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KARNATAKA EMPLOYERS' ASSOCIATION

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CIRCULAR NO - 116/2020

To
All Members of the Association

PROPOSAL TO WITHDRAW THE INDUSTRIAL RELATIONS CODE, 2019 AND INTRODUCE THE INDUSTRIAL RELATIONS CODE, 2020 IN THE PARLIAMENT

1) The draft IR Code was prepared after amalgamating, simplifying and rationalizing the relevant provisions of following three Central Labour Acts:

- (i) The Trade Unions Act, 1926
- (ii) The Industrial Employment (Standing Orders) Act, 1946.
- (iii) The Industrial Disputes Act, 1947

2) The IR Code, 2019 was introduced in Lok Sabha on 28th November 2019 and subsequently referred to the Parliamentary Standing Committee on Labour for its examination on 23rd December 2019. The Parliamentary Standing Committee, after taking oral evidence from various stake holders submitted its report to the Hon'ble Speaker of Lok Sabha on 23rd April, 2020.

3) The Ministry, after examining the Parliamentary Committee report accepted some of the recommendations and major changes. The Report of the Committee has in all 68 paragraphs of which 35 have been accepted, 7 have been partly accepted and 26 have not been accepted. The major changes made in pursuance of recommendations of report of the Parliamentary Standing Committee and changes made by the Ministry vis- a- vis the Code introduced in Lok Sabha are as under:

- 4) The major changes made in pursuance of recommendations of Report of the Parliamentary Standing Committee on Labour that are reflected in I R Code 2020 are:
- a. The definition of appropriate government has been modified
 - b. The metro has been included in the definition of railways

- c. The wage ceiling for the Supervisor to remain as 'Worker' has been raised from Rs.15000 to Rs.18000 per month.
- d. The definition of Fixed Term Employment has been modified to include that a worker would be eligible for gratuity if he renders service under the contract of FTE for a period of one year.
- e. Termination of service of a worker on the ground of continued ill-health has been excluded from the definition of retrenchment.
- f. The 'concerted mass casual leave by 50% or more workers with the intention to stoppage of the work' would now be construed as strike. The word 'intention to stoppage of the work' has now been added.
- g. Individual grievances relating to non-employment, will be excluded from the purview of Grievance Redressal Committee.
- h. The limitation period for raising of any dispute for grievance Redressal committee has been decreased from 3 years to 1 year, so as to create a balance between the right of employee and the worker.
- i. Individual cannot raise a grievance rather it is the trade union through which he can raise grievances
- j. Invalidation of application for registration of Trade Union, if 50% of the members who have filed application for registration of Trade Union, dissociate later on
- k. The term of the office-bearer of the Trade Union has been increased to 3 years
- l. The criteria for recognition of Negotiating Union has been reduced from the proposed "75%" to "51%" in an Industrial establishment.
- m. One seat in the negotiating council would be available to a Trade Union having membership of minimum of 20 per cent of workers in an Industrial establishment which has been increased from criteria of one seat against 10 per cent or part thereof envisaged in I R Code 2019.
- n. The period of agreement for recognition of negotiating council will be mutually decided as per agreement between employer and trade union but subject to maximum tenure of 5 years.
- o. If the employer adopts the Model Standing Orders of the Central Government, then the model standing orders would be deemed to be certified.

- p. The power to appoint expert or assessor has been vested with tribunal rather than appropriate Government
- q. The time period for raising the dispute has been reduced from 3 years to 2 year relating to raising of dispute before the conciliation officer.
- r. Full payment of wages has been mandated during the pendency of cases in High Court or Supreme Court filed by employer, as was in earlier ID Act.
- s. The threshold for seeking prior approval of the appropriate Government for lay off, retrenchment and closure has been increased from 100 to 300. The recommendation regarding non-delegation of power to the State Government to modify the threshold has not been accepted.
- t. The newly introduced provision for fifteen days' wages for re-skilling fund at the time of retrenchment has been limited to only retrenchment.

In addition, the following changes have been made as per discussion in the Ministry, after Covid-19 pandemic, to bring definition etc. at par with other Codes

- a. Submission of 'Standing Order' electronically or otherwise standing order has been incorporated. Further, a time period of 90 days has been provided for certifying officer to certify the Standing Orders, failing which the Standing Orders would deem to have been certified.
- b. The period of 2 days for reporting about strike and lockout has been enhanced to 5 days as in the present ID Act.
- c. Over-riding powers may be given to the Central Government to make any provision in wake of pandemic, epidemic and disaster for whole of India or part thereof for any section under the Code for certain period.
- d. The time limit of five years provided for compounding of an offence for the second time, may be reduced to three years.
- e. The provision relating to flexibility for changing the threshold limit for standing order which is below 100 provided to appropriate Governments, may be deleted.

- f. The provision relating to continued application of standing orders even if the number of workers in an establishment falls below 100, may be also deleted

For Karnataka Employers Association

Sd/-

**B C PRABHAKAR
PRESIDENT**