

ON COMPLIANCE MANAGEMENT



For compliance issues

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Today in industrial world it is said corporate compliance management is essential for achieving better corporate governance. There are many organizations which are large and diverse with hundreds of daily transactions that company has to comply with innumerable regulations of respective countries/states. In such case compliance issues have to be taken seriously, investigate each one and many times revisit their operational controls. In few companies they conduct policies, set expectations that all employees will comply with all laws and regulations governing their company's behavior. Thus today compliance of relevant, applicable law has come as need of business without which their business is at jeopardy. This has not only become legal but business essential and social need also. That is why in few sectors it is called social audit compliance. Today most customers/buyers/business houses are serious about these issues and they lay solid foundation and continuously update and upgrade their compliance issues.

Dimensions:

Thus compliance has to be seen from different angles like social, business and legal need. Each dimension play important role and have their impact in compliance. Non compliance, deviations in this area lead to unionism, discontentment among employee's legal exposure and risk to the management represented by their directors. In addition, today retention of employees, talent management, attrition of good professionals needs all this in order. As such compliance of employment laws have become basic need of

healthy establishment. Statistics reveal reduction of loss of man hours, labour unrest, strike and lockouts due to growing awareness about compliance among employers and employees.

Many times compliance personnel are bored with stereo type compliance system and sometimes they get doubt about how to make compliance in time? But in few cases and in general executives and organizations lack knowledge about its applicability. Today corporate compliance can't be considered as just another burdensome, complicated, back office operation monotonous work but they have to see as an opportunity in them. In reality an opportunity lies in good corporate governance. Only the culture of adherence to good compliance can keep a company ahead on sustainable basis and bring in larger revenue and profit.

Therefore, compliance has to be seen in letter and spirit. One of the rules therefore laid – board shall periodically review reports of all laws applicable to the company prepared by the company as well as steps taken by company to rectify instances of non compliance.

What is compliance of law?

Compliance of all laws not just like any other compliance but it is a hidden treasure for all stake holders. Thus one has to understand their company, see what is applicable and analyze relevant laws periodically and make an assessment.

Compliance Timings:

Every compliance will have timings and evaluation like fixed regular and event based. Thus compliance department has to make and develop compliance management tools by preparing various check lists. They may be law wise or period wise and also they have to be on their toes constantly to keep update on this. Eg. Recently bill is passed on prevention of sexual harassment at work place, grievance redress committee where more than 10 employees, salary limit enhancement from Rs 10,000 to 18,000 under payment of wages act. Such many updates will help organizations to become strong and show their pro active approach. By using proper and right compliance system one can convert their role from traditional to strategic by making an impact in the business..

Various Compliance:

- a. **Competition law:** Employees may not engage in anti competitive conduct nor permitted to take unfair advantage of any customer, supplier, competitor or other person through manipulation, concealment, miss representation of material fact or other unfair dealing practices.
- b. **Environmental law:** Today this is gaining upper hand and has become the need. Hence employees have to become familiar with relevant applicable regulation being employment responsibilities.
- c. **Contractual Obligations:** Employees, contractors, sub contractors have to understand their contractual obligations to make compliance successful and avoid any problems to company and to its products.

Employment and labour law Policy:

Today many establishments acclaim employees as their valuable assets. That is the reason today it is called Human capital rather than Human Resource. Organization policy is to comply all applicable laws and regulations including those concerning hours, compensation, rights and responsibilities, working conditions etc.

In additions to various regulations child labour is prohibited. Same way many buyers insist avoidance of forced or compulsory labour. Modern economy companies declare - It is our policy that all employees work in a clean, orderly and safe environment. The company requires full compliance with applicable work place safety and industrial hygiene standards mandated by many laws including factories act.

Labour law compliance:

Business in India is synonymous with the need to understand company and to stay out of legal issues. Whether it is statutory compliance or labor law compliance, progressive and bottom line focused managements understand that any form of compliance should be viewed as a dynamic item of cost, rather than a passive charge on profits. A superior operational fineness is needed to achieve this goal. Insight into compliance can make all the difference in getting workflow remaining competent as ever. Meaningful self assessment exercises on and often also helps for better compliance practices and structures.

Non compliance of employment laws lead to many problems and their consequences are far reaching. Some deviation or non

compliance is risky. Example - Minimum wages, PF ESI, safety, overtime provisions. Hence it can be called as risk management also.

Risk Management in Compliance aspect – Steps to follow.

1. Stay informed by experts:

Ignorance of law is no excuse. As such there is no plea for ignorance. Laws are constantly changing and hence it is employer's responsibility to get updated. Refer various journals, business house periodicals, chamber of commerce bulletins, professional bodies, employers associations etc. Government cites are now improving. Recently I faced a problem in minimum wage compliance. Every year in April law publishers publish minimum wage rates of various scheduled industries. One of employer in the month of May purchased the book and after reference followed notified wages. But to his bad luck after one quarter their union raised an objection for short payment of minimum wage. They came with another law publisher's booklet. When compared earlier book it was not changed with latest and was not update but was stereotype. Consequently employer ended in difference payment without his fault. Hence double check is essential.

2. Choose the right expert source:

Law is the only subject in the world, where many people can opine differently on one matter. Hence choose your counsel, consultant, compliance agency competent one who is research oriented with update mind.

3. Reject Copy Paste advice:

Compliance is more about judgment than templates. Take information from source to adapt to your company's variable needs. Consult experts who are with wide case studies, expertise and experience. It should not be one stop shop.

4. Document policy and incidents.

Authorities, courts, regulatory agencies look for evidence and abundant care, all reasonable care precaution beyond doubts. Hence employees hand books, manuals, related document, and proof of receipt is a must to prove your case. The same case in issue of safety equipments. Example - Personal protective equipments (PPES). The employer need to prove the employee knew what was expected. Consistency of enforcement without discrimination is critical. In accident case, incident reports, failure reports, misappropriation cases valid relevant job descriptions and clear compliant performance appraisals are contributory tool sets.

Consider self certification, voluntary compliance review for risk areas and laws to build affirmative defense through reasonable care. Example: Gujarat factory rules – self certification model.

5. Train the Concerned:

Culture of learning play a very important role. To quote one leading industrialist- "Training is expensive but non training is still more expensive and risky" Hence training of employee in operations procedure, liability aversion, documentation and diversity is important. While the employer is not ultimately expected to control each and every work place action, the employer is held accountable to reasonable care. Proper training averts risk, and act of training builds

affirmative defense. This is the reason HRD department Government of India has fixed minimum man days training for public sector employees to keep them competitive and also to meet needs of industries. Example in Karnataka safety training programs conducted by department of factories add value in safety compliance management for safety award in industries and considered as plus point.

6. Stay current and prepare for Change:

The employer who has been non compliant 'has never had a problem' is probably due. Everyone is vulnerable. As long as problem do not arise it is ok. As long as employees don't ask it is ok. But once above two turn – problem starts and pinch in multiple ways. Hence don't waive off vulnerability. Like in any business insurance protect your interest but it is the responsibility of the employer to protect their own interest. Stay up to date with regular compliance review for practices and policies. Take reasonable care and secure update validation for compliance.

Educated managers/ management will keep business in labour law compliance.

Managers, supervisors, shop floor personnel are primary contact with most of rank and file employees in any organization. In any factory, establishment, organization all managers interact with their staff on regular basis. As such education for this cadre goes a long way. Manager's role is to provide proper oversight and direction to a group that is trying to accomplish certain task. They may also act as a mediator between those under them. Managers may need to be called upon a times to be disciplinarians or morale boosters.

Managers are communication link between employees and higher management. Any wrong move by manager may expose the organization.

Recently in one of the organization when employees approached for review in already granted increments production manager made a statement in arrogant way that they can leave the organization which resulted in union formation. They may virtually become employment law and human resource experts to do their job properly.

Educated managers = Safe employers.

While you may have hired your manager to make sure the work place to run smoothly or to maintain productive atmosphere, equally if not more important is to make sure your management team is aware of the various laws that govern their daily interaction with their staff and workers.

Steps for Protecting Company Interests:

1. Make sure Make sure managers/supervisors are familiar with all company policies and procedures including certified/model standing order
2. They should actively review employee hand book/instructions
3. Must be familiar with Mission Statement
4. Should be positive role model. Always act ethically with motivational/leadership skills
5. Always act professionally and pro actively
6. Encourage them to attend training sessions further to educate themselves
7. Constantly and consistently they have to contact HR/ legal department before taking any employee related action

Knowing, understanding and following above practices will go long way to help organization remain compliant with employment and labour laws while promoting a positive and motivated work environment.

Advantages of Compliance Management:

Thus to summarize advantages of compliance management,

1. Establishing risk appetite
2. Easy quantification of risk
3. Identify and prioritize controls
4. Multitude of compliance obligations
5. Gaining competitive edge
6. Good compliance system lead to excellence in operations
7. Laying strong and solid foundation
8. Law abiding will always protect as value addition . . .
9. and many more

Conclusion:

Make your company a good governed company. Compliance cost is cheaper than litigation cost. Comply and be safe.

Surve janaha sukhino bhavanthu. Let all people prosper and be happy.

References:

- a. From various Sources
- b. Audits and exposure in the field