

EMERGING NEED FOR REFORM IN LABOUR LEGISLATION PERTAINING TO RECORD MAINTENANCE OF LABOURERS

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ABSTRACT

Due to rapid globalisation more and more organisations are automating their including all forms of documentation reducing the likelihood of them being able to provide labour related documents in physical format instantly. The importance of an accurate employee record stretches for beyond the legal ramification of that information not being current. For employers -keeping accurate records can help recruitment; identify gaps in skills and save time while performing administrative duties. There is a view that the Indian Labour Legislation has vowed its commitment to the welfare of workers alone. Despite numerous legislation the enforceability always seems to lack India, thus defeating the very purpose. The introduction of the labour market reforms is complementary to liberalisation of Indian economy. The procedural systems such as securing registration licence and maintenance of registers and records (in physical forms) and submission of information under various labours laws are cumbersome and repetitive. Employers hence seek liberalisation of inspection and labour administration system (governance reforms). At the most basic and fundamental level, the NDA government does not have a clear and sensitive strategy to introduce labour laws reform. Thus, this article highlights the emerging need for reform in labour legislation pertaining to record maintenance of labourers.

KEYWORDS: *Labourers, Legislation, Record Maintenance, Reforms, Liberalisation.*

Introduction

Maintenance of records has been one of the most crucial elements of Labour laws in India. Various labour legislations provide for the lists of mandatory records and registers to be maintained for the labourers. Though it has not been specifically defined, it is understood that registers are supposed to be manual and bound books in which the records are to be maintained. When the rules were framed, computers were not an option. But even in today's era of communication and technology, the rules have not yet been modified since then and they are still being applied as they were. However, in few states government has allowed electronic maintenance of records through notification whereas, in rest of the states including Gujarat, specific approvals are needed for electronic maintenance of records. In case of factory, the permission of either the Labour Commissioner or the Factory Inspector has to be sought via a written application for maintaining registers in soft format.

According to the legislations, there are various ways of complying:

- Manual maintenance of records through manual registers with manual writing
- Maintenance of records in electronic form with approval of appropriate government. It is worth noting that the approval for electronic records is approval to maintain in software that is tamper proof and has a detailed audit trail. Records in excel do not qualify or meet the requirements and leads to direct non – compliance. Courts do not accept those records which can be tampered at any time by anyone.

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There has also been some misunderstanding with few undertakings regarding section 4 of Information technology Act 2000, that it allows electronic record maintenance which is a fallacy. Section 4 specifies that we can maintain electronic copies of any record that is required by law if such information or matter is rendered or made available in an electronic form and is accessible so as to be usable for a subsequent reference. It means that you can maintain electronic copies of any records that are required by law to be maintained in hard copy. They have probably also ignored. Section 5 talks about the authentication of the document if law provides, which means the need for getting approval in order to get the signature of the appropriate authority, though the signature may be in the digital form. Further section 6, subsection 1 mentions about the filing of any form, application or any other document with any office, authority, body or agency owned or controlled by the appropriate government in a particular manner. Thus the manner or format in which such electronic records shall be filed, created or issued is prescribed by the appropriate government, which clearly means that if the appropriate government provides, it may be maintained in hard copy by taking prints. It means we can keep PDF/ a (tamper proof encrypted copy) copies in hard form.

Looking to the above scenario, there is no uniformity found in the maintenance of records, among various organisations. It also becomes tedious task especially in case of contract labourers where it is difficult to monitor them. Moreover in today's scenario it becomes evitable that the digitization of information should be done and organisations should opt for green human resource management systems. The initiatives taken by aforesaid state governments have not yet been implemented in Gujarat and other states of India. Even there, they are required to inform the concerned authorities. It is observed that the registers are still maintained in manual form in most of the undertakings under the assumption that the law mandates, which in today's era of digitization needs to be changed. There is an emerging need on part of State Governments to make new reforms in the legislations where they are allowing digitization and also providing clarity regarding digital record maintenance through framing of new rules and modifications in the older rules pertaining to maintenance of records.

What do the Labour Legislations Say about Maintenance of Registers and Records of the Labourers?

- **According to Contract Labour (Regulation and abolition) Act 1970**
- **Chapter VII Section 29 (Registers and other records to be maintained.**
 - Every principal employer and every contractor shall maintain such registers and records giving such particulars of contract labour employed the nature of work performed by the contract labour, the rate of wages paid to the contract labour and such other particulars in such form as may be prescribed
 - Every principal employer and every contractor shall keep exhibited in such manner as may be prescribed within the premises of the establishment where the contract labour is employed, notices in the prescribed form containing particulars about the hours of work, nature of duty and such other information as may be prescribed.

The following Registers have to be Maintained under Contract Labour (Regulation and Abolition) Act, 1970

Form XII	– Register of Contractor
Form XIII	– Register of Persons employed (Sec 75)
Form XIV	– Employment Card (Sec 76)
Form XV	– Service Certificate (Sec 77)
Form XVI	– Register of wages (Sec 78)
Form XX	– Register of Deductions for damage or loss.(Sec 78)
Form XXI	– Register of Fines (Sec 78)
Form XXII	– Register of Advances (Sec 78)
Form XIX	– Wage Slips (Sec 78)

Every contractor shall display an abstract of the Act and rules in English or Hindi and in the language spoken by the majority of workers. Notices showing the rates of wages, hours of work, wage periods, dates of payment of wages, names and addresses of the Inspectors having Jurisdiction, and date of payment of unpaid wages, shall be displayed in English and in Hindi and in the local language

understood by the majority of the workers in conspicuous places at the establishment and the worksite by the Principal employer or contractor. Every contractor shall send half- yearly return in form XXIV (in duplicate) within 30 days from the close of the half year.

Registers to be maintained under Factories Act 1948

Form 5 – Certificate of fitness

Form 9 – Register of Compensatory Holidays

Form 10 – Over Time

Form 11 – Notice of periods of workers for adult worker and children

Form 12 – Register of Adult Workers

Form 14 – Register of Young Workers

Form 15 – Register of leave with wages

Form 17 – Health Register

Form 18 – Accident Report/ ESI

Form 25 – Muster Roll

Form 26 – Register of Accidents and Dangerous Occurrences

Form 35 – Register of trained workers

Registers to be maintained Under Provident Fund Act 1952

- Muster roll
- Wage Register
- Form – 3A ,5,10 and 12A
- Inspection Book
- Cash book, Voucher and Ledger
- PF worksheet
- Monthly return – Form – 5,10,12A along with paid challans
- Annual Return – Form – 3A and 6A

Registers to be Maintained Under Employee State Insurance Corporation Act, 1948

- Muster roll
- Wage register
- Inspection book
- Accident Register
- Cash book, Vouchers and Ledgers
- Paid Challans, RDF and declarations
- Register of Employees- Form 7
- Half yearly return – Form 6

It has been observed that some business owners may want to use a simple, paper – based record keeping system. There are certain advantages of using manual record keeping as listed below:

Advantages

- Less expensive to set up
- Correcting entries may be easier with manual systems, as opposed to computerised ones that can leave complicated edit trails
- The risk of corrupted data is much less
- Data loss is less of a risk, particularly if records are stored in a fire- proof environment
- Problems with duplicate copies of the same records are generally avoided
- The process is simplified as we don't need to be familiar with how accounting software calculates and treats information.

However, following limitations of the manual record keeping is becoming the reason of wide acceptance of digitization:

- Inconsistency in data entry, chances of errors and misusing information
- Large on – going staff training cost
- Dependency on individuals dealing with records
- Reduction in information sharing and transparency
- Time consuming process
- High cost of record generation and maintenance
- Lack of security
- Duplication
- Difficulty in accessing information when needed.

Electronic Maintenance of Labour Records

In the era of Information Technology, most businesses have started implementing digitalization and they use various software and programs to simplify electronic record keeping, and produce meaningful reports. Electronic records keeping bears following advantages:

- Helps us to record the transactions, including leaves, payment to workers and other records
- Efficient way to keep records and requires less storage space
- Easy to generate new joining, salary slips, and leave card for staff
- Automatically tallies amounts and provides reporting functions'
- Keeps up with the latest reforms in the law
- Allow us to back up records and keep them in a safe place in case of fire or theft
- Has impact on easy over all functioning of the organization.

For small businesses, the cheapest back up options is CD'S and memory sticks. If any business has large amount of data, external hard drives are a popular back up option. Other beneficial aspects of electronic maintenance of records are electronic back up. Set up a secure electronic back up system to ensure records are safely stored and regularly backed up. Daily backups are recommended particularly for important records. Just we need to make sure the backup copies are stored in a separate location to your business in case of fire, theft or a natural disaster.

Cloud Back Up

Cloud computing provides a way for any business to manage, computing resources and records online. The term has evolved over recent years and can be used to describe the use of a third party for the storage and computing needs. Cloud back up services is becoming more popular and can be automated for convenience, but we should make sure the method we choose protects the privacy and security of the business and workers.

Research Methodology

The article is based upon exploratory research done through various literature reviews, secondary data, internet and library sources and interactions seeking opinions of various labour law applicants, HR Professionals, Contractors and experts.

Following points are plotted from the discussion with the experts:

- Manual systems put pressure on people to be correct in all details of their work at all times, the problem being that people aren't perfect
- With manual systems the level of service is dependent on individuals and this puts a requirement on management to run training continuously for staff to keep them motivated and to ensure that they are following the correct procedures
- It can be all too easy to accidentally switch details and end up with inconsistency in data entry or in hand written orders

- This has the effect of not only causing problems with service but also making information unable that can be used for reporting or finding trends with data discovery
- Reporting and checking that data is robust can be timely and expensive. This is often an area where significant money can be saved by automation. Renowned HR Professionals opined that the laws should be reformed and government of Gujarat should think on it. Automation in such labour laws will become helpful in reducing corruption as well.

Conclusion

Due to rapid globalization more and more organisations are automating their processes including all forms of documentation reducing the likelihood of them being able to provide labour related documents in physical format instantly. Considering various problems attached to manual maintenance or records, there is an emergent need for the appropriate government to intervene, evaluate the existing legislatures and its relevance in the current scenario and bring about the necessary changes suiting the current business environment.

Definitely the change cannot be brought out of blue moon. It will demand lot of efforts and research into the matter. However, we cannot ignore the fact that the need for reform has now become inevitable and that the state government should now not only allow digitization of labour records but also provides clarity regarding the law frames and amendments as and when they are brought into force.

References

- ⇒ Institute of Company Secretary of India (ICSI), Labour and Industrial Laws CS- executive.
- ⇒ Jain S.P., Labour Laws, 2014 Edition.
- ⇒ Mishra S.N., Labour Laws, 2014 Edition.
- ⇒ Taxmann, Labour Laws, 2013 Edition.
- ⇒ asklabourproblem.info.
- ⇒ www.labourlawreporter.com.

