

OVERVIEW OF LABOUR LAW COMPLIANCE



For compliance issues

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An Introduction:

Globalisation in new economy has paved way for open business and everything is measured and looked from the angle of global standard and best of best in the form of world class. This has led to lot of quality systems in technology, supply chain, banking, and finance and also in Human resource management. Talent can move anywhere and people are also mobile. To have continuous flow of business in smooth way many approvals, certifications and compliance have become need of the hour and these are subject to various and continuous audits by internal and external agencies.

In few cases customer's requirements have to be fulfilled in legal aspects particularly in connection with employee related matters which are governed by various laws comprising both central and state legislations. Keeping this in view management of labour law plays a very important role.

What is compliance?

When business is governed by certain regulations that too when it is global in nature, ILO conventions are followed. With the conventions, various laws like factories act, Minimum wage etc have to be followed in toto in addition to all the applicable laws depending on the nature of industry. Adherence to these laws and implementation is becoming need of the business without which further progress will be blocked. Hence such kind of law has to made known to all concerned and have to be followed. These are under scrutiny. As such compliance (adhering and following) is gaining vast importance.

Why compliance:

It has to be understood in multiple ways. First being compliant with the laws of the land, regulatory affairs for approvals, social security and fair work, fair treatment and right of association and expression. Further there should not be any discrimination based on caste, creed, ethnic and sex. For everything parameters will be the applicable laws. Without this business is not recognized nor accepted. In the absence of compliance, there are chances of losing the business and in some case black listing the non compliant establishments. Therefore compliance is becoming a priority.

Coverage:

For compliance wider coverage like regulatory laws, payment laws, social security laws, employment laws, Industrial relations laws, welfare laws, law of association - matters. Depending on the nature of the industries all these have to be followed in action and spirit.

Applicability:

Every employer or an occupier has to be aware of the applicability of various laws for every establishment. Whether certain laws are applicable or not? If applicable the minimum requirement of workers and to what extent. Under the applicability what are to be followed and maintained to be known. In India most labour laws are based on the number of employees in the establishment. Hence the applicability is important.

Implementation:

Once the coverage and applicability is known implementation becomes very easy and mandatory. When the number reaches to certain levels, it will go without saying. On an average in India normally for any establishment there are about 14 to 16 labour laws are applicable. They are;

Factories Act, Shops and Commercial establishment Act, Contract labour, Building and construction workers act, plantation labour act, Interstate migrant workmen act, Mines act etc.

Payment of wages, Minimum wages, Payment of Bonus, Payment of Gratuity, Provident Fund, ESI, Maternity Benefit act, Employees Compensation Act, Labour welfare Fund act, Industrial Employment Standing orders Act, Industrial Disputes Act, Trade Union Act, Equal Remuneration Act, Apprentice Act, National and Festival Holidays Act, Sexual harassment prevention committee provisions etc.

Above list is not exhaustive. Employer has to look into many of these acts depending on the nature and implement which is his prime responsibility.

Audit and Check:

Once these are covered and applied and having implemented, sustenance of these compliances is to be monitored. There are no holidays for these laws. HR being a dynamic function in nature number and nature of compliance fluctuates. Depending on these factors, implementation also matters. Hence it is the onus of the employer to ensure that the implementation of law is in place as per the framework of laws throughout the year. They are subject to inspections and scrutiny. Some authorities inspect critically and some superficially. But it is the responsibility of the employer to be compliant. Hence audit and checking play an important role from compliance point of view.

Few governments have allowed for self certification by the employer. OHS, SHE audits are inbuilt in complying laws like working hours, safety, health, welfare, social security etc. Regular self audit, internal audit should help the employer to upgrade the compliance level from time to time thereby reaching to the competitive edge. For hazardous industries audit by External agencies are mandatory to make it more objective and effective.

Know the subject:

From this perspective knowledge and awareness about the subject, provisions of various applicable laws are important. Further superficial knowledge will not be adequate. What we call substantial law is the need of the hour. It is like human body where outside view will not determine the good health but internal system should be in order to stay healthy. In the same manner labour laws also have to be understood. Bare knowledge is not sufficient. All provisions and methods are to be adhered.

Reports:

Based on this an employer has to generate various reports by way of MIS, compliance reports etc to know the status and also understand the gaps and lapse if any. Looking at reports he will understand the status for further needful. Some times reports by experts in the field, regulatory authorities are important and help for improvements.

Inspections:

Under all laws and particularly labour laws, we see chapters/sections on Inspectors where their powers and duties are prescribed. Under the statutes they are empowered to exercise certain powers and also by duties. It is the duty of the employer to co operate and support the inspector

while inspecting. Employer has to provide all necessary documents, information, particulars, records, registers etc to the authorities. ILO convention also prescribes this.

Inspection to be taken seriously and many a time they are eye openers. These will put a break for establishments also from bad/unfair practices. Hence inspections have to be taken seriously and complied religiously and meticulously. It is always advisable to attend correct and comply at the initial stages of the inspections to prevent any further damage and serious observations. Inspecting authorities to be seen as well wishers rather than as pain and nuisance. If they are convinced they extend their helping hands for employer. However for them advise and inspection cannot go together.

Consequence:

Non compliance may end up in legal actions like penalty, suspension of licence, imprisonment etc and other by way of bad corporate governance. Corporate to be on the line, good governance to be ensured. Negative side may affect the reputation of the company thereby it may not attract the required talent and human resource and subject to question by many others concerned. Non compliance may lead to series of problems like prosecutions, unionism, suspicions, etc. In the long run business may get affected. Establishment has to spend their time and energy in litigations and wasting their valuable productive time.

Benefits:

Timely compliance ensures an employer to be upright, conscious, law abiding, compliant and to carry on his business without any fear or favour and all the time he will be on right track and achieve success and industrial peace. Timely compliance ensures that employees do not have any reason to crib on non compliance issues and

may help to nurture good relations leading to good production and productivity.

For government and statutory authorities it becomes easy it will nurture peace contentment and prosperity everywhere.

Competitive advantage:

Thus by following applicable laws an establishment can run business without much hurdles and stand up all the time. By this it will have a competitive edge in future to gain good reputation and revenue by the certified authorities. By being compliant an employer can gain benefits when it comes without wasting time as fire fighting. Without proper governance and compliance at each and every level establishment has to face problems and obstacles. Thus one can see more advantage in compliance since they are integrated with all the stake holders of the industry.

Conclusion:

To conclude non compliance will only put positions like occupier, director into problems and they have to face the music of judiciary, cases, prosecutions, imprisonment, fine, personal accountability etc and have to waste time and energy in facing these issues. In the process relationship may also get affected with the authorities and may be with employees and union.

Thus every prudent employer should always look at the positive side of compliance thereby making all the stake holders happy and achieve the goals of the organization and can concentrate on strategic issues as priority.

Establishment should also ensure the respective dues to the employees are paid on time and the welfare is taken care of in reasonable good manner. Added to this what an amount of mental peace and respect from all the concerned! Country needs such situations. Survey Janahaa Sukheeno Bhavantu (Let all people be happy-

Upanishad) Such legislations ultimately ensure right way of happiness to stakeholders. Finally, one must keep in mind and know that **Compliance cost is cheaper than Litigation cost**. It is better to manage the law before it manages you. Comply and be Safe.

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