the reasonable labour-management relationship as they form the heart and soul of every industrial concern. According to V. V. Giri, Industrial Relations has the same basis as human relations just as there could be no harmony in a Hindu Joint Family, unless the various members try to maintain warm understanding, so also in an industry, unless both the parties, labour and the management, recognize their mutual responsibilities and liabilities and rights and privileges, there can be no progress in the expansion of the industrial structure".

Industrial relations play a vital role in maintaining industrial peace, industrial discipline and industrial democracy. Good industrial relations, not only establish a cordial atmosphere in the industry, but also help in increasing production and industrial growth.<sup>2</sup>

Cordial industrial relations are possible only if the workers have minimum grievances, provided good working condition, better job satisfaction and a proper balance between individual aspirations and organizational goals. Mere technological up gradation, up to date machinery, good plant layout and dynamic organization etc. are not sufficient to make a business profitable; good industrial relations in industry play almost a crucial role in this respect.<sup>3</sup>

The main aspects of industrial relations are promotion and development of healthy labour management relations, maintenance of industrial peace and development of industrial democracy, which are necessary for the economic development of every country.

The development of nation generally depends upon the overall development of industry and the development of industry depends upon the cordial and harmonious relations between workers and management. It is obvious that goal of industrial relation are to minimize the conflicts between labor and management, achieving stable social relationships but the most important is the workers satisfaction. Good industrial relations will have a positive effect on industrial production, efficiency, quality, discipline, technology and economic progress and in turn on the welfare of the society.

It is universal fact that when the labour -management relations are strong and are at harmony, the industry will progress economically. However, it is equally true that relationship between the labour and management has always been sour. The management always shows thumbs down for the demands made by the labourers as a collective action. This leads to strikes, lockouts and tussle between the management and the labour force. But labour today is front page news and his importance in the industrial system and in the future planned economy of the country has been recognized at the global level. Without labour nothing is possible, obviously, until a nation has secured a body of fit, efficient and contented workers, it cannot aspire for permanent progress. Good industrial relations are an outcome of a healthy relationship between employers and employees. When it is affected not merely the interest of labour and the employer

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<sup>1</sup>S.K. Bhatia, 'International Practices in Industrial Relations', Deep and Deep Publications Pvt. Ltd., New Delhi, 2002, pp.7-8.

<sup>2</sup>V.P. Michael, Industrial Relations in India and Worker's Involvement in Management, Himalaya Publishing House. Bombay, 1979, p3.

<sup>3</sup>S. Nagaraju, Industrial Relations System in India, Chugh Publications, Allahabad, 1981, p.4.

is affected but also the social and economic goals to which the state is committed will be affected which in turn will have an impact on economic justice.<sup>4</sup>

Conflict resolution is a crucial part to establish industrial relations in industrial democracy. It is necessary to find out a balance between workers rights and employments market flexibility as both are necessary for healthy economic and social development. One of the important methods in promoting the development cordial atmosphere among these interests is effective dispute resolution. It is essential to resolve industrial disputes through the proper procedures designed to bring about effective, efficient and equitable resolutions for the benefit of involved parties and the greater economy. In the absence use of effective conflict resolution methodologies, dispute will increase and ultimately affect national workplace productivity.

Alternative Dispute Resolution system which is an umbrella term used to explain the methods of resolving conflicts outside the traditional adjudicatory system. Alternative dispute Resolutions process is a mechanism in which the conflict resolution process is altogether different from the judicial process. The alternative dispute resolution process providing justice in the form and content which not only resolves the dispute but tends to put an end to the conflict between the parties. The primary methods of alternative dispute resolution are Negotiation, Mediation, Conciliation and Arbitration.

Alternative dispute resolution systems are not new to India and have been in existence since the days before colonial British rulers introduced the modern justice delivery system. A.D.R. in labour disputes aims at encouraging amicable settlement of disputes by providing speedy, inexpensive and quality justice to the parties. Employer and Employees relationship is a sensitive one and any conflict between them can create disturbing situations. Development of A.D.R. in employment matters through internal conciliation and mediation helpful in creating conflicting free atmosphere in industry. The Industrial Disputes Act, 1947 is a special statute devoted to the investigation and settlement of industrial disputes by providing necessary methods. It seeks to achieve social goals on the basis of collective bargaining, conciliation, arbitration and compulsory adjudication. In *Hindustan Hosiery Industries v. F. H. Lolo*<sup>5</sup>, the Supreme Court held that Industrial Disputes Act, 1947 provides the machineries that are informal in nature, free from cumbersome technicalities of ordinary laws.

The Supreme Court<sup>6</sup> held that the essential object of the labour legislation to ensure social justice by bringing harmony and cordial industrial relationship. To resolve industrial conflict in industries, the Industrial Dispute Act, 1947 provides the mechanisms that are informal in nature, free from cumbersome technicalities of domestic laws. Thus this Alternative Dispute Resolution System encourages settling the conflicts in an amicable manners

The Industrial Dispute Act, 1947 is the first effective measure of resolution of industrial disputes. One of the principle aims of the Industrial Dispute Act, 1947 is to harmonies the conflicting interests of employers and employees engaged in industrial establishments.

A dispute resolving machineries provided under the Industrial Dispute Act are Negotiation, conciliation, Arbitration and finally Adjudication by labour court, Industrial Tribunal and National Tribunal. The Industrial dispute Act, 1947 is compulsory adjudication oriented with abundant scope for government interference. Since the settlement machineries get jurisdiction from the hands of the government, the parties have to hang before the government for years together. This has wide repercussions over the healthy growth of collective bargaining and the formation of effective strong union, in turn the labour and employers are driven to a legal combat with consequence of friction, tension and industrial unrest. Hence, it requires a re-look over the alternative forum provided under the Act.

Labour management relations in India have been suffered as governed by rigid of rules and regulations which consist of adjudicating authorities with disjointed and overlapping powers under the Industrial Disputes Act 1947. The new Industrial Relations Code 2020 tries to come out of these complicated rules by streamlining the dispute resolution procedure.

The New Industrial Relations Code, 2020 consolidate and modify the laws relating to trade unions, conditions of employment in industrial establishments or undertakings and investigation and settlement of industrial disputes replace by replacing the Trade Unions Act, 1926, the Industrial Employment Act, 1946 and the Industrial Disputes Act, 1947.

The objects of Industrial relations Code is to minimize the conflicts between the employers and workers and to provide machineries for investigation and settlement of industrial disputes and to maintain industrial peace and harmony and in thus advance the progress of the industry by bringing about the existence of harmony and cordial relationship between the labour and management. Under new code the dispute resolution mechanism provides

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<sup>4</sup>Preamble of the Constitution.

<sup>5</sup> LLJ – 1974 (I) Page no.348

<sup>6</sup>Hindustan History Industries v/s. F. H. Lala, LLJ – (974) I – P.348.

preventive forums where disputes are redressed by workers and employers themselves. The next one conciliation where a third party mediates the disputes between two disputing parties and last remedy consists of adjudication by courts.

A remarkable initiative is the provision for the constitution of a Grievance Redressal Committee in the establishments employing 20 or more workers. Voluntary reference and Redressal of disputes by way of Arbitration is another alternative forum provided in new code for Redressal of Industrial Dispute. Establishment of National Industrial Tribunals which shall adjudicate disputes that is of national importance is another mechanism provided. A major change is the introduction of limitation period for raising a dispute before the conciliation officer and a three month period for filing an application before tribunal after three months of the report of conciliation officer. Workers can approach directly to appropriate government for Reference, However, this seems that new code tries to remove the entire reference system.

Various changes has taken place in the judicial set up in adjudicatory mechanism like appointment qualification of presiding authority. The Industrial Relation Code has done remarkable changes in reducing the multiplicity of adjudicating bodies by abolishing Labour Courts and removal of entire governmental reference system. However, there is a lack in improving the condition of the Works Committee and ensuring well-trained conciliating officers.

The Industrial Disputes Act, 1947 has been subsumed by the Industrial Relations Code, 2020 as a part of the codification exercise effected by the Central Government aimed towards the ease of business and promotion of industrial development .with the above analysis the Industrial Relations Code, 2020 has pushed and supported alternative dispute mechanism to settle the disputes, although IRC has several drawbacks but still l a significant step towards creating a more efficient labour dispute regime.